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ADJUDICATORY ISSUE

December 20, 1993

(Information)

SECY-93-343

For: The Commission
From: John F. Cordes, Jr.
Solicitor
Subject: LITIGATION REPORT - 1993 - 17

State of New Jersey v. Long Island Power Authority, No. 93-5613
(3d Cir., Dec. 1, 1993)

This is the latest court decision in litigation initiated by New Jersey to halt coastal barge shipments of slightly irradiated fuel from the Shoreham nuclear plant in New York to the Limerick nuclear plant in Pennsylvania. In October New Jersey sought emergency injunctive relief halting the shipments, but the federal district court, the court of appeals and the Supreme Court each refused to grant an injunction. New Jersey also unsuccessfully sought emergency relief from the Commission.

The district court not only denied New Jersey's request for an injunction but dismissed its lawsuit altogether. The United States Court of Appeals for the Third Circuit permitted New Jersey to take an expedited appeal. We collaborated with the Coast Guard and the Department of Justice in preparing and filing a full 50-page brief in just a few days. The NRC Staff greatly contributed to this effort.

On December 1, the court of appeals (Becker, Scirica & Pollack, JJ.) after lengthy oral arguments affirmed the district court judgment in an oral opinion from the bench. The court agreed with our position that federal district courts lack jurisdiction to consider defects in NRC licensing decisions, including claimed violations of the National Environmental Policy Act. The court also found no violations of NEPA or the Coastal Zone Management Act on the facts of this case.

The court indicated that it would issue a formal written opinion in due course. That opinion may prove a useful precedent for the future, especially on jurisdictional issues.

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It is possible that New Jersey soon will return to the court of appeals. On December 3 the Commission issued an adjudicatory decision rejecting New Jersey's request for a hearing (CLI-93-25). And the NRC Staff is expected soon to decide a 2.206 petition filed by New Jersey. Either or both of these decisions could trigger renewed litigation.

Contact:
Marjorie S. Nordlinger
504-1616

United States v. Oncology Services, Inc., No. 3: MI-93-207 (M.D. Pa., filed November 15, 1993)

This lawsuit seeks a court order enforcing OI subpoenas for documents. For a number of months OI has been seeking information from Oncology Services on its personnel, training and other programs. Oncology Services has complied in part with the subpoenas, but failed to produce documents that OI investigators have reason to believe exist. We referred the matter to the Department of Justice for enforcement.

DOJ approved the lawsuit and filed it in federal district court in Pennsylvania in November 1993. A detailed OI declaration and appendix, prepared in collaboration with OGC, support the government's request for an enforcement order. Oncology Services recently submitted papers in opposition to enforcement. We expect a prompt decision from the district court.

Contact:
Charles E. Mullins
504-1618

Purkel v. Perkins, No. 93 L 575 (Circuit Ct., 10th Cir. of Illinois, Peoria County, filed October 4, 1993)

This is an automobile accident case that plaintiff has filed in state court against one of our employees. The accident occurred while the employee was on NRC business. We have contacted the United States Attorney's office in Illinois, which with our assistance will seek removal of the case to federal district court and ultimately its dismissal.

Under the Federal Tort Claims Act, individual government employees are not subject to personal suit for work-related common law torts; the exclusive remedy lies against the United States.

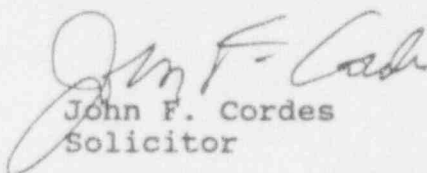
Contact:
John T. Hull
504-1573

Zolotarevsky v. Selin, No. 93-40172XX (D. Mass., Sept. 30, 1993)

This is a pro se suit alleging national-origin and age discrimination in hiring. Plaintiff is an emigrant from the former Soviet Union who apparently has had difficulty finding employment in the United States. He unsuccessfully sought relief from the Equal Employment Opportunity Commission and now has filed suit in federal district court against the NRC.

We will work with the United States Attorney's office in Boston in defending this case.

Contact:
Karl L. Farrar
504-1556


John F. Cordes
Solicitor

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ATTACHMENT -
State of New Jersey v. Long Island Power Authority, No. 93-
5613 (3d Cir., Dec. 1, 1993)

COPY

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT (No. 93-5613)

| | | |
|----|-----------------------------|----------------------|
| 1 | | |
| 2 | | |
| 3 | STATE OF NEW JERSEY, | → |
| 4 | DEPARTMENT OF ENVIRONMENTAL |) On Appeal For the |
| 5 | PROTECTION AND ENERGY, |) United States |
| 6 | et al., |) District Court for |
| 7 | |) the District of |
| 8 | Plaintiffs/Appellants, |) New Jersey |
| 9 | -vs- |) |
| 10 | LONG ISLAND POWER |) |
| 11 | AUTHORITY, et al., |) Civil Action |
| 12 | Defendants/Appellees. |) NO. 93-4269(GEB) |

- - -

Transcription of audiotape of Court
Decision, at the United States District
Courthouse, 601 Market Street, Suite 21400
Philadelphia, Pennsylvania 19106, on Wednesday,
December 1, 1993, by Joseph J. Pignatelli, a
Registered Professional Reporter and Commissioner
in and for the Commonwealth of Pennsylvania.

- - -

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CORAM:

EDWARD R. BECKER, Circuit Judge
ANTHONY J. SCIRICA, Circuit Judge
LOUIS H. POLLACK, District Judge

APPEARANCES:-

COUNSEL FOR APPELLANTS:
THOMAS A. KOWALCZYK, ESQUIRE

COUNSEL FOR APPELLEES:
BARRY M. HARTMAN, ESQUIRE
-- Representing Long Island Power,
et al.

KATHERINE W. HAZARD, ESQUIRE
-- Representing U.S. Nuclear
Regulatory Commission, et al.

ROBERT M. RADER, ESQUIRE
-- Representing Philadelphia Electric
Company

- - -

1 THE COURT: For the record, again the
2 panel has conferred and has reached a
3 decision which we'll announce from the
4 bench, we'll announce our decision from the
5 bench, give the reasons for our decision
6 and answer a judgment based thereon, and in
7 our Order, make a notation that a written
8 opinion will follow, it may not follow in
9 any great hurry because of the complexity
10 of the issues and the burden is otherwise
11 on the Court, but a written opinion will
12 follow.

