



BURT C. PROOM, CPCU
President

OFFICE OF THE GENERAL COUNSEL
Joseph Morrone
Vice President and General Counsel

January 2, 1980

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

Dear Mr. Dinitz:

Re: Jon Robert Hickey vs.
Chem-Nuclear Systems, Inc.,
et al (under SMUD policies)
D/L October 23, 1978

As you requested and supplementing my letter of December 4th to Mr. Saltzman, I enclose copies of the Summons and Complaint in the captioned action.

Further, we have just filed to remove the suit to the U.S.D.C., Eastern District of California.

Very truly yours,

Chester G. Alton
Associate Counsel

CGA/jr
Enclosures

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NO ADDRESS OF ATTORNEY

TELEPHONE NO

OR COURT USE ONLY

BONHAM & PETERSEN
309 Riley Street
Folsom, CA 95630

(916) 985-3480

ATTORNEY FOR (Name) Plaintiff

Insert name of court, judicial district or branch court, if any, and Post Office and Street Address

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

PLAINTIFF

JON ROBERT HICKEY

POOR ORIGINAL

DEFENDANT

CHEM-NUCLEAR SYSTEMS, INC.; DOES I - XV, and
ROE INCORPORATED I - V

SUMMONS

DOCKETED

CASE NUMBER

284745

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be filed on time.

AVISO! Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta escrita, si hay alguna, puede ser registrada a tiempo.

1. TO THE DEFENDANT: A civil complaint has been filed by the plaintiff against you. If you wish to defend this lawsuit, you must, within 30 days after this summons is served on you, file with this court a written response to the complaint. Unless you do so, your default will be entered on application of the plaintiff, and this court may enter a judgment against you for the relief demanded in the complaint, which could result in garnishment of wages, taking of money or property or other relief requested in the complaint.

J. A. Simpson, County Clerk

DATED: OCT 16 1979

Clerk, By

Deputy

(SEAL)

2. NOTICE TO THE PERSON SERVED You are served

- a. ☐ As an individual defendant.
b. ☐ As the person sued under the fictitious name of

c. ☒ On behalf of Chem Nuclear Systems, Inc.

- Under: ☒ CCP 416.10 (Corporation) ☐ CCP 416.60 (Minor)
☐ CCP 416.20 (Defunct Corporation) ☐ CCP 416.70 (Incompetent)
☐ CCP 416.40 (Association or Partnership) ☐ CCP 416.90 (Individual)
☐ Other

d. ☐ By personal delivery on (Date)

A written response must be in the form prescribed by the California Rules of Court. It must be filed in this court with the proper filing fee and proof of service of a copy on each plaintiff's attorney and on each plaintiff not represented by an attorney. The time when a summons is deemed served on a party may vary depending on the method of service. For example, see CCP 413.10 through 415.50. The word "complaint" includes cross-complaint. "plaintiff" includes cross-complainant, "defendant" includes cross-defendant. The singular includes the plural.

(See reverse for Proof of Service)

NAME AND ADDRESS OF SENDER: DEAN L. PETERSEN BONHAM & PETERSEN 309 Riley Street Folsom, CA 95630	TELEPHONE NO.: (916) 985-3480	Court Use Only:
Insert name of court, judicial district or branch court, if any, and Post Office and Street Address: SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SACRAMENTO 720 Ninth St., Sacramento, CA 95814		
PLAINTIFF: JON ROBERT HICKEY		
DEFENDANT: CHEM-NUCLEAR SYSTEMS, INC.; DOES I - XV, and ROE INCORPORATED I-V		
NOTICE AND ACKNOWLEDGMENT OF RECEIPT		

DOCKETED

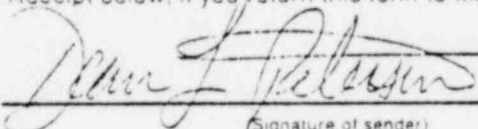
284745

TO: CHEM-NUCLEAR SYSTEMS, INC., Defendant:
(Insert name of individual being served)

This summons and other document(s) indicated below are being served pursuant to Section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it to me within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons and other document(s) are deemed served on the date you sign the Acknowledgment of Receipt below, if you return this form to me.

