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JEMIN CHARLES HSU and KUO-
HOM HSU, h/w
10 High Mountain Trail
Lincoln Park, NJ 07035
Plaintiffs

v.

ROHM AND HAAS CO.
Independence Mall West
5th and Market Streets
Philadelphia, PA 19106
Defendants

COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

APRIL TERM, 2005

NO. 2861

JURY TRIAL DEMANDED

COMPLAINT

COMPLAINT

Plaintiffs, by their attorneys Layser & Freiwald, P.C., file this civil action and allege as follows:

1. This case involves a young research chemist who worked for 20 years for specialty chemicals giant Rohm and Haas company (“Rohm and Haas”).
2. Dr. Jemin Charles Hsu is one of at least 12 individuals who worked for Rohm and Haas at the company’s Spring House, Pennsylvania facility and who has contracted brain cancer.
3. Plaintiffs seek recovery in this case from Rohm and Haas for compensatory and punitive damages arising out of the negligent, careless, reckless and fraudulent conduct of Rohm and Haas in connection with the rare brain cancer that has afflicted Dr. Hsu and numerous other Rohm and Haas researchers.
4. This case began with the filing of a Writ of Summons on April 22, 2005.
5. On September 16, 2005, this Court granted Plaintiffs’ Motion for Pre-Complaint Discovery.
6. Defendant has produced thousands of pages of documents in response to plaintiffs’ document requests.
- 7 Pursuant to the Court’s Order of September 16, 2005, plaintiffs now file this Complaint.

The Parties

8. Plaintiffs are Jemin Charles Hsu and Kuo-Hom “Lee” Hsu, husband and wife.
9. Dr. and Mrs. Hsu have two adult children, Jerry and Jennifer.

10. Dr. Hsu was born on December 8, 1947.
11. Dr. Hsu worked as a research chemist for Rohm and Haas for two decades, beginning in 1983.
12. Dr. Hsu was born in China and earned his bachelor's degree from FuJun University in Taiwan.
13. Dr. Hsu obtained a doctorate degree from Clemson University in South Carolina.
14. Dr. Hsu spent most of his career with Rohm and Haas working out of the Spring House facility performing research on various herbicides, biocides and polymers.
15. Dr. Hsu's name appears on numerous different patents for work he performed as an employee at Rohm and Haas.
16. In August 2003, Dr. Hsu began experiencing speech problems and memory loss and was seen at West Chester Hospital for a CT scan.
17. On August 11, 2003, Dr. Hsu was diagnosed with a rare form of brain cancer, glioblastoma multiforme level four.
18. Dr. Hsu has been treated with surgery, chemotherapy and radiation.
19. Defendant Rohm and Haas is a multinational specialty chemicals company with sales revenues of approximately \$8 billion and operations in some 27 countries.
20. At all relevant times, Rohm and Haas owned and operated a group of buildings located on former farmland in Montgomery County that houses the company's research and development laboratories, known as the Spring House facility.
21. The Spring House facility opened in 1963 and to date approximately 6,000 employees have worked there.

Pertinent Facts

22. In September 1996, Rohm and Haas was notified of a probe then underway in Illinois that was looking at a possible cluster of brain cancer incidences among workers at a BP Amoco chemical research facility.

23. One source of the information about the Amoco probe was a retired Rohm and Haas executive, who sent a letter about the Amoco situation to Phil Lewis, M.D., then Vice President and Director for Safety, Health and Environmental Affairs at Rohm and Haas.

24. In a September 1996 letter to Dr. Lewis, the retired executive, Thomas Haag questioned whether there might be a common chemical exposure when comparing the experience of the Amoco workers who had been diagnosed with brain cancer and a young Rohm and Haas researcher Mr. Haag had known and who had died several years before of brain cancer.

25. Mr. Haag, who held various technical and management positions during his 38-year career with Rohm and Haas, began his career as a research chemist working in the Spring House facility.

26. On September 16, 1996, Dr. Lewis responded to Mr. Haag's letter, stating, "I certainly agree with you that the occurrence of brain tumors, malignant or not, is of great concern."

