

MORTON INTERNATIONAL, INC.	:
100 North Riverside Plaza	:
Chicago, Illinois 60606	:
and	:
	:
ROHM AND HAAS CHEMICALS LLC	:
5005 Barnard Mill Road	:
Ringwood, Illinois 60072	:
and	:
	:
HUNTSMAN	:
500 Huntsman Way	:
Salt Lake City, Utah 84108	:
and	:
	:
HUNTSMAN POLYURETHANES	:
5015 Barnard Mill Road	:
Ringwood, Illinois 60072	:
and	:
	:
MODINE MANUFACTURING CO.	:
1500 DeKoven Avenue	:
Racine, Wisconsin 53403	:
Defendants	:

COMPLAINT

1. Multiple families, neighbors in a tiny residential development in Northern Illinois, have been devastated by cancer and by decades of neglect and reckless conduct on the part of defendants.

2. In December of 2004, Bryan Freund, 44, was diagnosed with oligodendroglioma, a rare form of malignant brain cancer for which there is no known cure and which occurs only once per 3 million individuals per year in the entire country.

3. A few months earlier, in May of 2004, Mr. Freund's next door neighbor in McCullom Lake, Franklin Branham, 63, was diagnosed with glioblastoma, another form of rare malignant brain cancer similar to oligodendroglioma.

4. In January of 2005, Mr. Freund's other next door neighbor, Kurt Weisenberger, 64, was diagnosed with oligodendroglioma.

5. In July 2002, Scott Milliman, a McHenry County police officer who spent considerable time working in and near McCullom Lake Village, was diagnosed with the ultra-rare oligodendroglioma.

6. In April 2006, Judith Weisheit, a former resident of McCullom Lake Village, was diagnosed with glioblastoma multiforme.

7. Earlier this month, Sandy Wierschke, 44, was also struck by glioblastoma multiforme.

8. All of these individuals contracted brain cancer because, for more than five decades, defendants have been spilling, leaking, and dumping into the soil and groundwater thousands of pounds of highly toxic chemicals, including trichlorethene ("TCE"), 1,1-dichloroethylene ("1,1-DCE") and vinyl chloride ("VC").

9. These chemicals, particularly VC, invaded the air and water in and near McCullom Lake Village. Unbeknownst to these individuals or their families, they used contaminated water for bathing, drinking and other home use.

10. Exposure to these chemicals, particularly VC, has been shown to cause cancer, specifically brain cancer in human beings.

11. As a result of the their exposure to these chemicals, Mr. Branham died from his brain cancer on June 18, 2004 at the age of 63. The other five individuals have been forced to undergo extensive medical treatment for their brain cancer, including surgery and chemotherapy.

Parties

12. Plaintiff Joanne Branham is a citizen of the State of Arizona who currently resides at 1370 East 21st Avenue, Apache Junction, Arizona 85219. Ms. Branham and her husband lived in McCullom Lake Village for more than thirty (30) years.

13. Mrs. Branham was married to Franklin D. Branham and is the mother of his five adult children, Teresa Fossen, Linda Pluemer, Franklin Branham, Jr., Mary Ellen Wyman and Richard Branham.

14. Franklin D. Branham was born on November 5, 1940 and died on June 18, 2004 at age 63.

15. Franklin D. Branham lived at McCullom Lake Village for more than thirty (30) years. McCullom Lake Village, where the plaintiff lived, is a community of some 500 homes located approximately one mile downstream from the defendants' manufacturing facilities.

16. Defendant Rohm and Haas Company ("Rohm and Haas"), is an international specialty chemicals company, with sales of approximately \$8 billion, operations in more than 27 countries and corporate headquarters located at 100 Independence Mall West, Philadelphia, Pennsylvania 19106.]