Dated: November 9, 1979


(Signature of sender)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of: (To be completed by sender before mailing)

1. ☒ A copy of the summons and of the complaint.
2. ☐ A copy of the summons and of the Petition (Marriage) and:
 - ☐ Blank Confidential Counseling Statement (Marriage)
 - ☐ Order to Show Cause (Marriage)
 - ☐ Blank Responsive Declaration
 - ☐ Blank Financial Declaration
 - ☐ Other: (Specify)

POOR ORIGINAL

(To be completed by recipient)

Date of receipt: November 15, 1979


(Signature of person acknowledging receipt, with title if acknowledgment is made on behalf of another person)

Date this form is signed: November 16, 1979

Chem-Nuclear Systems, Inc.

(Type or print your name and name of entity, if any, on whose behalf this form is signed)

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BONHAM & PETERSEN
Attorneys at Law
309 Riley Street
Folsom, CA 95630

(916) 985-3480

Attorneys for Plaintiff

ENDORSED:

Filed

OCT 18 1979

J.A. SIMPSON CLERK
By N. Dier, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

JON ROBERT HICKEY,

Plaintiff,

vs.

CHEM-NUCLEAR SYSTEMS, INC. ;
DOES I - XV, and
ROE INCORPORATED I - V,

Defendants.

No. _____

284745

COMPLAINT FOR DAMAGES

AS A FIRST CAUSE OF ACTION, Plaintiff complains of Defendants, CHEM-NUCLEAR SYSTEMS, INC., and DOES I - V, and alleges:

I.

DOES I - V are the fictitious names of defendants whose true names are not known to the Plaintiff; and, when the true names of those defendants have been ascertained, the true names will be substituted in place of the fictitious names.

II.

Each fictitiously-named defendant is liable as a principal, agent, associate or in some other manner for the intentional act or negligence which proximately caused the injuries and

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1 damages suffered by Plaintiff HICKEY.

2 III.

3 At all times herein mentioned, Defendant, CHEM-NUCLEAR
4 SYSTEMS, INC., was a corporation existing under the laws of the
5 State of California and doing business in the State of California.

6 IV.

7 Plaintiff is informed and believes and thereon alleges that
8 on or about October 23, 1978, SACRAMENTO MUNICIPAL UTILITY
9 DISTRICT (hereinafter "SMUD") agreed to employ and did employ
10 Defendant, CHEM-NUCLEAR SYSTEMS, INC., to serve SMUD as an
11 independent contractor to advise, plan and supervise the replac-
12 ing of the complete miscellaneous prefilter at SMUD's Rancho
13 Seco nuclear power plant in Sacramento County. Pursuant to the
14 replacement of said filter, Plaintiff was instructed by Defendant,
15 CHEM-NUCLEAR SYSTEMS, INC., to enter the filter room to remove
16 three (3) lines (inlet, outlet, drain).

17 V.

18 In undertaking said replacement job, Defendant, CHEM-NUCLEAR
19 SYSTEMS, INC., could recognize such work as likely to create
20 during its progress a peculiar unreasonable risk of physical
21 harm to the employees of SMUD unless special precautions were
22 taken, in that Defendant then knew radiation overexposure could
23 occur.

24 VI.

25 Defendant, CHEM-NUCLEAR SYSTEMS, INC., failed to take
26 special precautions and failed to exercise reasonable care to
27 provide in some other manner for the taking of such precautions
28 in order to avoid the peculiar unreasonable risk of physical

harm likely to be created during the progress of the work.

VII.

On or about October 23, 1978, Plaintiff, in his capacity an employee of SMUD and in the course and scope of his employment, was engaged in the cutting of lines on the aforementioned filter. Then and there, as a proximate result of Defendant, CHEM-NUCLEAR SYSTEMS, INC.'s negligence as hereinabove alleged, a radiation leak occurred subjecting Plaintiff to an overexposure.

VIII.