13 Now, the first issue is whether the
14 District Court properly concluded that it
15 lacked jurisdiction over New Jersey's
16 allegation that the NRC evaded its
17 obligations under NEPA, while that the
18 agencies evaded their obligations under
19 NEPA by fragmenting their decision-making
20 and avoiding the issuance of an appealable
21 final action. We'll affirm the District
22 Court's Order to that effect.

23 We agree that the Hobbs Act provides
24 for exclusive jurisdiction in the Court of

1 Appeals in this case. We have considered
2 New Jersey's claim that the Susquehanna
3 case is controlling because of the putative
4 fragmented decision-making by the NRC and
5 the Coast Guard, and we rejected that
6 claim, we do not agree that Susquehanna is
7 controlling.

8 We have considered New Jersey's claim
9 that, since they are here, since you're
10 here anyway, since you're now in the Court
11 of Appeals, that that is the surrogate for
12 having petitioned initially, and we
13 likewise reject that claim. We note that
14 such a claim would be, such a putative
15 appeal would at all events be untimely, so
16 we do not reach, at least at this juncture,
17 the question of exhaustion of remedies.

18 But we are satisfied that the
19 District Court was correct, that the court
20 lacks jurisdiction over NRC with respect to
21 the NEPA claim, because of the Hobbs Act
22 consideration that you have mentioned, and
23 secondly, the time for appeal, filing an
24 appeal from an agency, from agency action,

1 expired before New Jersey appealed it to
2 this Court.

3 Now, we note that the District Court
4 didn't really address the question of
5 jurisdiction over the Coast Guard with
6 respect to the NEPA claim. It clearly just
7 didn't say anything on that subject.

8 We are satisfied that there is
9 jurisdiction. We agree with New Jersey
10 that there is jurisdiction over the NEPA
11 claim against the Coast Guard. And while
12 the District Court did not technically
13 address it, it seemingly ignored it, and
14 inasmuch as we are in a somewhat anomalous
15 procedural posture, for reasons that I'll
16 mention now and then reiterate later, we
17 are satisfied that the position of the
18 government appellees, that is the NRC and
19 the Coast Guard, is correct, that there is
20 no viable NEPA claim against the Coast
21 Guard.

22 More particularly, we do not believe
23 the Coast Guard violated NEPA, and we say
24 that because we are satisfied that NEPA

1 applies only to major federal actions which
2 the agency is required to approve. We do
3 believe that the Coast Guard was required
4 to approve LIPA's plan to transport the
5 fuel by barge. In essence, the District,
6 inasmuch as the agencies properly opposed
7 that issue on their motion for summary
8 judgment, we considered that the District
9 Court should have in essence granted
10 summary judgment for the agencies on that
11 claim.

12 Count II is not before us because
13 that was dismissed by agreement.

14 With respect to Count III, the issue
15 is whether the District Court properly
16 determined, we are talking here about the
17 Coastal Zone Management Act claim, whether
18 the District Court properly determined that
19 the Coast Guard's approval of LIPA's
20 shipping plans was not an approval within
21 the meaning of the Coastal Zone Management
22 Act, (16 U.S.C. Section 1451, et seq.) and
23 the implementing regulations.

24 We concluded that the CZMA claim of

Jurist Reporting Service, Inc.

1 New Jersey against the Coast Guard fails
2 for two reasons: First, congruent with
3 what I said for the panel a few minutes
4 ago, we do not believe that the Coast Guard
5 issued a required federal license or
6 permit, referring to our colloquy, although
7 we understand that implementing an
8 operating policy on this occasion, the
9 Coast Guard did require the shippers to
10 submit operation plans. We do not believe
11 that the idiosyncratic or occasional order
12 by the Coast Guard, that is, requirement by
13 the Coast Guard for such approvals is
14 sufficient to satisfy the law, so that we
15 do not believe that there is, as required,
16 federal license or a permit issued.

17 Secondly and alternatively, we do not
18 believe that the overarcng mandate of the
19 statute is correct, that is, that there is
20 not on this record a major federal action
21 significantly affecting the environment.

22 We have considered New Jersey's
23 claims that the so-called socioeconomic
24 effect or the perception results that would

1 adversely impact the New Jersey tourist
2 industry may be considered and we reject
3 those claims and we do not find them within
4 the ambit of the Act.

5 Finally, we consider the claims of
6 New Jersey against LIPA and PECO, under the
7 Coastal Zone Management Act, not only would
8 the successful defenses interposed by the
9 agencies protect PECO and LIPA, but at all
10 events, a viable claim would depend upon
11 the existence of a private right of action
12 emanating from the statute.

13 We have considered the arguments and
14 have concluded that there is no private
15 right of action arising under the Coastal
16 Zone Management Act in favor of New Jersey
17 against Philadelphia Electric Company and
18 the Long Island Power Authority, therefore
19 for all of these reasons, we'll affirm it.

20 Oh, I finally reached the question,
21 the third question, and that's as to
22 whether or not the District Court properly
23 declined to grant New Jersey's applications
24 for a preliminary injunction. And at that

1 at this point is in force, you or I having
2 found no basis for New Jersey's claims.

3 There was inter alia, no probability
4 of success on the merits, and accordingly
5 the District Court did not abuse its
6 discretion, that being the scope of review,
7 in declining the request for preliminary
8 injunction. For all of these reasons, the
9 Order of the District Court, Order and
10 judgment combination, will be affirmed.

11 And with all that said, I'll confer
12 briefly with my colleagues to see if I have
13 misspoken, and in any event give them an
14 opportunity to supplement this brief bench
15 opinion.

16 This is not something that we do
17 regularly in our court, I frankly think
18 it's a very good practice in our courts;
19 the 6th Circuit does it routinely.

20 It's usually a lot easier than in
21 this case, but due to the complexity of
22 this case, I'm just going to ask, may I ask
23 my colleagues whether I misspoke.

24 (Whereupon, the judges confer.)

1 THE COURT: By way of amendment or
2 correction, and counsel certainly ought to
3 immediately arrange with the clerk's office
4 to get a transcription of this tape so that
5 we have our words in writing and can move
6 quickly.

7 In our published opinion, while I
8 don't amend the panel's disposition of the
9 NEPA claim against the Coast Guard having
10 stated that that might appropriately be the
11 basis for summary judgment, we'll also
12 consider as to whether that might more
13 properly have been a basis for a dismissal
14 rather than summary judgment, and I may not
15 have made it clear that, with respect to
16 the CZMA claim against the NRC as well as
17 the Coast Guard, that that likewise fails
18 for lack of a major federal action
19 significantly affecting the environment.

20 Now with respect to the --

21 (Whereupon, the judges confer.)

22 THE COURT: Now it may be that I have
23 misspoken in some respects, and I say to
24 counsel for the victors, I remind you of

1 the old adage, save me from my friends, I
2 can handle my enemies at this point. I am
3 your putative friend because I have decided
4 for you, the panel has decided for you. I
5 announced the panel's opinion, but if I
6 have misspoken or if I have stated anything
7 that will undermine the panel's judgment,
8 you're at liberty to come up and tell me
9 right now, tell us right now.

10 Ms. Hazard?

11 MS. HAZARD: I just wanted to
12 clarify, that under NEPA, it's a major
13 federal action significantly affecting
14 environment. There is no language for
15 required federal license or permit. That's
16 only under --

17 THE COURT: That's under the Coastal
18 Zone Management Act.

19 MS. HAZARD: Right, and I wanted to
20 clarify that, I just want to clarify that.

21 THE COURT: If I said that, it's
22 surplusage and we'll consider it deleted.

23 MS. HAZARD: Okay.

24 THE COURT: But under the Coastal

1 Zone Management Act, we are dealing with a
2 required federal license.

3 Anything else?

4 Well, I would ask counsel if they
5 would like -- do you want a transcript of
6 this? Given the nature of the proceedings,
7 the panel feels it would be helpful to also
8 get a transcript of the argument. Now, you
9 can order that with our very able crier
10 here, Renaldo Macaba (sic.), but whoever is
11 going to transcribe it, the direction
12 should be that the bench opinion should be
13 done immediately. And I mean immediately,
14 if not sooner as they say, and then the
15 rest of it can abide (inaudible).

16 Is there anything further?

17 (No response.)

18 THE COURT: Very well. We are going
19 to recess court, and we are going to follow
20 an experimental practice of this Court of
21 expressing in person our appreciation for
22 your very able -- this was a tough case --
23 the briefs brilliantly in very short order
24 and both your briefs and your oral

1 presentation were right up to it. We
2 wanted to come down personally and shake
3 your hand and thank you for all your
4 efforts.

5 Good job, you win, some win some and
6 some lose some.

7 COUNSEL: Thank you very much, Your
8 Honor.

9 Thank you for a very expeditious
10 mandate.

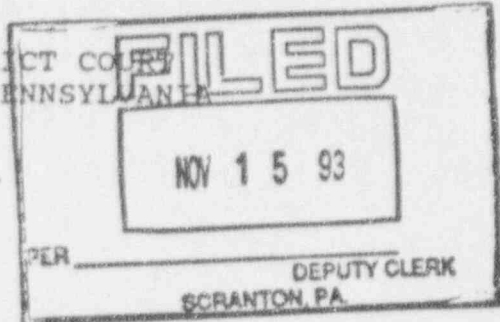
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12 (Whereupon, the audio tape ended.)
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24

ATTACHMENT -

United States v. Oncology Services, Inc., No. 3: MI-93-207
(M.D. Pa., filed November 15, 1993)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA



UNITED STATES OF AMERICA,
Petitioner,

v.

ONCOLOGY SERVICES CORPORATION,
Respondent.

MISC. NO. _____

3 MI - 93-207

PETITION FOR SUMMARY ENFORCEMENT
OF ADMINISTRATIVE SUBPOENA

Petitioner, the United States of America, by its undersigned attorneys, hereby petitions this Court for an order requiring respondent, Oncology Services Corporation, to comply with certain subpoenas issued by the Office of Investigations of the U.S. Nuclear Regulatory Commission. This request is made pursuant to 42 U.S.C. § 2281. In further support of this petition, the Court is respectfully referred to petitioner's Memorandum of Points and Authorities in Support of Petition for Summary Enforcement of Administrative Subpoena, which is filed herewith.

As the basis for the petition, the United States avers as follows:

PARTIES, JURISDICTION, AND VENUE

1. Petitioner is the United States of America, suing on behalf of the U.S. Nuclear Regulatory Commission ("NRC").
2. Respondent, Oncology Services Corporation ("OSC"), is a corporation, with headquarters and business office in State College, Pennsylvania.

3. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 2281 and 28 U.S.C. §§ 1331 and 1345.

4. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b).

STATUTORY AND REGULATORY BACKGROUND

5. The NRC is an independent regulatory agency created by Congress to regulate atomic energy and safety pursuant to the Atomic Energy Act of 1954, as amended. 42 U.S.C. §§ 2011 et seq. The NRC's responsibilities include licensing and regulating nuclear facilities in the interest of, inter alia, public health and safety, the environment, and national security. See 10 C.F.R. § 1.11(b).

6. The NRC may:

make such studies and investigations, obtain such information, and hold such meetings or hearings as the [NRC] may deem necessary or proper to assist it in exercising [its authority] For such purposes the [NRC] is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place.

42 U.S.C. § 2201(c).

7. The NRC has delegated authority to issue subpoenas to its Office of Investigations ("OI"). 10 C.F.R. § 1.36(e).

8. 42 U.S.C. § 2281 empowers district courts to issue orders enforcing subpoenas issued under 42 U.S.C. § 2201(c).

FACTS

9. On February 22, 1993, the NRC-OI issued seven identical document subpoenas, one to each of six OSC facilities in the

state of Pennsylvania, and one to OSC's headquarters in State College, Pennsylvania, in aid of an investigation into potential deliberate violations of NRC regulations by OSC. ("First Subpoenas"). True and correct copies of the first subpoenas are attached as Exhibit 2.