17. Defendant Morton International, Inc., (“Morton”) is a wholly owned subsidiary of Rohm and Haas, with its principal place of business at 100 North Riverside Plaza, Chicago, Illinois 60606. Until January 1, 2005, Morton operated a specialty chemicals manufacturing facility at 5005 Barnard Mill Road, Ringwood, Illinois 60072 (“the Rohm/Morton Facility”). The Rohm/Morton Facility is located directly north and hydrologically and hydrogeologically upgradient from the Branham home.

18. Defendant Rohm & Haas Chemicals, LLC is a wholly owned subsidiary of Rohm and Haas, with its principal place of business at 5005 Barnard Mill Road, Ringwood, Illinois 60072. As of January 1, 1005, Rohm and Haas Chemicals has been operating the Rohm/Morton Facility.

19. Defendant Huntsman is an international specialty chemicals company with sales in excess of \$13 billion, operations in more than 22 countries and corporate headquarters located at 500 Huntsman Way, Salt Lake City, Utah 84108.

20. Defendant Huntsman Polyurethanes (“Huntsman”) is a wholly owned subsidiary of Huntsman, with its principal place of business at 5015 Barnard Mill Road, Ringwood, Illinois 60072. Huntsman shares space on the property of the Rohm/Morton Facility and operates there a specialty chemicals manufacturing facility at 5015 Barnard Mill Road, Ringwood, Illinois 60072 (the “Huntsman Facility”).

21. Defendant Modine Manufacturing Company (“Modine”) is an international manufacturer of heating and cooling technology, with sales in excess of \$1.5 billion, operations in more than 14 countries, corporate headquarters is located at 1500 DeKoven Avenue, Racine, Wisconsin 53403. At all relevant times, Modine operated a manufacturing plant at 440 Ringwood Road, Ringwood, Illinois 60072, (the “Modine Facility”). The Modine Facility is located directly north and hydrologically and hydrogeologically upgradient from the Branham home.

22. Over the years, defendants have spilled, leaked, and dumped thousands of pounds of highly toxic chemicals including TCE, 1,1-DCE and VC, known carcinogens, which have invaded the Branhams’ air and water supply.

23. Defendants, as well as their corporate parents, subsidiaries, predecessors in interest, and successors in interest, are all legally liable, jointly and severally for the severe harm that has been caused to plaintiffs on account of air and groundwater contamination with toxic and cancer-causing chemicals.

24. The Rohm/Morton Facility has operated as a chemical manufacturing business for more than 50 years and continues to actively use volatile organic chemicals, primarily 1,1-DCE, in chemical manufacturing operations.

25. In June 1999, defendant Rohm and Haas acquired the Rohm/Morton Facility as part of a \$5 billion acquisition of Morton International.

26. In 2001, Rohm and Haas sold its Thermoplastic Polyurethane (TPU) business to defendant Huntsman, which included part of the Rohm/Morton Facility’s operations as well as a facility in Germany.

27. The Modine Facility has operated as a manufacturing plant for more than 10 years and continues to actively use volatile organic chemicals, primarily TCE, in its operations.

28. From approximately 1962 to 1975 defendant Morton dumped liquid chemical waste into a lagoon/landfill located on the southwest portion of the Rohm/Morton facility, which defendants named the “the Highlands.”

29. An environmental assessment was initiated at the site in 1984 following the detection of elevated concentrations of ammonia nitrogen and chloride contaminating the groundwater beneath the Rohm/Morton site.

30. Between 1984 and 1985 Morton installed groundwater monitoring wells and collected and analyzed water samples. The test results revealed high concentrations of volatile organic compounds (“VOCs”), including TCE, 1,1-DCE and VC, in the groundwater beneath the site.

31. Morton determined that the presence of VOCs in the groundwater was attributable to (1) the closed lagoon/landfill (on the western part of the sprawling property) and a potential accidental discharge of waste water containing VOCs into the above ground retention ponds at the facility and (2) the release of a massive amount of 1,1-DCE in 1978 from a railroad tank car spill that had occurred on the eastern end of the property.