As a proximate result of Defendant, CHEM-NUCLEAR SYSTEMS, INC.'s negligence herein alleged, Plaintiff was seriously and permanently injured in his health, strength and activity and sustained injury to his body, and shock and injury to his nervous system, all of which injuries have caused, and continue to cause, Plaintiff great mental, physical and nervous pain and suffering. Plaintiff has been damaged thereby in a sum in excess of the minimal jurisdictional amount of this Court.

IX.

As a further proximate result of Defendant, CHEM-NUCLEAR SYSTEMS, INC.'s negligence herein alleged, Plaintiff has been required to expend money and incur obligations, and will continue to expend money and incur obligations for medical services, x-rays, drugs, and sundries reasonably required in the treatment and relief of the injuries herein alleged. Plaintiff has been damaged thereby in a sum in excess of the minimal jurisdictional amount of this Court.

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X.

At the time of the injuries, Plaintiff was employed in his usual occupation as a welder, and, as a further proximate result of the negligence of Defendants, and each of them, and by reason of the injuries suffered by him, Plaintiff was prevented from attending to such occupation and thereby lost earnings. The full amount of the loss of earnings, past and future is unknown to Plaintiff at this time, and Plaintiff will amend this Complaint to state such amount when the same becomes known to him, or on proof thereof.

AS A SECOND, SEPARATE AND DISTINCT CAUSE OF ACTION, Plaintiff complains of Defendants, CHEM-NUCLEAR SYSTEMS, INC., and DOES VI - X, and alleges:

I.

DOES VI - X are the fictitious names of defendants whose true names are not known to the Plaintiff; and when the true names of those defendants have been ascertained, the true names will be substituted in place of the fictitious names.

II.

Plaintiff incorporates by reference Paragraphs I through X of the First Cause of Action.

III.

At all times herein mentioned, Defendants, DOES VI - X, were the agents and employees of their Co-Defendant, CHEM-NUCLEAR SYSTEMS, INC., and, in doing the things herein mentioned, were acting within the scope of their authority as such agents and employees, and with the permission and consent of their

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1 Co-Defendant, CHEM-NUCLEAR SYSTEMS, INC.

2 IV.

3 On or about October 23, 1978, Plaintiff was employed as
4 a welder by SMUD at its nuclear power plant in Sacramento County,
5 California. Plaintiff was instructed by DOES VI - X to enter
6 the filter room to cut off the inlet/outlet and drain lines with
7 an oxyacetylene cutting torch.

8 V.

9 Defendants, DOES VI - X, and Defendant, CHEM-NUCLEAR SYSTEMS,
10 INC., were employed by SMUD for the purpose of planning and
11 directing the replacement of the miscellaneous wastes prefilter
12 cannister, a part of the miscellaneous liquid radwaste system.

13 Plaintiff was dependant upon Defendants, and each of them, to
14 monitor and report to him radiation levels in the filter room.

15 VI.

16 At said time and place, Defendants, and each of them, so
17 negligently performed their duties as to cause Plaintiff to be
18 subjected to a radiation overexposure.

19 Defendants, and each of them, were aware that conditions had
20 changed in the filter room from the preplanning meeting; speci-
21 fically, the housing did not drain and the prefilter housing had
22 fallen. Defendants negligently proceeded with the operation with-
23 out a resurvey, in violation of 10 CFR 20. Further, Defendants,
24 and each of them, had in their possession and control at the job
25 site a continuous-indicating dose rate instrument. The technical
26 specification 6.13.1a states that access control to a high
27 radiation area must assure that a worker be provided with a con-
28 tinuous-indicating dose rate instrument. Despite Defendants'

possession and control of said instrument and the fact that Plaintiff was being sent to a high radiation area, no such instrument was used.

VII.

As a proximate result of the negligence of Defendants, and each of them, Plaintiff was injured in his health, strength and activity, sustaining bodily injuries and shock and injury to his nervous system, which have caused and will cause him great mental and physical pain and suffering, all to his general damage in a sum in excess of the minimal jurisdiction of this Court. Plaintiff is informed and believes, and on such information and belief alleges, that said injuries will result in some permanent disability to him.