27. Dr. Lewis further indicated in his letter to Mr. Haag that Rohm and Haas was interested in the brain cancer cluster at Amoco and that he, Mr. Lewis, would investigate.

28. Specifically, Dr. Lewis stated in his September 16, 1996-letter: "I will ask Dr. Arvind Carpenter, Head of Rohm and Haas Epidemiology, to get in contact with Dr. Wells at Amoco to discuss the information they have currently, and to compare it with the information we have collected in our Cancer Registry to determine if we can be of any help with the concerns you have raised."

29. A copy of Dr. Lewis' letter was copied to Dr. Carpenter, the head of Rohm and Haas' epidemiology department.

30. In late 1996, Dr. Carpenter, a dentist turned epidemiologist, reviewed limited data on Spring House employees to see if there was any unexpected or unusual incidences of brain cancer.

31. According to a sworn "declaration" given in this case, in 1996 Dr. Carpenter determined that there had only been five brain cancers among Spring House employees.

32. Dr. Carpenter determined that the five brain cancer cases in the Spring House population were consistent with the expected number of brain cancers in the general population of the United States.

33. In fact, by the time Dr. Carpenter conducted his "data review" in 1996, there had been at least 10 brain cancer deaths among Spring House employees, a figure at least twice the expected brain cancer rate.

34. A significant number of the brain cancers - - as many as half- - were glioblastoma multiforme, a particularly deadly subset of malignant brain cancers.

35. A significant number of the brain cancer cases as of 1996 involved Spring House employees who worked as research chemists at the facility, as was true of Dr. Lange.

36. A significant number of the brain cancer cases as of 1996 involved Spring House employees and researchers who worked on the same hallway of the same building as Dr. Hsu, namely Building 4.

37. Dr. Hsu was never told by any official or supervisor at Rohm and Haas that as of 1996 there was significant number of brain cancer cases at Spring House; that the number of brain cancer deaths among Spring House employees was at least double the expected cancer rate in the U.S. population; that a significant number of Spring House brain cancer deaths involved research chemists; or that a significant number of brain cancer deaths involved Spring House employees who had worked on his same hallway in Building 4.

38. The information in the previous paragraph was known to Dr. Carpenter and to Rohm and Haas for years before Dr. Hsu's cancer diagnosis and was knowingly concealed from Dr. Hsu.

39. Rohm and Haas did not undertake a formal epidemiological study in 1996.

40. At no time in 1996 did Rohm and Haas communicate to Spring House employees, including Dr. Hsu, that there was a significantly increased incident of brain cancer at the facility.

41. In July 2001, Dr. Barry Lange, a close colleague and fellow research chemist, suffered a massive seizure.

42. Dr. Lange was diagnosed with glioblastoma multiforme.

43. With the information Dr. Lange provided about his own brain cancer, defendant Rohm and Haas had knowledge of at least 12 malignant brain cancers involving Spring House employees in that another Spring House employee had died of brain cancer just the year before.

44. On September 7, 2001, Dr. Carpenter, Dr. Lewis and other Rohm and Haas officials met to discuss “brain cancer cases at S.H.”

45. At this September 7, 2001 meeting, according to handwritten notes prepared by Dr. Carpenter, defendant Rohm and Haas began plans to conduct an epidemiological study into the brain cancer cases at Spring House.

46. According to Dr. Carpenter’s handwritten notes, Rohm and Haas officials also were assigned to begin the task of handling public relations aspects of the Spring House brain cancer study.

47. In his sworn declaration, Dr. Carpenter states that he undertook to review data on the causes of death among past and present Spring House employees in December 2001, after BP Amoco reported the results of an epidemiological study conducted with regard to brain cancer cases at its Illinois facility.

48. Dr. Carpenter’s sworn statement regarding the timing of the decision to conduct an epidemiological study at Spring House is false in that plans were already begun in September 2001 and perhaps earlier.

49. In Dr. Carpenter’s sworn declaration, he claims that Rohm and Haas had knowledge of 10 brain cancer cases, including Dr. Lange, as of 2001.

50. Dr. Carpenter’s sworn statement regarding the number of brain cancers known as of 2001 is false, in that the company had knowledge of at least 12 malignant brain cancer cases at that time.