32. Throughout the years, Morton and its successor Rohm and Haas continued to add monitoring wells on their property and adjacent properties to monitor the extensive groundwater contamination.

33. In 1991, Morton for the first time installed a groundwater remediation system, consisting of three recovery wells and an air stripper, to remove 1,1-DCE from the groundwater.

34. The groundwater remediation system was not effective in containing the groundwater contamination because it was never operated at above 25 percent of its design flow rate.

35. After implementation of the groundwater remediation program in 1991, the Rohm/Morton Facility continued to release substantial quantities of 1,1-DCE and VC among other chemical toxins into the environment and groundwater.

36. In addition, the “air stripping” equipment at the Rohm/Morton Facility caused tens of thousands of pounds of 1,1-DCE to be released into the air. The Rohm/Morton Facility has been the number two source of 1,1-DCE air discharges in the country.

37. In 1997, Morton determined that its contamination of the groundwater, referred to as the “plume,” was commingling with toxic chemicals being released into the groundwater from the Modine Facility.

38. In 1990, after the removal of two underground storage tanks¹, Modine determined that the groundwater beneath the Modine Facility was contaminated with VOCs, including “TCE”, cis-1,2-dichloroethene (“cis-1,2-DCE”), 1,1,1-trichloroethane (“1,1,1-TCA”), 1,1-DCE, toluene, and VC.

39. From then on Morton, Rohm & Haas, Modine and, later, Huntsman all began acting in concert and conspired to keep the public, particularly the residents of McCullom Lake Village, from knowing the true extent of the groundwater contamination.

¹One tank contained naphtha and toluene and the other contained gasoline.

40. In 1999, Morton determined that there were elevated concentrations of VOCs in the groundwater in the shallow and deeper zones of the glacial outwash aquifer at the downgradient edge of the Rohm/Morton Facility, i.e. south toward McCullom Lake Village where the plaintiffs resided.

41. In 2000, Morton determined that the groundwater plume extended off-site and beneath properties south of the Rohm/Morton Facility.

42. Although never alerting the public, Rohm and Haas has acknowledged in documents submitted to state authorities that the underground toxic plume extends to a distance downgradient from the facility to reach the homes of plaintiffs.

43. VOCs naturally degrade along expected chemical degradation pathways, such that, for example, TCE and 1,1-DCE naturally degrade to related chemicals including vinyl chloride, a known cancer causing agent.

44. Other than in submissions to the Illinois Environmental Protection Agency (“IEPA”), none of the defendants took any steps to inform the public of the groundwater contamination.

45. Defendants actively concealed documents and information that was submitted to the IEPA, such as by sending copies of these documents to the Public Library in Johnsberg, Illinois instead of to the McHenry Public Library.

46. Defendants also intentionally misrepresented the true extent of the groundwater plume in their submissions to the IEPA.

47. Knowing that their chemical and manufacturing operations were upgradient from McCullom Lake Village and that the residents of that community depended on wells as their source of water, none of the defendants placed monitoring wells directly south of the Modine and Rohm/Morton Facilities.

48. None of the defendants tested any domestic wells along West McCullom Lake Road proper or at any of the homes that are part of McCullom Lake Village, including the home of plaintiffs.

49. In submissions to IEPA, defendants ignored the fact that McCullom Lake Village, a residential community where plaintiffs and hundreds of others lived, was downhill and downgradient from and one-mile south of defendants' chemical and manufacturing operations, stating only that "the main [Morton] plant is bounded by residential areas to the north and west, the railroad right of way to the east and the Modine Manufacturing Company to the south."

50. As early as 1985 and as recently as October of 2005, it was known to the defendants that there was extensive vinyl chloride contamination of the groundwater south of the Rohm/Morton, Huntsman and Modine Facilities.

