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On behalf of himself and all others
similarly situated,

Plaintiffs

v.

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

COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

CLASS ACTION COMPLAINT

AUGUST TERM, 2005

NO. 1918

JURY TRIAL DEMANDED

NOTICE TO PLEAD

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COMPLAINT – CLASS ACTION

Introduction

1. This class action lawsuit is brought on behalf of the past and present employees of Rohm and Haas who worked at the Spring House research facility at which, by the company’s own admission, there is an increased incidence of deadly brain cancer.

2. Through this lawsuit, plaintiff seeks for himself and for all other Rohm and Haas employees similarly situated injunctive relief in the form of medical monitoring and the costs associated with diagnostic testing to aid in the earlier detection of glioblastoma, a dangerous and deadly form of brain cancer, as well as other brain cancers.

3. Rohm and Haas has admitted that there is an elevated incidence of glioblastoma at its Spring House research facility.

4. At least 12 employees of the Spring House facility so far have been diagnosed with malignant brain cancer, while several others have been diagnosed with other forms of brain cancer.

5. Although Rohm and Haas recently concluded an 18-month long study that claimed to have found no single chemical or agent that could be reliably linked to these numerous brain cancers, plaintiff believes there is evidence enough to establish a workplace link to these cancers.

6. Other employees, past or present, may have been exposed to toxic agents in the workplace such that they, too, are at risk for developing brain cancer.

7. Medical monitoring with diagnostic testing using magnetic resonance imaging (MRI) is a reasonable approach to determining whether other employees have brain cancer.

8. Earlier detection of brain cancer is likely to increase survival and expand treatment opportunities for these individuals

Jurisdiction and Venue

9. This action has been commenced within the original subject matter jurisdiction of the Court of Common Pleas pursuant to 42 Pa. C.S.A. § 931.

10. Defendant regularly conducts business in Pennsylvania and in Philadelphia County.

11. Venue is proper in Philadelphia County pursuant to Pa.R.Civ.P. 1006 and 2179, because, among other things, defendant's corporate headquarters is located in this county.

Parties

12. Plaintiff William H. Brendley, Jr., Ph.D., is an adult citizen of the Commonwealth of Pennsylvania residing at 2450 Exton Road, Hatboro, Pennsylvania 19040.

13. Plaintiff Dr. Brendley spent 33 years as a Rohm and Haas employee, retiring in 1996.

14. Dr. Brendley has a bachelor's degree in science and a master's degree in radiochemistry from St. Joseph's University and a Ph.D. physical chemistry from the University of Pennsylvania. Dr. Brendley also has a master's degree and doctorate degree in theology from Trinity Theological Seminary.

15. Dr. Brendley spent nearly his entire Rohm and Haas career working at the Spring House facility, first as a chemist, then in a series of supervisory positions in the industrial coating division. The last several years of his Rohm and Haas career were spent in the corporate headquarters in Philadelphia. Even when he worked in the corporate headquarters, Dr. Brendley continued to spend two to three days per week at Spring House.

16. After leaving Rohm and Haas, Dr. Brendley accepted a teaching position at Philadelphia University, formerly known as the Philadelphia College of Textiles and Science. He became Dean of the University in approximately 1998.

17. Dr. Brendley is an ordained minister and is President of the Salem School of Theology.

18. Dr. Brendley is a consultant and lecturer on bioterrorism issues.

19. Defendant Rohm & Haas is a multinational specialty chemicals company with 2004 sales revenues of \$7.3 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.

21. The Spring House facility opened in 1963 and has had approximately 6,000 different employees working there over that time period.

Pertinent Facts

22. On May 22, 2002, Rohm and Haas announced to its current and former Spring House facility employees that the company was undertaking an epidemiological study because of concerns about a number of employees who had been found to have malignant primary brain cancers.

23. In a May 22, 2002 letter to then current and former employees who had worked at the Spring House facility, the company reported that there were 10 known cases of brain cancer, which was "approximately twice the number that would be expected compared with the general population of the U.S."

24. The May 2002 letter, written by Eileen M. Bonner, M.D., Director of Corporate Medical Services for Rohm and Haas, further stated, "We believe the Spring House site is a safe workplace."

25. Dr. Bonner's letter explained, "The company believes the study is prudent and appropriate based on concerns expressed by several employees about longtime Spring House colleagues and a study of excess brain cancer among employees at an Amoco research facility in Illinois."

26. 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."

27. The January 8, 2004 letter, signed by two Rohm and Haas officials, disclosed that 12 individuals had been identified during the study as having developed primary malignant brain cancers, two more than had been identified at the start of the study.

28. The January 2004 letter also disclosed that three other individuals had been found to have other types of brain cancer.