10. The first subpoenas relate to OSC's practices under NRC licenses which enable it to use or possess nuclear material in the treatment of human beings with radiation therapy, primarily in the treatment of cancer. The first subpoenas required OSC to produce documents relating to its licensed activities at several OSC cancer treatment facilities. The information requested pursuant to the first subpoenas is necessary for the satisfactory completion of the NRC investigation into possible deliberate violations of NRC regulations by OSC and for the protection of public health and safety.

11. The first subpoenas directed the Custodian of Records at the individual OSC facilities and at OSC headquarters in State College, Pennsylvania, to appear and provide documents at the offices of the NRC at 475 Allendale Road, King of Prussia, Pennsylvania 19406, on the 12th day of March, 1993, at 9:00 a.m..

12. NRC-OI investigators personally served the first subpoenas on the individual OSC facilities on February 25 and 26, 1993.

13. OSC provided some documents in response to the first subpoenas. However, based on the ongoing NRC investigation, the NRC has learned of the existence of specific documents and other

records which are, or should be, in the possession of OSC and are responsive to the first subpoenas, but which have not been produced by OSC.

14. In several oral and written communications with OSC legal counsel, NRC investigator Gerard F. Kenna requested that the respondent produce additional documents pursuant to the first subpoenas which he had reason to believe existed and to be within the possession of OSC.

15. During a July 9, 1993, telephone conversation with NRC investigator Kenna, OSC legal counsel stated that OSC would not release any remaining documents on the basis that they were not pertinent. In addition, by letter dated July 14, 1993, counsel for OSC claimed that the respondent had produced all documents in its possession which it considered to be relevant to the NRC investigation. However, in late July, OSC produced some additional documents responsive to the first subpoenas.

16. On August 24, 1993, the Director of NRC-OI issued a second subpoena to OSC headquarters. ("Second Subpoena"). A true and correct copy of the second subpoena is attached as Exhibit 7. In the second subpoena, the NRC made every effort to carefully describe the documents sought and to limit the subpoena to documents which it believed to be necessary for the satisfactory completion of the investigation.

17. The date for compliance specified in the second subpoena was September 13, 1993. The second subpoena was faxed

to OSC legal counsel who agreed to accept service by fax. In addition, service was accomplished by certified mail.

18. On September 16, 1993, OSC issued a letter objecting to the requests for information under various document categories identified in the second subpoena on the basis that they sought "irrelevant information," "information outside the scope of NRC's jurisdiction," were "unduly burdensome," or had previously been responded to by OSC.

19. Despite OSC's allegations, and based on information derived from its investigation of OSC to date, the NRC is aware of numerous additional records which are responsive to the first and second subpoenas, relevant to the investigation, not already within the possession of NRC, and which have not been produced by OSC.

20. OSC's failure to comply in full with the NRC subpoenas by refusing to produce additional documents within its possession, undermines the NRC's ability to complete its investigation into OSC's licensed practices and may seriously threaten public health and safety.

21. Both the first and second subpoenas advised OSC that it could request the Commission to quash or modify the subpoenas if such request is made "at or before the time specified in the subpoena for compliance." OSC did not file such a motion within the specified deadline and has not done so to the date of filing this petition.

RELIEF REQUESTED

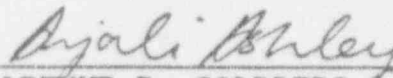
WHEREFORE, petitioner United States of America respectfully requests this Court to:

1. Order respondent, Oncology Services Corporation, to appear and produce documents in accordance with the first subpoenas and second subpoena at the time and place specified in those subpoenas on a date specified by the Court; and
2. Grant petitioner the costs of this action.
3. Grant such other and further relief as this Court deems necessary and appropriate.

Respectfully submitted,

FRANK W. HUNGER
Assistant Attorney General

DAVID BARASCH
United States Attorney


ARTHUR R. GOLDBERG
ANJALI A. ASHLEY

U.S. Department of Justice
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901 E Street, N.W.
Washington, D.C. 20530

Attorneys for Petitioner

OF COUNSEL:

CHARLES E. MULLINS

Senior Attorney
Office of the General Counsel
Nuclear Regulatory Commission
Washington, D.C.

ATTACHMENT -

Purkel v. Perkins, No. 93 L 575 (Circuit Ct., 10th Cir. of
Illinois, Peoria County, filed October 4, 1993)

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)

I have duly served the within by leaving a copy thereof, together with a copy of the Complaint filed in this cause, with each of the within-named _____

personally, as I am herein commanded, this _____ day of _____, 19____.

BY: _____ Sheriff.
_____ Deputy.

The within named Defendant _____, not found in my County.
This the _____ day of _____, 19____.

BY: _____ Sheriff.
_____ Deputy.

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)

I have duly served the within upon the within-named _____ by leaving a copy thereof, together with a copy of the Complaint filed in this cause, at _____ usual place of abode with _____ a person of the family of _____ of the age of 13 years or upwards, and informing _____ of the contents thereof, this _____ day of _____, 19____, as I am herein commanded.

BY: _____ Sheriff.
_____ Deputy.

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)

I, _____ Sheriff of said County, in the State aforesaid, do hereby certify that on the _____ day of _____, 19____, at _____, in the County and State aforesaid, I sent by United States mail a copy of this Summons, in a sealed envelope with postage fully prepaid, addressed to _____ at _____, the same being _____ usual place of abode.

BY: _____ Sheriff.
_____ Deputy.

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)

I have duly executed the within writ upon the within named Defendant _____ with _____ a corporation, by leaving a true and correct copy thereof the _____ aforesaid Defendant _____ County, Illinois. This _____ day of _____, 19____.

BY: _____ Sheriff.
_____ Deputy.

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT OF ILLINOIS
PEORIA COUNTY

JOAN PURKEL and MICHAEL PURKEL,

Plaintiffs,

v.

KENNETH E. PERKIS,

Defendant.