51. The IEPA in 2005 found that the Rohm/Morton Facility's waste water storage ponds were periodically overflowing and spilling into Dutch Creek, a tributary of the Fox River, that runs to and/or near McCullom Lake Village.

52. In 2005, Dutch Creek tested positive for elevated concentrations of 1,1-DCE, ammonia, vinyl chloride and other noxious and toxic substances.

53. 1,1-DCE and vinyl chloride are highly toxic chemicals and are classified by the EPA as cancer causing agents. Vinyl Chloride in particular has been linked to human brain cancer in epidemiological studies.

54. Defendants are legally responsible for contaminating the air and the groundwater that was and is the source of drinking water for plaintiffs who have developed brain cancer and for the McCullom Lake Village in general.

55. At all relevant times, defendants knew or should have known of:

- a. the highly toxic nature of 1,1-DCE and VC;
- b. the fact that 1,1-DCE and VC should not have been spilled, leaked, dumped or otherwise released into the environment and groundwater; and
- c. the fact that if 1,1-DCE and VC is released into the environment and groundwater it should be promptly contained and cleaned up.

56. Despite this knowledge, from approximately 1962 until present defendants spilled, leaked, dumped and/or otherwise released thousands of pounds of 1,1-DCE and VC onto the Rohm/Morton, Huntsman and Modine properties.

57. As a result of the spilling, leaking, and dumping, TCE, 1,1-DCE and VC migrated through the soil, contaminating hundreds of square feet of land and invaded the groundwater flowing beneath the Rohm/Morton, Huntsman and Modine Facilities.

58. The groundwater thus contaminated by TCE, 1,1-DCE and VC at the defendants' properties was permitted to migrate unimpeded near to and into the community of homes south of and hydrologically downgradient from defendants' facilities, which community includes the home of the plaintiffs.

59. There is no other source of this contamination other than that which came from defendants' properties.

60. Defendants did nothing to test the groundwater or air serving the home of the plaintiffs or their neighbors.

61. Defendants did nothing to warn plaintiffs that they might be at risk from TCE, 1,1-DCE and VC exposure.

62. During each year and continuously throughout the years, the air and water entering the plaintiffs' homes was contaminated by TCE, 1,1-DCE and VC from the defendants' chemical spills and manufacturing operations.

63. Mr. Branham contracted malignant brain cancer through exposure to water and air containing 1,1-DCE and vinyl chloride, among other chemical toxins emanating from the contaminated groundwater plume.

64. The well underneath Mr. Branham's home was contaminated with toxic chemicals, including 1,1-DCE and vinyl chloride, that had migrated south over a period of many years from the defendants' facilities.

65. Since plaintiffs were unaware of the environmental contamination, they used contaminated water for all purposes, including, inter alia, showering, bathing, drinking, and preparation of food.

66. Because of Mr. Branham's repeated contact with 1,1-DCE and VC, he contracted a rare and deadly brain cancer.

67. In May of 2004, Mr. Branham was diagnosed with glioblastoma, another rare and malignant brain cancer similar to oligodendroglioma.

68. Mr. Branham died on June 18, 2004.

69. In December of 2004, Bryan Freund, 44, was diagnosed with oligodendroglioma, a rare form of malignant brain cancer for which there is no known cure.

70. In January of 2005, Kurt Weisenberger, 64, was also diagnosed with oligodendroglioma.

71. Others who have lived in or worked in McCullom Lake Village have been diagnosed with brain cancer or brain tumors.

72. Mr. Branham's brain cancer was caused by his exposure to contaminated water, vapor and air at and near his respective home.

FIRST CAUSE OF ACTION: WRONGFUL DEATH ACT

73. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

74. Joanne Branham, Individually and as Administratrix of the Estate of Franklin Branham, brings this action on behalf of the beneficiaries under and by virtue of the Wrongful Death Act **42 Pa.C.S.A. §8301**, and the applicable rules of civil procedure and decisional law.