29. The company study's tally did not include a 13th employee who had glioblastoma, the more deadly form of brain cancer. This individual had worked at the corporate headquarters in Philadelphia but he had spent significant time at the Spring House campus

30. The Rohm and Haas officials conducting the study did not speak directly with at least two Spring House researchers who had each been diagnosed with glioblastoma, Dr. Charles Hsu and Dr. Barry Lange.

31. Dr. Hsu and Dr. Lange, who were both research chemists, had worked on the same hallway at the Spring House facility.

32. At least two other Spring House employees had also worked in close proximity to Dr. Hsu and Dr. Lange had both later died of glioblastoma.

33. The January 2004 letter announced that further steps would be taken in light of the epidemiological study's lack of conclusiveness:

We have not identified a specific cause or causes for the brain cancer cases identified in the study. While the study findings show no significant association with workplace chemicals, we also understand the concern and frustration of some in not clearly being able to link the brain cancer cases with a specific cause or to determine if or why the number of brain cancers is elevated. We will, however, begin a study of all deaths of Spring House employees, called a cohort mortality study. This will provide additional understanding of whether the number of brain cancer cases is actually higher among the approximately 6,000 Spring House employees who ever worked at the site and the general U.S. population as well as what, if any other cancer rates may be prevalent.

34. Having disclosed additional instances of rare brain cancers and conceding that questions remained about the significance of the number of cancer cases, defendant Rohm and Haas declared again that "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."

35. In order to further understand the significance of the unusual number of brain cancer cases among its Spring House employees, the company announced in January 2004 that it would conduct another study.

36. Other than declaring the Spring House facility to be a safe place to work, defendant has offered no details as to how the company determined that the facility was a safe place to work or whether any safety deficiencies were identified, examined or corrected.

37. The company's January 2004 announcement about its initial study findings offered no explanation as to the assumptions underlying the study's conclusions.

38. The validity of the company's initial study has been questioned by numerous employees, past and present, for a number of reasons, including but limited to the following:

- a. The company apparently did not count all the known cases of brain cancer;
- b. In calculating the rate of brain cancer at the Spring House facility, the company assumed that the average Spring House employee worked at the facility for 20 years;
- c. The company apparently used as a basis for comparison with the Spring House experience the rate for all brain cancers in the general population even though most of the known brain cancers at Spring House involved a relatively rare form of brain cancer, namely glioblastoma multiforme; and
- d. General cancer rates include the very young and the elderly, population segments that are not relevant when looking at cancer rates among working-age populations, such as the Spring House employees;

39. In a June 2, 2004 letter from Dr. Arvind Carpenter, head of epidemiology for Rohm and Haas to Thomas Haag, a retired chemist and Rohm and Haas executive, the company promised that the second Spring House cancer study, which is expected to be completed at the end of 2006, would address some of the concerns raised about the validity of the first study.

40. Using more reasonable and accurate statistical assumptions and analysis, the rate of malignant brain cancers among the Spring House employees may well be much higher than defendant has acknowledged.

41. Even taking the defendant company's own figures, the rate of malignant brain cancer among Spring House employees is at least twice the rate in the general population in the United States.

42. As a result of workplace exposures to chemicals, solvents, agricides, biocides, and/or other toxic and carcinogenic substances, members of the proposed Medical Monitoring Class, i.e., former and current employees of the Spring House facility, are at an increased risk of developing brain cancer.

43. The defendant company has admitted that its Spring House employees have a rate of brain cancer that is at least double that of the general U.S. population.

44. As a result of workplace exposures to chemicals, solvents, agricides, biocides, and/or other toxic and carcinogenic substances, members of the Medical Monitoring Class, i.e., former and current employees of the Spring House facility, will be required to expend money and other resources to monitor their medical conditions.

45. Defendant company has undertaken two slow-moving studies ostensibly to learn more about those employees who have deadly brain cancers, but has done nothing to assist its other employees in determining whether they may also have brain cancer.

46. Although there is at present no known cure for glioblastoma multiforme, there are treatments, including chemotherapy, surgical resection and radiation, which may improve an individual's outcome and extend or improve survival.

47. One of the reasons glioblastoma is so deadly is that typically once there are clinical signs and symptoms of a problem, such as seizure or neurologic compromise, the disease is very aggressive and advanced.

48. MRI technology is a proven diagnostic tool in detecting brain cancers, including glioblastoma.

49. Detecting brain cancer in an individual even before clinical signs of the disease, such as seizures, may afford even greater survival, more treatment options, as well as the opportunity to participate in new clinical trials and medical therapies now or soon becoming available.

50. Defendant Rohm and Haas has a duty and obligation not merely to conduct a succession of “studies,” but to provide for its employees who have been exposed to hazardous chemicals and other materials that may cause devastating and fatal disease..

Class Action Allegations

51. Class Definition: Plaintiff Dr. Brendley, as class representative, brings this action pursuant to Rule 1701 et seq. of the Pennsylvania Rules of Civil Procedure on behalf of himself and all members of the following Class:

- (A) All past and present employees of Rohm and Haas who worked at the Spring House facility or whose work caused them to spend some of their time at the Spring House facility. The Class expressly does not include any of the employees who already have been diagnosed with brain cancer.

