



Edward H. Boehner
Vice President
General Counsel

June 14, 2002

Mr. Ira Dinitz, Indemnity Specialist
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Mail Stop 11D23
Washington, D.C. 20555

Re: Spaziante vs. Consolidated Edison and New York Power Authority

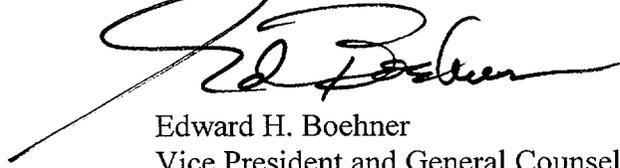
Dear Mr. Dinitz:

Please find enclosed Complaint for personal injury and loss of consortium filed in the Supreme Court of the State of New York. While the allegations are for radiation injury as a result of excessive exposure received at Indian Point 2 & 3, the claims are not brought as a Price Anderson public liability action. The Complaint will therefore be removed to federal court and a motion to dismiss and or in the alternative a motion to replead the Complaint will be filed.

The claims of Mr and Mrs. Spaziante fall within the scope of coverage provided by the Master Worker Policy and Certificates of Insurance issued for Indian Point 2 & 3. The demand for exemplary damages is uninsurable under New York law, hence a reservation of rights will issue. The Complaint has been referred to the law firms of Cozen & O'Connor and Jose & Wiedis to appear for and represent the interests of the defendants. An investigation will commence and all appropriate defenses will be asserted.

If there is any question concerning the proposed course of action, please contact the undersigned.

Very truly yours,



Edward H. Boehner
Vice President and General Counsel

/ja
Attachment

MO12

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index #

111607/02

MICHAEL SPAZIANTE and ANNE SPAZIANTE,

Plaintiffs,

-against-

THE POWER AUTHORITY OF THE STATE OF NEW
YORK and CONSOLIDATED EDISON,

Defendants.

Plaintiff designates NEW YORK County as the place of Trial. The basis of the venue is the place of business of one of the defendants.

SUMMONS

Plaintiffs' address is:
29 Flintlock Ridge Road
Katonah, New York 10536

SECRETARY
1:04
2002 JUN 13
C.E. CLERK'S OFFICE

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiffs' attorney within twenty (20) days after the service of this summons, exclusive of the date of service (or within thirty days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
May 17, 2002

Yours etc


DAVID P. KOWNACKI, P.C.
Attorney for Plaintiffs
122 East 42nd Street, Suite 2112
New York, New York 10168
(212) 557-4190

NEW YORK
COUNTY CLERK'S OFFICE

MAY 31 2002

NOT COMPARED
WITH COPY FILED

Defendants' Addresses:

1. THE POWER AUTHORITY OF THE STATE OF NEW YORK, 123 Main Street, Legal Department, White Plains, New York.
2. CONSOLIDATED EDISON, 4 Irving Place, New York, New York.

The object of this action is to recover for personal injuries resulting from negligence. The relief sought is THIRTY FIVE MILLION (\$35,000,000.00) DOLLARS.

Rec'd
6/6/02
Rec'd CE -
6/7/02 - Al.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MICHAEL SPAZIANTE and ANNE SPAZIANTE,

X

Index No.: 111607/02

Plaintiffs,

-against-

VERIFIED COMPLAINT

THE POWER AUTHORITY OF THE STATE OF NEW
YORK and CONSOLIDATED EDISON,

Defendants.

X

Plaintiffs, MICHAEL SPAZIANTE and ANNE SPAZIANTE, by their attorney, DAVID P. KOWNACKI, P.C., complaining of the defendants, respectfully allege, upon information and belief, as follows:

AS AND FOR THE FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, the plaintiffs MICHAEL SPAZIANTE and ANNE SPAZIANTE were and still are residents of Westchester County.
2. That at all times hereinafter mentioned, defendant CONSOLIDATED EDISON (hereinafter CON ED), is a New York Corporation maintaining its principal place of business in New York County.
3. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK was, and still is, a domestic corporation duly organized and existing by virtue of the laws of the State of New York.
4. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK was, and still is, a municipal corporation duly organized and

existing by virtue of the laws of the State of New York.

5. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK was, and still is, a public corporation duly organized and existing by virtue of the laws of the State of New York.

6. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK was, and still is a public authority duly organized and existing by virtue of the laws of the State of New York.

7. That pursuant to §7107 of the Unconsolidated Laws of the State of New York, a Notice of Claim was timely served, pursuant to a stipulation, on behalf of plaintiffs, upon defendant, THE POWER AUTHORITY OF THE STATE OF NEW YORK, and that more than sixty (60) days have elapsed since said Notice was served, and it has neglected or refused to make any adjustment or payment, and this action was commenced within one year of its accrual. that the statutory examinations of plaintiffs was conducted on April 3, 2002; and that this action was commenced within one year after its accrual.

8. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK owned the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

9. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK owned the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

10. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK operated the premises known as INDIAN POINT II

NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

11. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK operated the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

12. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK maintained the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

13. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK maintained the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York..

14. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK managed the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

15. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK managed the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

16. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK controlled the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

17. That at all times hereinafter mentioned, defendant THE POWER AUTHORITY OF THE STATE OF NEW YORK controlled the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

18. That at all times hereinafter mentioned, Defendant, CON ED owned the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

19. That at all times hereinafter mentioned, Defendant, CON ED owned the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York

20. That at all times hereinafter mentioned, Defendant, CON ED operated the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

21. That at all times hereinafter mentioned, Defendant, CON ED operated the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

22. That at all times hereinafter mentioned, Defendant, CON ED managed the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

23. That at all times hereinafter mentioned, Defendant, CON ED managed the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

24. That at all times hereinafter mentioned, Defendant, CON ED maintained the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

25. That at all times hereinafter mentioned, Defendant, CON ED maintained the

premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York

26. That at all times hereinafter mentioned, Defendant, CON ED controlled the premises known as INDIAN POINT II NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

27. That at all times hereinafter mentioned, Defendant, CON ED controlled the premises known as INDIAN POINT III NUCLEAR POWER PLANT, which was and is located in Buchanan, New York.

28. That at all times hereinafter mentioned, plaintiff MICHAEL SPAZIANTE, was lawfully on the premises employed as an union electrician by contractors, who from the time of construction of the plants in the mid 1970's and at various times until his retirement in 1999, assigned him to work at Indian Point II and III Nuclear Power Plants.

29. That at all times hereinafter mentioned, plaintiff MICHAEL SPAZIANTE, performed construction, renovation, maintenance and/or other work in areas of the power plant that caused him to become exposed to radiation, a toxic substance.

30. That at all times hereinafter mentioned, plaintiff worked with and was exposed to dangerous and excessive levels of radiation while working at Indian Point II and III Power Plants.

31. Upon information and belief, the defendants owned, operated, managed, maintained and controlled these two nuclear power plants with the knowledge that workers in general and plaintiff in particular were being exposed to dangerous and excessive levels of radiation that were likely to cause eventual injury or death.

32. At all times pertinent hereto the defendants acted through their duly authorized,

agents, servants, and employees, who were then and there acting in the course of and scope of their employment and in furtherance of the business of said defendants.

33. During the scope and course of plaintiff's employment he was necessarily and unavoidably exposed to and came into contact with radiation which was emanating from the reactor core, containment dome and other radiation-containing substances and/or equipment of the defendants.

34. Defendants knowingly exposed plaintiff to excessive and dangerous levels of radiation that ultimately caused a radiation related disease.

35. As a proximate result of the exposure to the radiation, plaintiff was caused to develop a multiple myeloma, a disease caused by radiation exposure.

36. Plaintiff discovered he was ill with a serious disease caused by radiation and was diagnosed with multiple myeloma, stage 3 on June 19, 2001.

37. At all relevant times, the defendants knew or should have known that the radiation which they caused plaintiff MICHAEL SPAZIANTE to be exposed to were inherently dangerous and would likely cause illness and/or injury.

38. The defendants negligently and intentionally failed to provide any or adequate and proper warnings as to the dangers of exposure to these levels of radiation to the persons exposed to or coming into contact therewith, including plaintiff MICHAEL SPAZIANTE.

39. The defendants negligently and intentionally failed to provided adequate instructions to plaintiff MICHAEL SPAZIANTE on how to avoid exposure to unsafe levels of radiation.

40. The defendants negligently failed to investigate and/or test for the levels of

radiation and/or radiation products and materials.

41. The defendants negligently failed to develop, make available and/or provide protective equipment which could have been used to protect plaintiff from exposure to excessive and dangerous levels of radiation.

42. The defendants negligently failed to adequately monitor plaintiff's exposure to radiation and to provide him with proper protection from these excessive and dangerous levels of radiation.

43. The defendants negligently failed to design, maintain or operate its power plants and its equipment in such a fashion as to prevent or minimize the exposure to radiation.

44. As a direct result of exposure to radiation because of the negligent and intentional acts by the defendants, plaintiff MICHAEL SPAZIANTE developed a radiation related disease and as a result has been injured and disabled. Plaintiff has suffered and endured great pain and mental anguish and suffered a loss of enjoyment of his life. The radiation related disease of the plaintiff was proximately caused by the defendants' actions in that inter alia they negligently and intentionally acted and failed to act in such a manner so as to expose plaintiff MICHAEL SPAZIANTE to dangerous levels of radiation, all of which evidenced a callous, reckless, wanton, oppressive, malicious, willful, depraved in indifference to the health, safety and welfare of the rights of others and more particularly the rights of the plaintiff, all of which defendants had due and timely notice.

45. Defendants negligently failed to render warning, advise, give instructions and/or information to plaintiff so that he may have made an adequate and informed judgement as to working in said power plant and were otherwise negligent.

46. The defendants possessed medical and scientific data which clearly indicated that radiation was hazardous to health as well as data concerning the amount of radiation plaintiff MICHAEL SPAZIANTE was exposed to; and prompted by pecuniary motives, the defendants ignored and failed to act upon said data and conspired to deprive the plaintiff of said data and therefore deprived the plaintiff of the opportunity of free choice as to whether or not to expose himself to the radiation; and further willfully, intentionally and wantonly failed to warn plaintiff of the serious bodily harm which would result from the exposure to radiation.

47. The defendants utter failure to use reasonable care under all the circumstances is the proximate cause of plaintiff's radiation related disease.

48. As a result of the foregoing, plaintiff was seriously injured and developed a radiation related disease that may cause his death.

49. That the provisions of article 16 of the C.P.L.R. limiting the liability of defendants do not apply to this action.

50. That the occurrence of the aforesaid was caused solely and wholly by the negligence of the defendants, their agents, servants and/or employees in that they caused, permitted and/or allowed the working area at the aforesaid premises to be, become and remain in an unsafe, hazardous and dangerous condition; in failing to take the necessary precautions and safeguards to prevent the radiation exposure; in failing to provide a safe place to work; in failing to inspect and/or properly inspect and provide suitable means of protecting and safeguarding persons at the aforesaid work area and site and, in particular, this plaintiff; in failing to provide the plaintiff with a safe place to work; in causing, permitting and/or allowing unsafe and hazardous conditions to exist at the site of the nuclear power plants; in causing, permitting and

allowing a trap to exist; in failing to prevent radiation exposure; in failing to comply with the Labor Law of the State of New York and the rules as promulgated by the Board of Standards and Appeals, Title 29 of the Occupational Safety and Health Administration Statutes and the Industrial Code, Rule 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York; in failing to take the necessary precautions and safeguards to prevent injury to the plaintiff; and in otherwise being careless and negligent in the premises.

51. That by reason of the foregoing plaintiff was caused to and did sustain severe, painful and serious personal injuries in and about his head, limbs and body; became sick, sore, disabled; was caused to suffer a radiation related illness that may lead to death; was caused to suffer a severe shock to his nervous system and certain internal injuries; was caused to suffer and still continues to suffer great physical pain, mental anguish, loss of the pursuits and pleasures of life and bodily injuries; was confined to a hospital, bed and/or home for a long period of time; was compelled to undergo medical aid, treatment and attention for same; was prevented from engaging in his usual occupation and activities for a long period of time; and since some of these said injuries are of a permanent and long lasting nature, he will continue to suffer continuous pain, suffering, loss of ability to earn a living and inconvenience and damage in the future.

52. By reason of the foregoing, said plaintiff(s) has been damaged as against each defendant in the sum of TWENTY FIVE MILLION DOLLARS (\$25,000,000.00) in exemplary and compensatory damages.

AS AND FOR A SECOND CAUSE OF ACTION

53. Plaintiff repeats repeat, reiterates and realleges each and every allegation contained in paragraphs "1 " through "52", with the same force and effect as if hereinafter set

forth at length.

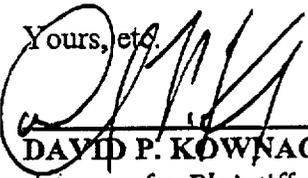
62. That at all times herein mentioned Plaintiff, ANNE SPAZIANTE, was and is the lawfully wedded wife of MICHAEL D. SPAZIANTE, and they live together and cohabit as husband and wife.

63. That by reason of the negligence, fault and carelessness of the defendants, and each of them, plaintiff, ANNE SPAZIANTE, was caused to be deprived of the care, comfort, services, companionship, society and consortium of MICHAEL D. SPAZIANTE and was caused to incur medical expenses and seek medical care, attention and treatment in an effort to cure her husband of his injuries and illness all to her damage as against each defendant, in the sum of TEN MILLION DOLLARS (\$10,000,000.00) in exemplary and compensatory damages.

WHEREFORE, plaintiffs, MICHAEL D. SPAZIANTE and ANNE SPAZIANTE, demands judgement against each defendant and each of them in the sum of TWENTY FIVE MILLION (\$25,000,000.00) DOLLARS in exemplary and compensatory damages on the first cause of action; and TEN MILLION DOLLARS (\$10,000,000.00) in exemplary and compensatory damages in the second cause of action; together with costs and disbursements therein.

Dated: New York, New York
May 17, 2002

Yours, etc.



DAVID P. KOWNACKI, P.C.

Attorney for Plaintiff

122 East 42nd Street, Suite 2112

New York, New York 10168

(212) 557-4190

ATTORNEY'S VERIFICATION

DAVID P. KOWNACKI, ESQ., attorney for the plaintiffs in the within action, and duly admitted to practice in the Courts of the State of New York affirms the following under the penalties of perjury, pursuant to Rule 2106 of CPLR:

That he has read the foregoing Verified Complaint and knows the contest thereof; that the same is true to his own knowledge, except as to the matters herein stated to be alleged upon information and belief, and that as to those matters she believes to be true.

Affiant further states that the source of his information and the grounds of his belief are derived from the file maintained in the normal course of business.

Affiant further states that the reason this verification is not made by the plaintiff is that the plaintiff resides outside the County of New York, which is the County where the attorney for the plaintiff herein maintains his office.

Dated: New York, New York
May 17, 2002



David P. Kownacki

\\Server\Client\O to Z\Spaziantz, M\Complaint.wpd