75. As a result of the negligent acts and omissions of defendant, Mr. Branham was caused grave injuries and death resulting in the entitlement to damages to those individuals defined as beneficiaries under the Wrongful Death Act.

76. Joanne Branham, Individually and as Administratrix of the Estate of Franklin Branham, claims all administrator's expenses recoverable under the Wrongful Death Act, including, but not limited to damages for hospital, medical, funeral and burial expenses and all expenses of administration made necessary because of Mr. Branham's death.

77. The Wrongful Death Act beneficiaries are:

- a. Joanne Branham, spouse;
- b. Teresa Fossen, daughter;
- c. Linda Pleumer, daughter;
- d. Franklin Branham, Jr., son;
- e. Mary Ellen Wyman, daughter; and
- f. Richard Branham, son.

78. On behalf of wrongful death beneficiaries, the Administratrix claims damages for monetary support that decedent would have provided to the beneficiaries during their lifetime, including, but not limited to the support provided or which could have been expected to have been provided to the beneficiaries.

79. On behalf of the Wrongful Death Act beneficiaries, the Administratrix claims damages for loss of companionship, comfort, society, guidance, solace, and protection by the decedent.

80. On behalf of the wrongful death beneficiaries, the Administratrix claims damages for the full damages allowed under the Wrongful Death Act of Pennsylvania and decisional law interpreting the Act.

SECOND CAUSE OF ACTION: SURVIVAL ACTION

81. The preceding paragraphs are incorporated by reference here as though set forth in their entirety.

82. Joanne Branham, Individually and as Administratrix of the Estate of Franklin Branham, brings this survival action on behalf of the Estate of Franklin Branham, under and by virtue of **42 Pa.C.S.A. §8302** and the applicable rules of Civil Procedure and decisional law.

83. On behalf of the Survival Act beneficiaries, the Administratrix claims all loss of income, retirement, and social security income as a result of Franklin Branham's death.

84. On behalf of the Survival Act beneficiaries, the Administratrix claims damages for the pain, suffering and inconvenience endured by Franklin Branham, including, but not limited to his physical pain and suffering and mental pain and suffering.

85. Plaintiff claims the full measure of damages under the Survival Act and decisional law interpreting the Act.

**COUNT I
NEGLIGENCE**

86. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

87. At all relevant times, it was the duty of defendants to exercise a reasonable degree of care for plaintiffs, including but not limited to:

- a. preventing TCE, 1,1-DCE and VC or other hazardous substances from being released into the environment and invading the air and water supply of the plaintiffs' home.
- b. promptly responding to any releases of TCE, 1,1-DCE and VC or other hazardous substances in a manner sufficient to prevent them from reaching the plaintiffs' home; and

- c. exercising ordinary and reasonable care in the use and handling of hazardous substances, including TCE, 1,1-DCE and VC.
88. The negligence of defendants included the following acts and/or omissions:
- a. carelessly and improperly allowing and causing hazardous substances including TCE, 1,1-DCE and VC to be spilled, leaked, dumped onto and into the soil of defendants' facilities;
 - b. failing to establish procedures for the delivery of TCE, 1,1-DCE and VC to the defendants' facilities so that TCE, 1,1-DCE and VC and other toxic chemicals would not be released into the environment;
 - c. failing to test the plaintiffs' home for TCE, 1,1-DCE and VC contamination and contamination with other toxic chemicals;
 - d. failing to alert or warn the plaintiffs to the possibility of water and air contamination with TCE, 1,1-DCE and VC and other toxic chemicals;
 - e. failing to exercise reasonable care and caution in operating and maintaining defendants' chemical and manufacturing facilities;
 - f. failing to provide appropriate safeguards and security measures to prevent, monitor and/or remedy the release of hazardous substances, including TCE, 1,1-DCE and VC into the environment and groundwater;
 - g. carelessly and improperly using a production and disposal process that permitted hazardous substances, including TCE, 1,1-DCE and VC to escape into the environment and to migrate to the plaintiffs' home;