52. Numerosity: The members of the Class are so numerous that their individual joinder would be impracticable. Using the defendant company’s published figures, there are approximately 6,000 past and present employees who worked out of or at the Spring House facility. A substantial number of these individuals reside in Pennsylvania. It would be highly impracticable for each individual to be required to bring a separate action seeking the same relief. Each of the putative class members seeks recovery based on the same conduct of defendant Rohm and Haas.

53. Commonality: Common questions of law and fact exist as to each class member, including whether defendant Rohm and Haas is liable for medical monitoring expenses, whether there is an increased risk of brain cancer attributable to workplace exposures, and whether MRI testing would be beneficial in detecting latent brain cancers in company employees.

54. Typicality: The claims of the Class Representative, in that he is a former employee of Rohm and Haas who worked at the Spring House facility, are typical of all members of the class. In the limited disclosures the company has made to date regarding the 12 employees who are known to have had malignant primary brain cancers, the company has referred to the entire population of 6,000 past and present Spring House employees as the relevant population to consider.

55. Adequacy of Class Representative: The Class Representative is an adequate representative in that the key determiner of class membership for purposes of this proposed class action is that the individual be a past or present employee of the defendant company's Spring House research facility.

56. Predominance of Common Issues and Efficiency of Class Treatment: The common issues of fact and law here predominate over any individual factor or legal issue in this case which seeks only injunctive relief in the form of medical monitoring. A Class Action is a superior method of adjudicating these claims that thousands of individual claims because of diminished prejudice to the defendant, greater efficiencies for the court, and reduced costs for all parties.

COUNT ONE:
MEDICAL MONITORING

57. Plaintiff incorporates by reference each of the preceding paragraphs as though set forth here in their entirety.

58. All members of the Medical Monitoring Class have been exposed to various toxic and/or carcinogenic substances, including radiation, polymers, biocides, agricides and other substances while in the workplace at Spring House.

59. As a proximate result of these exposures, the class members are at a significantly heightened risk of developing malignant or other brain cancer.

60. The workplace exposures are due to defendant's negligence, including but not limited to the defendant's failure to operate and maintain a safe workplace; to provide employees with a properly safeguarded work environment considering the regular handling of toxic and carcinogenic substances; failure to provide proper training in the handling of toxic and deadly chemicals and other substances; failure to provide proper and adequate equipment and supplies for the handling of toxic and hazardous chemicals and other substances, failure to provide proper notice and information about the toxic health effects of the hazardous chemicals and substances being routinely handled at the facility; failure to comply with state and federal workplace safety regulations and statutes; and failure to provide proper and adequate warnings about the toxic and hazardous effects of the chemicals and substances routinely being handled throughout the research facility.

61. Many of the chemicals and substances routinely handled at the Spring House facility are known and proven hazardous substances.

62. The increased risk of disease makes periodic diagnostic medical examinations reasonably necessary.

63. Monitoring and testing procedures exist that can assist in the earlier detection of brain cancers in this population, most notably neurologic examinations and MRI scans.

64. The monitoring required here on account of defendant's conduct is not of a kind that is normally recommended for individuals absent exposure to hazardous substances because MRI scans are not part of general well-care for individuals.

65. The requested medical monitoring is reasonably necessary according to scientific and medical principles.

66. Defendant's actions make them liable for the costs associated with a comprehensive medical monitoring program designed to determine whether any other Spring House employees may have brain cancer.

67. This action seeks a medical monitoring program to include:

- a. Notice to each member of the class;
- b. Periodic screening MRIs;
- c. Periodic neurological examinations by a qualified, board certified specialist;
- d. Disclosure of all information, data, findings and other pertinent information the company has gathered with regard to the Spring House employees and the incidences of brain cancer among employees there, which information may be critically important to other employees and their physicians in making diagnostic and treatment decisions.

WHEREFORE, the Class Representative, on behalf of himself and all those similarly situated, prays for judgment against defendant Rohm and Haas for damages and equitable relief as follows:

- A. An Order certifying this case as a class action and appointing the Class Representative and undersigned counsel to represent the Class;
- B. An Order directing defendant Rohm and Haas to establish a medical monitoring program as set forth above;
- C. An award of attorneys' fees and costs; and
- D. Such other relief as the Court may deem just and appropriate.

Respectfully submitted,

LAYSER & FREIWALD, P.C.

BY: _____/S/_____
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215-875-8000

DATED:

VERIFICATION

Aaron J. Freiwald, Esquire verifies that he is an attorney for the Plaintiff in this action and that the facts set forth above are true and correct to the best of his knowledge, information and belief and that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

_____/S/_____
Aaron J. Freiwald, Esquire

Dated: