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Suit says birth defects were caused by toxics on semiconductor line

By JAMES S. GOLDMAN

Keith and LeAnn Severson, former wafer fabrication line workers, are taking on the semiconductor and commercial chemicals industries in what could be the first suit of its kind: They claim exposure to toxic materials caused their son Darryl to be born with severe birth defects.

The semiconductor industry says the safety measures that companies take to protect workers are so comprehensive that it's highly unlikely the birth defects were caused by working on the line.

Flora Chu, the Seversons' attorney, predicted the suit will not be settled for years.

"This could be the first suit of its kind. No doubt that this is an issue of growing importance," said Ted Smith, chairman of the Silicon Valley Toxics Coalition. "This (suit) may represent the opening volley; it could be the traditional tip of the iceberg. It's analogous to the early smoking lawsuits."

The Seversons name NEC Electronics Inc. (a division of Japan's largest semiconductor company), KTI Chemicals Inc., Union Carbide Corp., DuPont, Allied Chemicals Co. (now a division of the Henley Group and called General Chemical), Mallinckrodt Inc., Markem Corp., Ashland Chemical Co., and Abelstik Laboratories in a damages suit filed in Santa Clara County Superior Court Feb. 26.

They allege their son Darryl, now almost 10 and born

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Chip industry doing 3-year study of fab-line toxic issue

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with microcephaly—or a smaller-than-normal-head—contracted the defect because of exposure in utero to the toxic chemicals. The boy also suffers from various developmental problems, according to Ms. Chu.

NEC and KTI refused to comment, and the other companies involved in the suit did not return messages.

The Semiconductor Industry Association, in conjunction with the University of California at Davis, is in the second year of a three-year, \$3.5 million study to determine the effects of solvents, acids, gases and other toxic materials on fabrication workers.

That study is in response to the so-called DEC Study conducted by Digital Equipment Corp. and the University of Massachusetts in 1986, the results of which were published last year.

"We've been watchdogging that (SIA) process," said Mr. Smith. "I would say in some ways they've taken steps to insulate the study from outside political pressures. At the same time, I've seen a questionnaire and unfortunately, it's done in such a way that could lead to a biased conclusion."

The DEC Study, which examined 750 workers, found that "negative pregnancies"—miscarriages—in fab workers ran at 29 percent for those who worked in the photo areas of the facility—an area considered solvent-intensive. The national average for miscarriages, according to the study, is about 20 percent. For those workers in the diffusion area, the miscarriage rate was 39 percent.

"We took the DEC Study quite seriously," said Howard High, a spokesman for Santa Clara-based Intel Corp.

But because of the relatively small number of people, and the anonymity of the study—which prevented the comparison between testimonials and actual medical records—the DEC study was widely criticized. And according to the SIA, it created a lot more questions than

it answered.

Even though the study was shrouded in controversy, AT&T took the findings to heart, and for a short time, removed female workers from the line during pregnancy. Now, AT&T will move workers off the line at the employees' request.

"AT&T did elect to take female employees off the fab line, but basically, the fab facility is safe for females and males," said Lee Neal, SIA's director of occupational health, safety and environmental affairs.

According to an AT&T spokesperson, the company had initially gone to its female employees and "highly encouraged" them to seek jobs other than on the fabrication line. The company still encourages women to think considerably about a job on the line, and to consult physicians about their individual cases.

"After the DEC study, it wasn't like we went into a fab, looked for a pregnant woman and yanked her off the line," said AT&T's Mary Lou Ambrus. "In the beginning we had stronger advice for them. But our position has always been to emphasize choices."

Intel does virtually the same thing.

"If a fab worker finds out she's pregnant, then she goes to her supervisor, gets a form, brings it to her private physician," said Mr. High. "If it's determined by the person and her doctor that she should not work in the fab, she'll be placed in a non-fab position through the pregnancy. If no non-fab position is available, then we'll provide long-term medical leave."

According to Barbara Tuse, National Semiconductor's corporate industrial hygiene manager, extensive measures are taken to ensure protection among pregnant workers and their unborn children. Monthly area surveys are conducted to monitor chemical contamination. And pregnant workers can request special surveys to determine whether their areas are safe. In the three years Ms.

Tuse has been with National, about 12 workers have become pregnant, but none have been moved.

Mr. Neal said safety is a primary concern for the industry, both within and outside the factory. The SIA study will be comprehensive, involving 15 companies and more than 55,000 workers. Fifteen thousand of those workers are fabrication personnel.

Mr. Neal said the suit against NEC was "a rare case."

He said the chip industry was "very sensitive to the needs of its employees and does everything possible" to protect them.

"Obviously that's not true and they know it's not true," said Mr. Smith. "But it makes a good public relations line."

The Severson suit alleges that NEC was not interested in protecting its employees. The Seversons had been employed at the NEC fab in Mountain View in 1979-80. They claim they were routinely exposed to "hazardous, dangerous, noxious and toxic chemicals, gases, fumes, liquids, solids and vapors." Some of the chemicals included methyl ethyl ketone, tributyl phosphate, Markem ink, isopropyl alcohol, Markem 320 cleaner, Markem 452 Washout Solution, trichlorethane, freon, Genesolv solvent, and others.

"If they can establish an extraordinary number of workers who have given birth to defective babies, they may have a case," said Fernando Zazueta, a personal injury attorney, not associated with the case, at the San Jose law firm of James Boccardo. "But you've got to show some causal relationship of the substances to the parents and the development of the fetus."

Because of alleged illegal storage and handling procedures of those chemicals, the Seversons claim LeAnn's pregnancy was affected. Among the charges in the suit, the Seversons claim the companies are guilty of negligence, strict liability, fraud and conspiracy, intentional infliction of emotional distress and ultrahazardous activity.