- h. carelessly and improperly using hazardous substances, including TCE, 1,1-DCE and VC at defendants' chemical and manufacturing facilities;
- i. carelessly and improperly storing toxic chemicals including TCE, 1,1-DCE and VC in tanks, lagoons, ponds, and landfills not equipped with necessary safeguards to prevent discharge, spillage and/or escape into the environment and groundwater;
- j. carelessly and negligently storing toxic chemicals including TCE, 1,1-DCE and VC in tanks, lagoons, ponds, and landfills in a manner that allowed the release, discharge, spillage or escape of TCE, 1,1-DCE and VC;
- k. failing to properly install and maintain said tanks, lagoons, ponds, and landfills knowing that such a failure would allow the release of toxic chemicals into the environment and groundwater including TCE, 1,1-DCE and VC;
- l. failing to warn area residents, including plaintiffs, of the hazardous conditions created by defendants' release of hazardous substances, including TCE, 1,1-DCE and VC into the environment and groundwater; and
- m. failing to take reasonable and prompt action to contain and clean up the TCE, 1,1-DCE and VC releases into the environment and groundwater.

89. As a direct and proximate result of defendants' negligent acts and omissions, hazardous substances, including TCE, 1,1-DCE and VC, migrated from the defendants' properties to the plaintiffs' home and contaminated the air and the water used by the plaintiffs.

90. As a direct and proximate result of defendants' forgoing acts and omissions, plaintiffs have been caused to suffer great personal injury, as described above.

COUNT II NUISANCE

91. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

92. The contamination of the soils and groundwater at, in, on or beneath the defendants' properties, and the residential homes adjacent to and in the area of defendants' facilities occurred and persists because of defendants' acts and omissions including, but not limited to, their operation and maintenance of their facilities and equipment; their handling, storage, use and disposal of hazardous substances; and/or their failure to promptly and effectively address such contamination to prevent further migration of the contaminants.

93. Defendants' contamination of the soils and groundwater and their failure to address such contamination constitutes an unreasonable, unwarranted and unlawful use of the properties and substantially interferes with plaintiffs' reasonable use, development and enjoyment of their property.

94. As alleged above, plaintiffs have incurred substantial damage as a result of defendants' creation and maintenance of such contamination, constituting a nuisance.

COUNT III

ULTRAHAZARDOUS ACTIVITY-STRICT LIABILITY

95. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

96. The defendants' generation and disposal of toxic and hazardous substances at their facilities and operation of their facilities using toxic and hazardous substances in the densely populated area of McHenry County, Illinois, close to private drinking water wells and public lakes, constitutes an ultrahazardous activity.

97. As a direct result of the defendants' engaging in the aforementioned ultrahazardous activities, TCE, 1,1-DCE and VC and other hazardous chemicals have been released from defendants' facilities into the groundwater used by the plaintiffs and their neighbors.

98. Defendants are strictly liable for any harm caused by the abnormally dangerous activity described above pursuant to the doctrine of strict liability set forth in the Restatement of Torts, Second Section 402A.

99. Dumping, releasing and disposing of toxic chemicals, including TCE, 1,1-DCE and vinyl chloride, is an unreasonably dangerous activity because these chemicals are strongly associated with brain cancer in human beings.

100. As a direct and proximate result of defendants' highly dangerous activity, as set forth above, plaintiffs have suffered the injuries and losses described above.

**COUNT IV
RES IPSA LOQUITUR**

101. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

102. Defendants owed a common law duty to plaintiffs to prevent the release of TCE, 1,1-DCE and VC and other hazardous chemicals into the groundwater used by plaintiffs.

103. If ordinary care is used, TCE, 1,1-DCE and VC and other hazardous chemicals would not be released from defendants' facilities into the groundwater used by plaintiffs.