Case No: 93 L 000575

JURY DEMAND

COMPLAINT

NOW come the Plaintiffs, JOAN PURKEL and MICHAEL PURKEL, by their attorneys, G. DOUGLAS STEPHENS & ASSOCIATES, P.C., and complaining of the Defendant, KENNETH E. PERKIS, state as follows:

1. The occurrence herein complained of took place on the 19th day of June, 1992, at approximately 12:53 p.m. in Proviso Township, County of Cook, State of Illinois.
2. At the aforesaid time and place, Interstate 294 runs in a generally northbound direction and has a paved exit ramp which exits onto Lake Street at or near Mile Post 31.6.
3. At the aforesaid time and place, the Defendant was driving, managing and operating a certain motor vehicle in a northbound direction in the right-hand lane on Interstate 294.
4. At the aforesaid time and place, the Plaintiff was a passenger in an automobile that was in the right-hand lane northbound on Interstate 294 stopped behind other stationary vehicles which were waiting to proceed onto the aforesaid exit ramp.
5. At all times herein mentioned, Defendant had the duty to exercise ordinary care and caution in the operation of his motor vehicle.
6. At the aforesaid time and place, the Defendant committed one or more of the following negligent and careless acts or omissions or violations of Statute:

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT OF ILLINOIS
PEORIA COUNTY

JOAN PURKEL and MICHAEL PURKEL,)
)
 Plaintiffs,)
)
 v.) Case No: 93 L
)
 KENNETH E. PERKIS,)
)
 Defendant.)

COMPLAINT

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4. At the aforesaid time and place, the Plaintiff was a passenger in an automobile that was in the right-hand lane northbound on Interstate 294 stopped behind other stationary vehicles which were waiting to proceed onto the aforesaid exit ramp.
5. At all times herein mentioned, Defendant had the duty to exercise ordinary care and caution in the operation of his motor vehicle.
6. At the aforesaid time and place, the Defendant committed one or more of the following negligent and careless acts or omissions or violations of Statute:

- a) Defendant negligently and carelessly failed to keep a proper or any lookout ahead for vehicles on said roadway;
- b) Defendant negligently and carelessly failed to keep his vehicle under a safe and proper control;
- c) Defendant negligently and carelessly failed to apply his brakes or reduce his speed in sufficient time to avoid collision with a vehicle on said roadway;
- d) Defendant negligently and carelessly operated his motor vehicle at a speed greater than was reasonable and proper and in such a manner as to endanger the safety of other vehicles in violation of 625 ILCS 5/11-601, (formerly found at Chapter 95 1/2, § 11-601(a), Illinois Revised Statutes); and
- e) Defendant negligently and carelessly followed too close to the vehicle of the Plaintiff in violation of 625 ILCS 5/11-710, (formerly found at Chapter 95 1/2, § 11-710(a), Illinois Revised Statutes).

7. As a direct and proximate result of one or more of the aforesaid negligent and careless acts or omissions or violations of statute by the Defendant, the vehicle being operated by the Defendant was caused to and did collide with the vehicle in which the Plaintiff was a passenger, thereby causing serious and grievous injuries to the Plaintiff.

8. As a direct and proximate result of the impact, the Plaintiff was thrown with great force and violence causing her to be seriously and grievously injured in that she sustained various bodily injuries including, but not limited to, derangement of her left knee, and has suffered great physical pain and mental anguish as a result of said injuries. Further, the Plaintiff has in the past and will in the future expend and become obligated to expend large sums of money for doctor bills, hospital bills and other bills for medical attention in an effort to be cured or relieved of the various injuries she sustained and has been hindered, hampered, and prevented from attending to her usual business and affairs with consequent losses and has in the past and will in the future be hindered, hampered and prevented from carrying on ordinary

affairs and duties to the same extent and in the same manner as she was able prior to the injuries.

WHEREFORE, the Plaintiff, JOAN PURKEL, prays judgment against the Defendant, KENNETH E. PERKIS, in an amount in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00), plus costs of this suit and demands a trial by jury of this Court.

COUNT II

1-8. Plaintiff, MICHAEL PURKEL, adopts and realleges the allegations of Count I, Paragraphs 1-8, as and for the allegations of this Count II, Paragraphs 1-8.


9. At all times hereinmentioned, Plaintiff, MICHAEL PURKEL, was and still is the husband of this Plaintiff, JOAN PURKEL, and, during all such times, Plaintiff, MICHAEL PURKEL, and this Plaintiff, JOAN PURKEL, were living and cohabitating together as husband and wife.

10. At all times hereinmentioned, the Plaintiff, JOAN PURKEL, was supporting and providing for her husband, Plaintiff, MICHAEL PURKEL, and prior to June 19, 1992, this Plaintiff's wife, JOAN PURKEL, was capable of supporting and providing for this Plaintiff, MICHAEL PURKEL, and did afford him certain pleasures in her society and companionship and Plaintiff, JOAN PURKEL, afforded this Plaintiff, MICHAEL PURKEL, certain comfort and happiness in her society and companionship.

11. By reason of the injuries which were suffered and sustained by this Plaintiff's wife, JOAN PURKEL, this Plaintiff, MICHAEL PURKEL, has been deprived of his wife's society and companionship and of her services; his comfort and happiness in her society and companionship has been greatly impaired and impeded, and such impairment and deprivation will continue for some time to come, all to the damage of this Plaintiff, MICHAEL PURKEL.

WHEREFORE, the Plaintiff, MICHAEL PURKEL, prays judgment against the Defendant, KENNETH E. PERKIS, in an amount in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00), plus costs of this suit and demands a trial by jury of this Court.

JOAN PURKEL and MICHAEL PURKEL,
Plaintiffs,

BY: 

JAMES M. JANOVETZ
G. DOUGLAS STEPHENS & ASSOCIATES, P.C.

THIS DOCUMENT WAS PREPARED BY:

G. DOUGLAS STEPHENS & ASSOCIATES, P.C.
400 N.E. Jefferson - Room 109
Peoria, Illinois 61603
Telephone: (309) 673-5297
PI4/jpurkel.cmp/mgm

ATTACHMENT -
Zolotarevsky v. Selin, No. 93-40172XX (D. Mass., Sept. 30,
1993)

United States District Court
WORCESTER DISTRICT OF MASSACHUSETTS

VICTOR A. ZOLOTAREVSKY,
pro se, PLAINTIFF

SUMMONS IN A CIVIL ACTION

v.

