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Chemical, water companies quickly face lawsuits

by **Kate White**

CHARLESTON, W.Va. -- One day after a leak from Freedom Industries caused the loss of water service to thousands of West Virginians, at least eight lawsuits were filed against the chemical company.

Most of the lawsuits also name West Virginia American Water and claim it should have warned the public about the leak sooner.

The "do not use" water advisory continues in Boone, Clay, Jackson, Kanawha, Lincoln, Logan, Putnam and Roane counties; the Culloden area of Cabell County also is affected. Residents have been told not to drink, cook or wash with the water supplied by West Virginia American Water in those areas. Water should not be used for anything except flushing toilets and putting out fires.

The lawsuits, which ask to be granted class-action status, have been filed on behalf of businesses forced to shut down during the state of emergency and all West Virginia American Water customers.

Plaintiffs want punitive damages and compensation for lost profits during the state of emergency.

On Thursday, 4-methylcyclohexane methanol, a chemical used in the coal preparation process, was spilled by Freedom Industries, a chemical distributor on Barlow Drive just upriver from the water company's intake.

Dr. Rahul Gupta, chief health officer for the Kanawha-Charleston Health Department, told restaurants, bars, day-care centers and other businesses with health permits in Kanawha and Putnam counties to close immediately.

The lawsuits allege that the chemical company and the water company were, among other things, reckless and negligent.

At 7:59 a.m. Friday, attorneys from Mani Ellis & Layne filed a lawsuit on behalf of EJ&K Enterprises LLC, which operates the Bear's Den restaurant and the South Hills Market and Café.

Also at 7:59 a.m., a lawsuit was filed by Scott Miller, who owns Bar 101 and Ichiban. Attorneys from Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro; and Bucci, Bailey & Javins filed on behalf of Miller and his businesses.

At 8:05 a.m., Adelphia Sports Bar & Grille, Capitol Car Wash and Spyro's Parking Lots filed its complaint written by attorneys with DiTrapano Barrett DiPiero McGinley & Simmons and the Webb Law Firm.

The Bell Law Firm filed two complaints -- one on behalf of Kanawha Gourmet Sandwiches LLC and another on behalf of Susan K. Dyer, a Charleston resident.

John Kennedy Bailey Law filed for EG&K Inc. and Rusty A. Carpenter, a father of five who lives in Kanawha County.

Attorneys with the Warner Law Offices and Fitzsimmons Law Firm filed a complaint for Suzette L. Conley, a Charleston resident.

Freedom Industries made its first comment on the situation in a news release after 12:30 p.m., more than a day after the leak.

"Since the discovery of the leak, safety for residents in Kanawha and surrounding counties has been Freedom Industries' first priority," the company said in the statement, attributed to Gary Southern, president of Freedom Industries. "We have been working with local and federal regulatory, safety and environmental entities, including the DEP, Coast Guard, Army Corps of Engineers and Homeland Security, and are following all necessary steps to fix

the issue.

Friday evening, Daniel Cleve Stewart, 62, who has been waiting since last summer for a kidney transplant, filed a lawsuit against Freedom Industries and the water company.

Stewart was scheduled to get a new kidney on Friday at CAMC General Hospital. His donor had driven from Tennessee but had left after learning the hospital was forced to cancel the procedure because it is without water. The hospital canceled all elective surgeries on Friday, according to a spokesman.

Attorneys with the Forbes Law Offices and John Sutter Law Firm filed Stewart's complaint.

"He's on dialysis multiple times a day," said Jesse Forbes, one of Stewart's attorneys.

"Unfortunately, due to what has happened here, he was unable to get his surgery, which he desperately needs.

"This really puts things into perspective when I complain about not getting a shower," Forbes said.

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