VIII.

As a further proximate result of the negligence of Defendants, and each of them, Plaintiff has incurred and will continue to incur medical and related expenses. The full amount of such expense is not known to Plaintiff at this time, and Plaintiff will amend this Complaint to state such amount when the same becomes known to him or on proof thereof.

IX.

At the time of the injuries, Plaintiff was employed in his usual occupation as a welder, and, as a further proximate result of the negligence of Defendants, and each of them, and by reason of the injuries suffered by him, Plaintiff was prevented from attending to such occupation and thereby lost earnings. The full amount of the loss of earnings, past and future, is unknown to Plaintiff at this time, and Plaintiff will amend this Complaint

1 to state such amount when the same becomes known to him, or on
2 proof thereof.

3
4 AS A THIRD, SEPARATE, AND DISTINCT CAUSE OF ACTION, Plaintiff
5 complains of Defendants, ROE INCORPORATED I - V and DOES XI - XV,
6 and alleges:

7 I.

8 DOES XI - XV are fictitious names of Defendants whose true
9 names are not known to the Plaintiff; and, when the true names
10 of those defendants have been ascertained, the true names will
11 be substituted in place of the fictitious names.

12 II.

13 Plaintiff incorporates by reference the allegations of
14 Paragraphs I through X of the First Cause of Action.

15 III.

16 ROE INCORPORATED I - V are the fictitious names of a busi-
17 ness or businesses whose true names are not known to the Plaintiff;
18 and, when the true names of those Defendants have been ascer-
19 tained, the true names will be substituted in place of the ficti-
20 tious names.

21 IV.

22 Defendants, ROE INCORPORATED I - V, are involved in the
23 design, manufacturing, distribution and sale of the miscel-
24 laneous liquid radwaste system and the miscellaneous wastes pre-
25 filter cannister.

26 V.

27 Defendants, ROE INCORPORATED I - V, intended that said rad-
28 waste system would be purchased for use in a nuclear power plant.

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VI.

The filter was unsafe for its intended use by reason of a defect in its design, manufacture, and assembly which allowed it to malfunction and fall so that it could not drain.

VII.

On or about October 23, 1978, Plaintiff was in and around said radwaste system at the SMUD Rancho Seco nuclear power plant for the purpose of changing the filter. During the course of this use and as a proximate result of the defect hereinabove described, Plaintiff could not sever the drain lines and was subjected to a radiation overexposure.

VIII.

As a proximate result of the defect and radiation overexposure, Plaintiff was injured in his health, strength and activity, sustaining bodily injuries and shock and injury to his nervous system, which have caused and will cause him great mental and physical pain and suffering, all to his general damage in a sum in excess of the minimal jurisdiction of this Court. Plaintiff is informed and believes, and on such information and belief alleges, that said injuries will result in some permanent disability to him.

IX.

As a further proximate result of the defect, Plaintiff has incurred and will continue to incur medical and related expenses. The full amount of such expense is not known to Plaintiff at this time, and Plaintiff will amend this Complaint to state such amount when the same becomes known to him or on proof thereof.

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X.

At the time of the injuries, Plaintiff was employed in his usual occupation as a welder, and, as a further proximate result of the defect and by reason of the injuries suffered by him, Plaintiff was prevented from attending to such occupation and thereby lost earnings. The full amount of the loss of earnings, past and future, is unknown to Plaintiff at this time, and Plaintiff will amend this Complaint to state such amount when the same becomes known to him, or on proof thereof.

WHEREFORE, Plaintiff prays judgment as follows:

1. For general damages in an amount in excess of the minimum jurisdiction of this Court;
2. For special damages for medical and incidental expenses according to proof;
3. For loss of earnings according to proof;
4. For costs of suit incurred herein; and
5. For such other and further relief as the Court deems proper.

DATED: October ____, 1979.

BONHAM & PETERSEN

By: DEAN L. PETERSEN
Attorneys for Plaintiff

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9 I declare under penalty of perjury that the foregoing
10 is true and correct.

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JON ROBERT HICKEY