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Survivors of London's Grenfell Fire Sue in Philadelphia Court

By Benjamin Mueller

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LONDON — Hundreds of survivors and relatives of victims of the Grenfell Tower fire in London have sued makers of the flammable cladding and insulation that fed the blaze in an American court, trying despite steep legal obstacles to hold the firms liable as the two-year anniversary of the fire nears.

For a disaster that enraged Britons and set off sprawling investigations in London, the venue for the lawsuit — the Philadelphia County Court of Common Pleas — was unorthodox.

But it reflected an increasingly prevalent dilemma for lawyers bringing cases against multinational corporations. Drawn to American courts for plaintiff-friendly liability laws and the opportunity for big payouts, the lawyers and their clients must nevertheless contend with questions about when American rules should apply in disasters abroad.

The Grenfell lawsuit, launched in Pennsylvania because the cladding maker, Arconic, has its headquarters there, has also stirred concern in some quarters about a clash between Britain's slow and painstaking inquiries into the fire and simultaneous American litigation.

A small number of the families of those killed decided not to sign onto the lawsuit, and British lawyers said they worried that the case could compromise public inquiries that are still in the thick of finding facts.

In announcing the lawsuit on Tuesday, though, lawyers in Philadelphia said they intended to trace the 72 Grenfell Tower fire deaths to design choices that were made in the United States.

"Although the devastation may have occurred abroad, the decisions that led to it took place here in America," said Jeffrey P. Goodman, a partner at Saltz Mongeluzzi Barrett & Bendesky, the Philadelphia firm that filed the case last week on behalf of relatives of 69 of the people killed by the fire, and 177 of those injured.

Grenfell Tower, a public housing high-rise, caught fire in the early hours of June 14, 2017, after a refrigerator exploded on a lower floor. The low-cost aluminum paneling that covered the tower ignited, sending flames bolting up the side of the building and trapping many residents.

Before the fire, the cladding had been banned in the United States and some European countries because it was too combustible, but English building rules were more lenient, opening the door to its use on hundreds of high-rises. The British government has since banned Grenfell-style cladding on high-rises, though tens of thousands of people still live in buildings wrapped in the material.

At Grenfell, the flammable cladding was combined with flammable interior insulation, adding more fuel to the blaze. The model of refrigerator that started the fire also drew scrutiny because its back was made of plastic, whereas refrigerators sold in the United States typically use metal.

In addition to Arconic, the Pittsburgh-based firm that made the cladding, the lawsuit targets Celotex, a British company that made the insulation, and Whirlpool, a Michigan-based firm that now owns the company that made the refrigerator. Celotex has its American headquarters in Pennsylvania, the lawsuit says.

The companies are allowed to challenge the suitability of a Philadelphia court for the lawsuit, and legal experts said they would have strong arguments: The plaintiffs are British, the physical evidence is in London and British courts could offer alternative venues for the claims.

But British courts, on the whole, are much more deferential to businesses. Punitive damages are uncommon in Britain, on the theory that excessively penalizing companies could become a burden to them. The American system, on the other hand, treats punitive damages against companies as an incentive for them to follow the law, and often puts cases in front of juries, which tend to award larger payouts.

“The concept of U.K. compensation is restorative justice — putting people back in the position they were in before the incident happened — as opposed to punishing the company if they’re found to be at fault,” said Jill Paterson, a partner specializing in consumer law and product safety at Leigh Day, a British firm.

Legal experts said product liability cases that originate abroad typically hinge on how closely linked the manufacturing process was to decisions made or facilities used in United States.

“Did they make it here? Did they come here to do sales calls?” asked Tom Baker, a professor at the University of Pennsylvania Law School, outlining some of the questions a judge would consider in such a case.

Grenfell’s cladding was made in France, its insulation in Britain and the refrigerator in Europe.

The lawsuit accuses the companies’ American arms of exploiting lax English rules to sell products they knew were not fit for high-rises or, in some cases, manipulating test results to hide concerns about flammability.

Christopher French, a professor at Penn State Law School, said that judges were given leeway in deciding the appropriate venue for a lawsuit, and that any state where a company principally did business could be appropriate.

To decide where the claim belongs, a judge could force the companies to produce internal documents that could offer valuable evidence.

“We want to go through their design and testing phase: what they knew about flammability, why they made the decision not to sell it in the United States but supply it to other countries,” said Robert J. Mongeluzzi, the president of the Philadelphia law firm that filed the claim.

In a statement, Arconic declined to comment on the lawsuit, but said it supported Britain’s public inquiry into the fire. Celotex said it, too, “remains committed to providing all relevant information to the inquiry to assist it in its work.” Whirlpool declined to comment on the lawsuit while the inquiry continues, but said the model of refrigerator at issue had not been found to have any faults.

The inquiry is expected to publish a report on the fire itself in October, before beginning hearings on the longer-term causes in 2020. The police said they would wait to recommend any charges until those hearings finished; they are considering manslaughter, among other charges, which in Britain can be brought against corporations.