51. From September 2001 until May 2002, Dr. Carpenter and other Rohm and Haas officials met numerous times to discuss and plan an epidemiological study into the incidences of brain cancers at Spring House.

52. On January 22, 2002, Sid Haveley, Rohm and Haas' Senior Communications Manager, circulated a confidential memo to the Spring House advisory working group, the members of which included Dr. Carpenter, Dr. Lewis, Mr. Greenley and several other senior Rohm and Haas officials.

53. Mr. Haveley's January 22, 2002 memorandum set forth a detailed communications/PR plan for the Spring House brain cancer epidemiological study.

54. Mr. Haveley's 16- page communications memorandum included sections providing details about the study's "core message," "supporting message elements," and a detailed time line for communications regarding the announcement of the epidemiological study.

55. Among the message "elements" in Mr. Haveley's communications memorandum were bullet points regarding the limitations of any epidemiological study, a warning that such studies "sometimes find no excess cancers or the precise cause of the illness under the investigation" and the false statement that "no known link exists between specific chemicals or agents and brain cancer."

56. In fact there are links between certain specific chemicals and brain cancer, including certain agents to which Dr. Lange and other Spring House employees were exposed.

57. A draft letter announcing the epidemiological study to past and present Spring House employees was circulated to the Spring House advisory working group as part of Mr. Haveley's planning.

58. One draft of this letter, which was to be signed by Elaine Bonner, M.D., Rohm and Haas' director of Corporate Medical Services, acknowledged that there were 12 known brain cancer cases involving Spring House employees.

59. The actual letter that was sent by Dr. Bonner dated May 22, 2002, representing the first announcement about the study to past and present employees of Spring House, reduced the number from 12 to 10 brain cancer cases.

60. Dr. Bonner's letter, which in an early draft acknowledged 12 brain cancer cases, but now only reported that there were 10 known cases of brain cancer, nonetheless allowed that the number was "approximately twice the number that would be expected compared with the general population of the U.S."

61. The company's May 2002 letter stated that a "case-control study" would be undertaken and that the results would be published in a peer-reviewed medical journal upon completion.

62. To date, more than two years after the case-control study was completed, Rohm and Haas has yet to publish the study results as repeatedly promised.

63. Dr. Bonner's letter further stated, "We believe the Spring House site is a safe workplace."

64. On April 29, 2003, Dr. Lange died of brain cancer.

65. On August 11, 2003, Dr. Hsu was diagnosed with glioblastoma multiforme, the same rare and deadly brain cancer that had claimed Dr. Lange's life just a few months earlier.

66. One month later, in September 2003, Dr. Hsu was in Houston receiving a six-week course of radiation therapy for his brain cancer at the M.D. Anderson Cancer Center.

67. Staying at the home of his sister in Houston, Dr. Hsu and his wife were visited by Mr. Greenley and Dr. Carpenter.

68. Among other things discussed, Dr. Carpenter advised Dr. Hsu and his wife that Rohm and Haas would not cover the cost of Dr. Hsu's medical treatment because he had gone out of network by seeking treatment to Houston and the company's insurer would not cover the expense.

69. Dr. Hsu and his wife asked whether Dr. Hsu was eligible for workers compensation benefits and Mr. Greenley and Dr. Carpenter responded that this was not a workers compensation matter, again because Dr. Hsu's cancer was not work-related.

70. On January 8, 2004, Rohm and Haas announced that its epidemiological study was complete and had found "no risk factor emerging as statistically significant as an association with the occurrence of brain cancer or benign brain tumors."

71. The January 8, 2004 letter, signed by both Mr. Greenley and Dr. Carpenter, revealed that 12 individuals had been identified during the study as having developed primary malignant brain cancers, two more than had been acknowledged at the start of the study.¹

72. The Greenley/Carpenter letter also revealed that three other individuals had been found to have other types of brain tumors, so-called benign brain tumors.

