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*****FOR IMMEDIATE RELEASE*****

***LEGAL AID, WILLKIE FILE APPEAL AGAINST NYCHA OVER
RENT REBATES FOR RESIDENTS WHO SUFFERED WINTER
HEAT AND HOT WATER OUTAGES***

(NEW YORK, NY) – The Legal Aid Society and Willkie Farr & Gallagher LLP filed an appeal in *Diamond v. New York City Housing Authority* (NYCHA), a class action brought in April 2018 demanding that the agency issue rent abatements to residents who went without heat and hot water during the 2017 to 2018 “heat season” and, in particular, during the winter cold spell that lasted from December 27, 2017 – January 16, 2018.

The appeal specifically argues that the trial court erred in concluding that plaintiffs’ state law claims are preempted by federal law, that tenants lack the ability to sue for breaches of the warranty of habitability and that the case is not suitable for class treatment.

In particular, the appeal argues that the court’s suggestion that plaintiffs and the other thousands of NYCHA tenants harmed by NYCHA’s flouting of its legal obligations file individual cases in civil court would severely strain the resources of both the judiciary and NYCHA residents themselves, creating the very inefficiencies the class action device is meant to alleviate.

“As the landlord, NYCHA has a legal and moral obligation to ensure that heat and hot water systems are functioning properly, and when that promise is broken, there is a price that must be paid,” said **Lucy Newman, Staff Attorney of the Civil Law Reform Unit at The Legal Aid Society**. “With this appeal, we look forward to securing these rebates for our clients and other NYCHA tenants who suffered essential utility outages during the coldest time in recent memory. NYCHA residents are not second class citizens and they should share the same protections that other tenants in private housing enjoy.”

“NYCHA failed to abide by its legal obligations as a landlord to provide adequate heat and hot water and has already acknowledged as much. It is time for NYCHA to pay. Forcing hundreds of thousands of NYCHA tenants to pursue individual breach of contract claims in Civil Court is not a just or reasonable result, and we look forward to establishing that on appeal,” said **Mary Eaton, partner at Willkie Farr & Gallagher**.

At certain times during this timeframe, entire developments were without heat and/or hot water. In other cases, entire buildings within developments were without heat and/or hot water. Additionally, while outages may not have been building wide, many individual apartments were without heat and/or hot water at some point during the cold spell.

During the last heat season - which stretched from October 1, 2018 – May 31, 2019, over 131,300 of NYCHA’s approximately 175,000 housing units and 291,537 public housing residents were plagued by [unplanned heat and/or hot water outages](#).

Per New York City and State law, NYCHA is obligated as a landlord to establish and maintain certain housing standards. In particular, under the City’s Housing Maintenance Code (HMC), heat must be provided between October 1 and May 31 when temperatures fall below certain degrees. Moreover, the New York State Multiple Dwelling Law requires owners to provide both hot and cold water 24 hours a day.

After Hurricane Sandy ravaged NYCHA developments across the city destroying electrical, heat and hot water systems, The Legal Aid Society called on NYCHA to refund rent for tenants whose homes were completely uninhabitable. The City – bound by the aforementioned laws – issued abatements to impacted residents.

The plaintiffs are represented by: Judith Goldiner and Lucy Newman of the Legal Aid Society; and Mary Eaton, Wesley Powell and Shaimaa Hussein of Willkie, Farr & Gallagher LLP, New York, New York.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities.

<https://www.legalaidnyc.org>

Willkie Farr & Gallagher LLP is an international law firm of more than 700 attorneys with offices in New York, Washington, Houston, Paris, London, Frankfurt, Brussels, Milan and Rome. The firm is headquartered in New York City at 787 Seventh Avenue. Tel: 212.728.8000.