104. The release of TCE, 1,1-DCE and VC and other hazardous chemicals would not have occurred but for the negligent acts or omissions of the defendants.

105. Plaintiff, Mr. Branham, would not have contracted malignant brain cancer but for his exposure to hazardous chemicals released by defendants into the environment and groundwater.

106. Multiple cases of malignant brain cancer occurring in close proximity in a tiny residential population, would not have occurred but for exposure to TCE, 1,1-DCE and VC and other hazardous chemicals.

107. As a direct or proximate result of the defendants' engaging in the aforementioned ultrahazardous activities, plaintiffs have suffered substantial damages, as described above.

**COUNT V
COMMON LAW CONSPIRACY, FRAUD, MISREPRESENTATION**

108. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

109. Defendants had a common law duty to warn plaintiffs when they became aware that hazardous substances at their properties were migrating toward and onto adjacent residential properties and through the groundwater.

110. Defendants had a common law duty to warn plaintiff of the risk to health and well-being as a result of toxic emissions coming from their facilities.

111. Upon information and belief, defendants breached these duties by conspiring among themselves to hide the fact and extent of the groundwater contamination, as described above.

112. Defendants' breach of their duty to plaintiffs has caused substantial injury and damage to the plaintiffs, as described above.

**COUNT VI
WILFUL AND WANTON MISCONDUCT**

113. The preceding paragraphs are incorporated by reference as though set forth here in their entirety.

114. At all relevant times defendants knew that TCE, 1,1-DCE and VC should not be spilled, leaked, or dumped into the environment at the defendants' properties.

115. At all relevant time, defendants also knew that, if spilled, leaked, or dumped, the TCE, 1,1-DCE and VC was to be immediately contained and/or cleaned up in order to prevent migration into groundwater systems used by human beings in the immediate area, particularly by those homes downstream from defendants.

116. Furthermore, defendants knew or should have known of the likelihood that TCE,

1,1-DCE and VC spilled, leaked and dumped at their facilities would invade the air and drinking water supply of the community of homes to the south, including plaintiffs' home.

117. Defendants also knew that the homes in and around McCullom Lake Village should be tested for TCE, 1,1-DCE and VC contamination, or, at a minimum, that their occupants should be alerted to the possibility of such contamination.

118. Despite this knowledge, and in wilful, wanton and reckless disregard for the safety and health of the plaintiffs and their families, defendants:

- a. failed to prevent the spilling, leaking and dumping of TCE, 1,1-DCE and VC and other hazardous substances onto their properties and into the groundwater;
- b. failed to contain or clean up the TCE, 1,1-DCE and VC spilled, leaked and dumped on their properties;
- c. failed to take adequate measures to prevent the migration of the TCE, 1,1-DCE and VC into the groundwater beneath their properties and the groundwater flowing into and near the plaintiffs' home;
- d. failed to test the plaintiffs' home for contamination with TCE, 1,1-DCE and VC and other toxic and hazardous chemicals;
- e. failed to test any home on West McCullom Lake Road, proper or any of the homes in McCullom Lake Village;
- f. failed to alert plaintiffs and their neighbors to the likelihood that the TCE,

1,1-DCE and VC dumped, leaked and spilled had invaded the air and groundwater used for everyday purposes by plaintiffs and their neighbors; and

g. engaged in the other misconduct set forth above.

119. As a direct and proximate result of the wilful, wanton and reckless acts and/or omissions of the defendants, plaintiffs came into repeated contact with TCE, 1,1-DCE and VC contaminated water and contracted malignant brain cancer.

120. As a direct and proximate result of defendants' foregoing acts and omissions, plaintiffs have been caused to suffer great personal injury, as described above.

WHEREFORE, plaintiffs pray for judgment against defendants and for compensatory and punitive damages, exclusive of costs, pre-judgment interest, post-judgment interest and cost and in an amount in excess of the local mandatory arbitration limits.

LAYSER & FREIWALD, P.C.

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