73. At no time did the epidemiological study team interview Dr. Lange or Dr. Hsu.

¹ One of the original 12 malignant brain cancer cases turned out to be excludable from the study, because the employee developed brain cancer prior to coming to work at Spring House. This employee, therefore, could not have developed brain cancer due to any exposure at Spring House. The inclusion of Dr. Hsu in the study brought the number back up to 12 cases.

74. Having disclosed additional instances of rare brain cancers and having conceded that questions remained about the significance of the number of cancer cases, Mr. Greenley and Dr. Carpenter stated in their January 8, 2004 letter, "It is our firm belief that based on the study findings and review of the current health and safety practices, Spring House is a safe place to work.

75. The January 2004 announcement offered no details as to any review of the Spring House facility's chemical or radiation safety practices.

76. The January 2004 announcement offered no explanation as to the assumptions underlying the study's conclusions.

77. In a January 20, 2004 letter to Dr. Carpenter, Mr. Haag, the retired Rohm and Haas executive, questioned important assumptions apparently underlying the company's study.

78. The study assumed, for instance, an expected rate of brain cancer in the national population of roughly 5-6 per 100,000, in other words, the rate for all malignant brain cancers.

79. The rate of glioblastoma multiforme in the general population, however, is approximately 1-2 in every 100,000 individuals per year, much lower than the rate for all forms of malignant brain cancer.

80. By generalizing about all brain cancers, Dr. Carpenter and Rohm and Haas downplayed the significance of the number of brain cancers, many of which were glioblastoma multiforme cases.

81. Also, as part of the study the company assumed that each of the 6,000 employees who worked at the Spring House facility worked there on average for 20 years, for a total of 120,000 employee exposure years.

82. Even given this assumption, 12 cases out of 120,000 employee years would be extremely high as compared to the general population.

83. If the assumption of 20 years per employee at Spring House is high, then the rate of dangerous brain cancer at Spring House is even higher.

84. In addition, Dr. Carpenter relied on brain cancer rates in the general population as a basis for comparing the incidence of brain cancer at Spring House.

85. But the cancer rates relied on by Dr. Carpenter and defendant were rates of brain cancer from all age demographics.

86. If one separates out from general population statistics the very young and the elderly, two populations that have higher rates of brain cancer and that have no relevance to a working-age population at the Spring House facility, then the brain cancer rate at Spring House again would be higher.

87. In a June 2, 2004 letter to Mr. Haag, Dr. Carpenter promised that a second company study, which is expected to be completed at the end of 2006, would address the questions Mr. Haag had raised as to the first Rohm and Haas study.

88. The Rohm and Haas epidemiologic study conducted from 2001 to January 2004, was scientifically flawed in design and execution.

89. The defendant's first epidemiological study was a sham and a fraud for numerous reasons, including, but not limited to the following:

a. The Spring House study was conducted in-house and was directed by Dr. Carpenter, a longtime Rohm and Haas corporate executive. Other companies who have conducted epidemiological studies into potential cancer clusters have brought in outside experts

to conduct the study.

b. Defendant held out its Spring House epidemiological study as valid by relying, in part, on the claimed involvement of three outside “experts.” However, two of the outside experts had strong biases in favor of Rohm and Haas and were not truly independent. One of the outside advisors brought in to lend credibility to the Spring House study was a former colleague of Dr. Carpenter. The only one of the three outside advisors who was actually independent was Elizabeth Ward, an epidemiologist with the American Cancer Society and she was highly critical of the Spring House study.

c. All three outside advisors were given only limited information and data about the Spring House study, but were held out as having been deeply involved in the design and execution of the study. Dr. Ward, the American Cancer Society epidemiologist, was provided with summary data about the proposed conclusions of the Spring House in December 2003 and she was asked by Dr. Carpenter to review them over the Christmas holiday. Because she did not feel she had had adequate time to review the data, Dr. Ward refused to attend the January 8, 2004 meetings defendant was planning with Spring House employees to announce the results of the study.

d. Dr. Ward did offer comments about the data she had been asked to review in a January 12, 2004 letter to Dr. Carpenter, which was sent four days after Dr. Carpenter met with Spring House employees to announce the study’s conclusions and four days after defendant Rohm and Haas declared that Spring House was safe on the basis of its in-house epidemiological study. In her two-page letter to Dr. Carpenter, she concluded that she was “unable to offer comments on the preliminary results of your study until I see a full written report describing your

methods, results, and conclusions in more detail.”

e. Defendant Rohm and Haas held out its epidemiological study to Spring House employees, to families of those who had developed brain cancer and to the news media as being valid scientifically by virtue of three outside and independent advisors signing off on the study, when, in fact, three independent outside advisors did not sign off on and approve the study.

f. Defendant Rohm and Haas did not undertake a study designed to accurately identify all cases of brain cancer in the Spring House population. Other Spring House employees have developed and/or died of brain tumors, but were not counted in the Spring House study. One former research chemist, now retired and living in Florida, developed a brain tumor, but was not counted in the Spring House study. Another former Spring House worker, an employee whose office was located at the company’s Philadelphia headquarters, but who spent two to three days a week at Spring House, died of glioblastoma multiforme, the same kind of malignant brain cancer that Dr. Lange and Dr. Hsu developed. This employee too was not counted.

g. The epidemiological study team involved in the Spring House study relied on incomplete data for their study. Dr. Lange was alive during most of time when the epidemiological study team was gathering data, but no one from the study team bothered to interview him to find out whether he had any insights into the cause of his brain cancer or the cause of anyone else’s brain cancer. No one from the Spring House study team bothered to ask Dr. Lange whether he had any documents or materials or letters or notebooks or other information that might be helpful to the study team.

h. Dr. Hsu was diagnosed with malignant brain cancer during the period the epidemiological study team was still gathering data. Although Dr. Carpenter and Mr. Greenley visited Dr. Hsu and told him that he was not eligible for workers compensation, they did not interview him to find out whether he had any insights into the cause of his brain cancer or the cause of other brain cancers at Spring House.

i. The epidemiological study team relied on scientific notebooks kept by those who developed brain cancer in gathering data on chemical exposures. The study team did not have complete data in terms of scientific notebooks, as evidenced by documents produced during the pre-complaint period of this litigation. Dr. Lange, who worked at Spring House for more than 20 years and was actively engaged in research during that entire time, was not accurately evaluated in terms of his exposures in that the epidemiological study team did not look at notebooks covering his entire tenure at Spring House. Nor did the study team evaluate all of Dr. Hsu's research notebooks.

j. In addition to inadequate raw data for the epidemiological study, the Spring House study team employed poorly or inadequately trained personnel to review the raw data to extract information to be processed and analyzed for statistical sufficiency.

k. Certain chemicals and chemical agents were not considered at all during the epidemiological study, which resulted in serious flaws in terms of the validity of the study conclusions. For example, both Dr. Lange and Dr. Hsu were engaged during their Spring House career in groundbreaking research involving isothiazolones, which are a key component of several important Rohm and Haas products. Both Dr. Lange and Dr. Hsu engaged in bench research designed to neutralize the adverse health consequences of nitrosamines, a byproduct of

the manufacturing process of isothiazolones. Dr. Lange was awarded several patents for his important research in this field, the application for which describes the manner of research he conducted. The manner in which the research was conducted is significant to understanding Dr. Lange's toxic exposures. The study team did not evaluate any patent applications or the manner in which researchers conducted primary and field research. Dr. Lange and Dr. Hsu engaged in research involving isothiazolones and nitrosamines that exposed them to cancer causing agents associated with neurocancers, including brain cancers. The research Dr. Lange and Dr. Hsu were involved in, which exposed them to cancer causing chemicals and agents, was not accounted for by the epidemiological study team lead by Dr. Carpenter.

1. The epidemiological study team researched the employment history of each of the individuals known to have had brain cancer and attempted to determine which buildings on the sprawling research campus each cancer victim had worked in for purposes of looking for any statistically significant patterns. Because of inaccurate data gathering and inaccurate designations, the epidemiological study team undervalued the significance of working in Building 4, the building where Dr. Lange, Dr. Hsu and several other glioblastoma multiforme employees had performed their research during their careers at Spring House.

90. The above represents only a partial list of the ways in which the Rohm and Haas Spring House epidemiological study directed by Dr. Carpenter was flawed, invalid, and a sham.

91. The flawed epidemiological study indicates a deliberate attempt to downplay the significance of the brain cancers at Spring House and to assure a result that would appear inconclusive.

92. The sham study was also, in part, an effort to deny compensation and benefits to the injured parties, including Dr. Hsu and his family.

93. The sham study is a continuing effort, going back to at least 1996, on the part of defendant Rohm and Haas to appear to be diligent about workplace safety and toxic exposure but in fact to be dismissive and deliberately ambiguous.

94. Plaintiff is entitled to bring this action against defendant Rohm and Haas even though Dr. Hsu was an employee of defendant.

95. Plaintiff is not bound by exclusivity of the Workers Compensation Act (WCA) because defendant has continuously asserted that Dr. Hsu's injury was not work related.

96. Defendant told Dr. Lange, that his brain cancer was not work-related and then conducted an epidemiological study in an attempt to prove that the Spring House brain cancers were not work-related.

97. Defendant then told Dr. Hsu the same thing, that his brain cancer was not work related, a statement made when the company supposedly was in the process of investigating that very question.

98. In addition, defendant told Dr. Hsu that he was not eligible for workers compensation benefits.

99. Once Dr. Hsu reported his injury to his supervisors, defendant had an obligation to report the injury, namely workplace-related brain cancer, to the Pennsylvania Department of Labor.

100. Once Dr. Hsu reported his injury to his supervisors, defendant had an obligation to report the injury, namely workplace-related brain cancer, to their insurer or the individual in charge of beginning the Workers Compensation process.

101. Defendant through its actions, omission and statements have made it clear that defendant claims that Dr. Hsu's injuries are not compensable by Workers Compensation.

102. Defendant is now estopped from raising an exclusivity argument.

103. Defendant must not be permitted to argue that the brain cancers are not work-related when dealing with its employees and then in this action argue that the WCA bars plaintiff's right to bring this action.

104. Plaintiffs relied to their detriment on the statements of defendants, including Mr. Greenley and Dr. Carpenter, that Dr. Hsu was not entitled to any compensation under the WCA.

105. In addition, the WCA does not provide a remedy to plaintiff because his exposure likely was more than 300 weeks before his diagnosis with brain cancer.

106. When the WCA does not provide a remedy, an individual may proceed directly against an employer.

107. Moreover, the Occupational Disease Act (ODA) does not apply or provide any remedy for plaintiff.

108. Accordingly, there is no bar to plaintiffs bringing this civil action.

109. Defendant Rohm and Haas was negligent, as set forth in further detail below.

110. Defendant's negligence was a substantial factor and legal cause of Dr. Hsu's brain cancer.

111. Defendant Rohm and Haas also committed fraud by knowingly concealing evidence of brain cancers among Spring House employees.

112. Defendant's fraud, dating back at least to 1996, caused Dr. Hsu's brain cancer to advance to the point of being incurable as of the time he was finally diagnosed in August 2003.

113. As a result of the negligence and other wrongful conduct of defendant, plaintiff Jemin Charles Hsu has been caused to suffer the following injuries and losses:

- a. Malignant brain cancer;
- b. Advancing and progressing of brain cancer;
- c. Craniotomy;
- d. Chemotherapy;
- e. Radiation;
- f. Neuro-cognitive brain deficits, as a result of cancer treatments;
- g. Language and speech deficits
- h. Fear of future cancer;
- i. Loss of opportunity for cure;
- j. Diminution of life expectancy;
- k. Medical care costs in the past;
- l. Medical care costs in the future;
- m. Past lost earnings;
- n. Loss of future earnings and earning capacity;
- o. Physical pain and suffering in the past;
- p. Physical pain and suffering in the future;

- q. Mental anguish in the past;
- r. Mental anguish in the future;
- s. Disfigurement;
- t. Humiliation;
- u. Embarrassment; and
- v. Loss of Life's Pleasures.

114. In addition to the injuries and losses suffered by plaintiff Jemin Charles Hsu, plaintiff's wife, Lee Hsu has also suffered the loss of her husband's society, comfort, aid and companionship.

115. Plaintiffs are entitled to compensatory and punitive damages for causes of action set forth below.

COUNT I - NEGLIGENCE
Jemin Charles Hsu and Kou-Hom Hsu v. Rohm and Haas Company

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

117. The negligence of defendant Rohm and Haas included the following:

- a. Failure to provide appropriate protective equipment for researchers conducting chemical research with potentially hazardous chemicals;
- b. Failure to provide appropriate workplace safeguards for researchers conducting chemical research with potentially hazardous chemicals;
- c. Failure to provide adequate warnings to researchers conducting chemical research with potentially hazardous chemicals;

- d. Failure to take all reasonable and necessary steps to prevent or minimize exposure to potentially hazardous chemicals;
- e. Failure to have adequate ventilation to prevent or minimize potentially hazardous chemicals;
- f. Failure to have and enforce appropriate policies and procedures for safe handling of toxic and dangerous chemicals and agents;
- 7. Failure to have and enforce appropriate policies and procedures relating to the safe disposal of hazardous materials and toxic substances;
- h. Failure to recommend appropriate testing and screening of employee, including Dr. Hsu, for brain cancer;
- i. Failure to communicate to at-risk employees the true extent of the brain cancers at Spring House as of 1996 and thereafter;
- j. Failure to conduct an appropriate and valid epidemiological study into brain cancers at Spring House;
- k. Failure to conduct a timely epidemiological study into brain cancers at Spring House; and
- l. Failure to provide appropriate employee training and education regarding safe handling of toxic chemicals.

118. The negligence of defendant Rohm and Haas was a substantial factor and a legal cause of harm to Jemin Charles Hsu.

119. As a result of the negligence of defendant Rohm and Haas, plaintiffs have suffered the injuries and losses described above.

WHEREFORE, plaintiff demands judgment against defendant Rohm and Haas and seeks compensatory damages in an amount in excess of local arbitration limits.

COUNT II - FRAUD
Jemin Charles Hsu and Kou-Hom Hsu v. Rohm and Haas Company

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

121. Defendant Rohm and Haas knew that there was a significant number of brain cancer deaths as of at least mid-1996.

122. Defendant Rohm and Haas knowingly concealed information about the number of brain cancer cases at Spring House from Spring House researchers, including Jemin Charles Hsu.

123. Defendant Rohm and Haas consistently held out Spring House, and continues to hold out Spring House as a safe place to work, notwithstanding evidence of an incidence of brain cancer significantly in excess of expected rates in the general population.

124. Defendant's failure to take action to protect its employees, including Dr. Hsu, in the face of known dangers to him constituted a fraud.

125. Defendant's failure to warn its employees, including Dr. Hsu, in the face of known dangers constituted a fraud.

126. Defendant's concealment of data on brain cancers at Spring House, since at least 1996, constituted a fraud.

127. Defendant's fraud and concealment continued through the conducting of a sham epidemiological study beginning in 2001.

128. Earlier warning to Dr. Hsu would have led to earlier diagnosis of his brain cancer and a more favorable outcome.

129. Because of the concealment of the known cancer danger at Spring House, Dr. Hsu's brain cancer was caused to progress and advance to the point where, as of August 2003, his cancer was incurable.

130. Defendant's fraudulent conduct was reckless, outrageous and in conscious disregard for the health and well-being of its employees, including research chemists such as Jeminj Charles Hsu.

131. Punitive damages are warranted here to punish defendant to deter defendant from engaging in similar conduct in the future.

WHEREFORE, plaintiff demands judgment against defendant Rohm and Haas and seeks compensatory and punitive damages in an amount in excess of local arbitration limits.

LAYSER & FREIWALD, P.C.

BY:

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DATED: April 12, 2006

CERTIFICATE OF SERVICE

I, AARON J. FREIWALD, ESQUIRE, hereby certify that service of a true and correct copy of the Complaint was served upon opposing counsel on this date, via United States First Class Mail, Postage Prepaid, as follows:

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LAYSER & FREIWALD, P.C.

BY: _____
AARON J. FREIWALD, ESQUIRE
Attorney for Plaintiffs

DATED: April 12, 2006