CASE NUMBER: 93-40172-XX

IVAN SELIN, CHAIRMAN
U.S. NUCLEAR REGULATORY
COMMISSION, DEFENDANT

93-40172XX

GORTON, DJ

TO: (Name and Address of Defendant)
Ivan Selin, Chairman, Nuclear Regulatory Commission
The U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (Name and address):

Victor A. Zolotarevsky, pro se, Plaintiff
242 Boylston Street
Shrewsbury, Massachusetts 01545

an answer to the complaint which is herewith served upon you, within TWENTY days after service of this summons upon you, exciusiv: of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

ROBERT J. SMITH, JR

CLERK

DATE September 30 1993

Brian A. Murray
BY DEPUTY CLERK

RETURN OF SERVICE

| | |
|--|-------|
| Service of the Summons and Complaint was made by me ¹ | DATE |
| NAME OF SERVER (PRINT) | TITLE |

Check one box below to indicate appropriate method of service

- Served personally upon the defendant. Place where served: _____

- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- Returned unexecuted: _____

- Other (specify): _____

STATEMENT OF SERVICE FEES

| TRAVEL | SERVICES | TOTAL |
|--------|----------|-------|
| | | |

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date
Signature of Server

Address of Server

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

United States District Court

WORCESTER

MASSACHUSETTS

DISTRICT OF

VICTOR A. ZOLOTAREVSKY,
pro se, Plaintiff

V.

IVAN SELIN, CHAIRMAN
U.S. NUCLEAR REGULATORY
COMMISSION, DEFENDANT

NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL

CASE NUMBER: **93-40172XX**

GORTON, DJ

NOTICE

To: Ivan Selin, Chairman, NRC, Washington, D.C. 20555

Name and Address of Person to be Served

The enclosed summons and complaint are served pursuant to the Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender to be received by the sender within 20 days of the date of mailing indicated below.

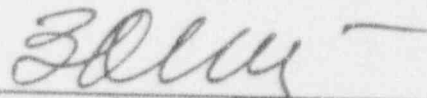
You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within the period indicated above, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving the summons and complaint in any other manner permitted by law.

THIS FORM IS NOT AN ANSWER TO THE COMPLAINT. You must answer the complaint within the period of time indicated on the summons. If you fail to do so, judgment by default may be taken against you for the relief demanded in the complaint.

I declare under penalty of perjury that this Notice and Acknowledgment of Receipt of Summons and Complaint will have been mailed on November 29, 1993

Date



Signature of Sender

Victor A. Zolotarevsky, 242 Boylston Street, Shrewsbury, MA 01545

Name of Sender

Address of Sender

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare under penalty of perjury that I received a copy of the summons and of the complaint in this case on

Date of Receipt

at

Address

Date of Signature

Signature

Name (Please Type or Print)

Relationship of Entity Served or Authority
to Receive Service of Process

Current Address

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS, pro se,

VICTOR A. ZOLOTAREVSKY

DEFENDANTS

IVAN SELIN, CHAIRMAN
U.S. NUCLEAR REGULATORY
COMMISSION

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) WORCESTER MASS.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) MONTGOMERY MARYLAND
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Victor A. Zolotarevsky, pro se,
plaintiff, 242 Boylston Street,
Shrewsbury, MA 01545
(508) 842-6890

ATTORNEYS (IF KNOWN)

Attorney of NRC Mr. Karl L. Farrar

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

| | PTF | DEF | | PTF | DEF |
|---|-------------------------------------|-------------------------------------|---|--------------------------|-------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> | <input type="checkbox"/> | Foreign Nation | <input type="checkbox"/> | <input type="checkbox"/> |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. NATIONAL ORIGIN/

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) AGE DISCRIMINATION IN EMPLOYMENT AS THE RESULT OF POLITICAL PERSECUTION, UNDER TITLE VII OF CIVIL RIGHTS ACT

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|--|---|--|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Ad. <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Ad. <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Edu. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 180 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Matters <input type="checkbox"/> 440 Other Civil Rights | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Adversely Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <input type="checkbox"/> 390 Other | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Labor Labor <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp. Ret. Inv. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 136 <input type="checkbox"/> 423 Writs 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patents <input type="checkbox"/> 840 Trademarks SOCIAL SECURITY <input type="checkbox"/> 861 SSA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWH (408(g)) <input type="checkbox"/> 864 SSDI Tier XVI <input type="checkbox"/> 865 RSI (408(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 28 USC 7806 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Consumer/ICC Rules/etc <input type="checkbox"/> 460 Debit/Check <input type="checkbox"/> 470 Receiver Influenced and Control Organizations <input type="checkbox"/> 810 Securities Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agriculture Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Access of Fee Determiner Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions |

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY) Transferred from another district (specify) 7 Appeal to District Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 YES, IT IS DEMAND \$ 0.5/2 Mil. JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE WOLF, D.I. DOCKET NUMBER 91-40078-00

DATE September 30, 1993 SIGNATURE OF ATTORNEY OF RECORD [Signature]

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) NATIONAL ORIGIN and AGE DISCRIMINATION in EMPLOYMENT AS THE RESULT OF POLITICAL PERSECUTION, V. ZOLOTAREVSKY-I. SELIN, U.S. NRC
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 8(a)).
- ___ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
 - ___ II. 195, 368, 400, 440, 441-444, 540, 550, 625, 710, 720, 730, 740, 790, 791, 820, 830, 840, 850, 890, 891-894, 895, 950.
 - ___ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
 - 422 ___ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
 - ___ V. 150, 152, 153.
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 8(e)).
NATIONAL ORIGIN/AGE DISCRIMINATION IN EMPLOYMENT AS THE RESULT OF POLITICAL PERSECUTION, V.Z. GE Co., C.A. 91-40078-00
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? NO
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? NO
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403)

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? NO
7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - SEE LOCAL RULE 8(c). YES NO
OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? - SEE LOCAL RULE 8(d). YES _____
8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES _____ NO _____
(*) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE? _____
9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? _____
10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION NO OR WESTERN SECTION _____

(PLEASE TYPE OR PRINT) Pro se, plaintiff, Victor A. Zolotarevsky
ATTORNEY'S NAME _____

ADDRESS 242 Boylston Street, Shrewsbury, MA 01545

TELEPHONE NO. (508) 842-6890

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WORCESTER, SS.

CIVIL ACTION No.

VICTOR A. ZOLOTAREVSKY,
pro se, PLAINTIFF,

V.

COMPLAINT

IVAN SELIN, CHAIRMAN
U.S. NUCLEAR REGULATORY
COMMISSION,
DEFENDANT

I. INTRODUCTION

1. This is an action seeking redress for the violation of rights guaranteed to the plaintiff and others of his class by Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000(e) et. seq., and by Age Discrimination in Employment Act of 1967 as amended, 29 U.S.C. section 621, et. seq.

2. Pro se, Plaintiff, Victor A. Zolotarevsky is a 61-year-old, white male, and a naturalized American citizen since May 23, 1980. At the moment Plaintiff is unemployed without any sources of income, seeking equitable and monetary relief for violation of Title VII of Civil Rights Act, National Origin and Age Discrimination in Employment.

3. The plaintiff bring this action on his own behalf and on behalf of others of his class pursuant to Rule 23(a) and (b) of the Federal Rules of Civil Procedure. There are numerous violations of rights for those seeking equal employment opportunities without discrimination on the basis of National Origin and Age.

The claim and defense of the plaintiff is typical of the claims and defense of the class; and the plaintiff will fairly and adequately protect the interest of the class. Defendant has adopted rules and policies hostile to the first generation of naturalized American citizens from the former Soviet Union. But, the most severe discrimination has been directed and continuously supported against people of Russian descent. Defendant has refused to eliminate discrimination, which have deprived and will continue to deprive the plaintiff and others of his class of their rights to equal employment opportunities in this country secured to them by Title VII of the Civil Rights Act and Age Discrimination in Employment Act of 1967.

4. This is a proceeding for a permanent injunction to restrain the defendant from maintaining any policy or custom of denying or limiting the rights of Plaintiff and others of his class to equal employment opportunities at the Nuclear Regulatory Commission, an agency of the Federal Government.

II JURISDICTION

5. The jurisdiction of this Court is invoked under the 28 U.S.C. 1345; under section 707(b) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000(e)-6(b) and under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. section 621, et. seq., 42 U.S.C. section 2000(e), et. seq. (Title VII) providing for injunction and other relief against national origin and age discrimination in employment.

6. The plaintiff has filed the complaint through the Equal Employment Opportunity Commission of the Office of Federal Operation and has received its permission on September 17, 1993 "Right To File A Civil Action (SA1092)" in the United States District Court. Exhibit 1 (2 pages).

7. This Civil Action is raising the important Political, Social, and Legal issues applicable to a large segment of the American population. The Political Persecution conducted by Federal agencies and defense contractors in this country against naturalized American citizens from the Eastern European countries during the past 40 years of the Cold War was based strictly on their National Origin.

The social issue divides the American Citizens down the middle, citizens and second-class citizens. The value of the Citizenship can be undermined by a small minority with political power in their hands. This minority, which includes the Justice system, using vague laws artificially divided the American citizenship at different levels.

The legality of this matter is that no one political or judicial institution in this country willing to raise its voice against powerful agencies, companies or institutions. That is why this case should not be decided by a single judge or group of judges. Only a Jury trial can provide some element of Justice.

8. In accordance with Plaintiff's Constitutional Rights, he requests a Jury trial in this case.

III PARTIES

9. Plaintiff, Victor A. Zolotarevsky, is a Naturalized citizen of the United States of America and the State of Massachusetts, residing in the county of Worcester, Massachusetts. The Plaintiff, former citizen of the Soviet Union, has lived in the U.S. with his family for the past 19 years. He has been a citizen of the U.S. for the past 13 years. His family escaped the political persecution in their own country and came to U.S. as political refugees in November 26, 1974.

10. The Nuclear Regulatory Commission (NRC) is a Federal agency which coordinates the safety and the technical activities of Nuclear Civil Industries in this country. This agency issues the operation licenses to the Nuclear Power Stations, as well as licenses to individual employees employed by each Nuclear Power Station. The NRC as a Federal agency located in Rockville, Maryland and has offices in each Federal subdivision. This agency has the power to sue and be sued in its Federal name.

IV ALLEGATION

GENERAL ALLEGATION

11. During 17 years of residency in this country, the Plaintiff and others of his class have suffered and continue to suffer Political Persecution, interrogations, intimidation, and open hostilities from representatives of Federal agencies as well as any defense contractor in this country.

12. The naturalized American citizens from the Eastern European countries have suffered and continue to suffer enormous damage inflicted to them by Discrimination in Employment on a basis of the Cold War between the former Soviet Union and the United State of America.

13. To cover-up this outrageous historical event and hide the fact of Political Persecution, interrogation, and intimidation defendants' lawyers use fraud, and a wide range of deception. However, they are not alone; they have support not only from the organizations design to support and promote discrimination in employment like the EEOC, EEO, MCAD etc. To worsen the situation, the Court system at the State and the Federal level supports discrimination in employment as well.

14. The defendant, NRC, holds a monopoly on a Nuclear Industry in the United States of America. This agency through the licensing requirements of each Nuclear Power Station dictated the nationality of employees hired. During the past 17 years in this country, the Plaintiff applied for employment hundreds of times to Nuclear Power Stations as well as the NRC without any single interview. This is not a single case of discrimination in employment, but the Policy of Political Persecution supported and promoted by the NRC.

15. During the Administrative Court hearing of this case defendant tried to build its defence on two main points:

a. The first point used by the defendant is an attempt to discredit Plaintiff's education and work experience. NRC has used employees without specific knowledge in the Mechanical Engineering field as witnesses. In support of its claim the NRC submitted a few applications of employees which were hired by the NRC. However, these applications clearly indicated that the Plaintiff has more education and more experience in Mechanical Engineering and in Nuclear Engineering.

b. The second point used by the defendant is an attempt to cover-up the main factor in hiring new employees at the NRC. The main factor is their requirement to hire an applicant with a chance at a security clearance. The NRC has one of the highest security clearance requirements in the U.S. (Top security clearance plus project security). NRC's employee testified at the Administrative Court hearing about the prime review of incoming applications was a FBI agent working for NRC's personnel department.

16. During the past 17 years of residency in this country plaintiff and others of his class suffered severe Political Persecution against them without any verification of their political preferences and their national loyalty. The persecution which can be elevated to the level of the action conducted by the German nazi against people of Eastern Europe. The main component of this Political Persecution conducted by some agencies of the Federal Government and any defense contractor in the U.S. against the former citizens of the Soviet Union was and will be the discrimination in employment. Exhibits from 2 to 42.

SPECIFIC ALLEGATION

17. During the past 17 years of residency in this country (1974-1991) the Plaintiff applied for employment with different Nuclear Power Stations as well as with the NRC. He has submitted hundreds of resumes during this period and did not receive a single interview. The reason for this situation is very simple. The NRC is using its regulatory power to police the Nuclear Industry in this country to prevent the employment of second-class citizens for purity.
Exhibits from 43 to 61.

18. Since June 1980 the Plaintiff submitted his Federal Employment application to the NRC on a regular basis. Usually, the NRC did not respond to the Plaintiff's applications at all. When the Plaintiff called and requested an answer, the NRC always mailed a negative response. Additional to the large number of resumes plaintiff has submitted four Federal applications to the NRC, one in 1980, the second in 1984, the third in 1989, and the fourth in 1990.

19. On July 7, 1989 the Plaintiff came to the Open-House for Federal employment. However, the NRC representative did not want to talk to the Plaintiff when he learned about the Plaintiff's heritage. NRC's representative categorically rejected to accept Plaintiff's application for employment. Plaintiff mailed his application to the NRC, and after five days it was mailed back to the Plaintiff's address without any review or consideration.
Exhibits from 62 to 68.

20. At the end of 1990 the Plaintiff resubmitted his application to the NRC. And, no response was given until he called the NRC and requested an answer. Plaintiff received a negative response as usual. But, at this time the Plaintiff decided to file a Complaint of discrimination in employment and to pursue this case to the Supreme Court of the United States of America.

21. On May 30, 1991 the Plaintiff mailed his letter of Complaint to Miss M. Moore, EEO Counsellor. In accordance with telephone conversations with the Plaintiff, Miss Moore requested Plaintiff's employment application. On November 13, 1990 the Plaintiff mailed his SF 171 Employment application to the NRC with a list of diplomas, a resume, cover-letter, and a Notice of Results from the Boston Area Office. The NRC trashed all these documents without any consideration for hiring the applicant. This was confirmed during the Administrative Court hearing. The Administrative Judge took these documents from the Plaintiff and handed them to the NRC representative. Exhibits 69 and 70.

22. Plaintiff has a high level of professional education which includes the following credentials:

a. Two years of Merchant Marine Trade School - steam turbines, boilers, and auxiliary equipment (the same equipment used in every Nuclear Power Station).

b. Oiler certificate - operation of the steam turbines, boilers, and auxiliary equipment (the same basic equipment used by any Nuclear Power Plant).

c. The Institute of Navy Engineers - Nuclear propulsion system for sea going vessels which are more complicated in design and operation than any stationary Nuclear Power Plant (WCR and WBR).

d. Steam Engineering license from Maryland (1976) and Ohio (1982) which includes some equipment applicable to any Nuclear Power Station..

e. Professional Engineering Registration in the State of Massachusetts and New Hampshire (1984), each area of this test is applicable to equipment use for any Nuclear Power Plant.

g. Plaintiff updated his professional education between 1983 and 1989:

- * Theoretical and applied Mechanics
- * Vibration of Mechanical Systems
- * Digital Signal Processing
- * Acoustical Noise Control for Computer and Industrial equipment
- * Methodology and Techniques of Environmental Screening
- * Thermal design of Electronic Equipment
- * Finite Element Modeling applicable to Thermal Management for Electronic packaging and Power Plant Equipment
- * Model Testing Theory and Practice
- * HP Dynamic Analyzer, SMS, ANSYS, MSC/NASTRAN, and CAM/CAD software operation
- * Plaintiff's education and work experience has been evaluated by the Civil Service of the Federal Government at a higher level in several Mechanical Engineering areas than any Engineer employed by the NRC (above 85 percent to 95 percent).

Exhibits from 71 to 96.

23. During 17 years of residency in this country the Plaintiff received offers for employment from different companies and corporations. However, these companies and corporations were not able to provide stable employment in result of their economic decline. These companies are taking advantage of Plaintiff's unfortunate situation, using the skill of a high level Engineer at a quarter of the cost without any job security. In addition, Plaintiff has received a number of recommendations from his co-workers and managers which outlined Plaintiff's skill and abilities. Exhibits from 97 to 111.

24. Defendant's statement that Plaintiff does not have Nuclear experience in this country is unfounded. This statement targeted naive and unprofessional people in the Mechanical Engineering field. The safety Rules and Regulations applicable to the Nuclear Industry in this country can be used by any Engineer who has proper training and experience in designing or operating Power Plant Equipment. The NRC hired hundreds of young Engineers who are unable to memorize the safety Rules and Regulations during the first year of employment. The NRC is an organization of deception and fraud. To protect its KKK and neo-Nazi ideology, this organization will be able to commit any unethical or criminal act. The attached list of their employees, which the Plaintiff received from the special investigator hired by NRC, has confirms their discrimination in employment against naturalized American citizens of Russian descent. Exhibits from 111 to 118.

25. On January 22, 1991 somebody tried to kill the Plaintiff's son, a college student attending Worcester Polytechnic Institute (WPI). In result of this accident Plaintiff's son became blind. The Plaintiff does not have the time and proper financial resources to recover from the incident and his struggle with the court system.

Wherefore, plaintiff respectfully prays for this Court to advance this case on the docket, order a speedy jury trial at the earliest possible date, and cause this case to be expedite on its way. Upon such a hearing, the jury should consider the following:

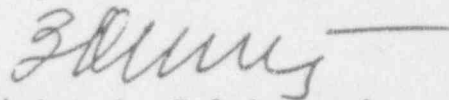
a. Award the Plaintiff and others of his class relief as the Court deems just, reasonable, and appropriate to correct the injustice suffered by the Plaintiff and others of his class.

b. Direct the defendant, NRC, to award the Plaintiff a pension and all retirement benefits equal to their retired permanent employees with equivalent work service (June 1989 to February 1995).

c. Direct the defendant, NRC, to stop any hostile action against naturalized American citizens of Russian descent.

d. Award the Plaintiff the Court costs and reasonable attorney's fee, if he will be able to find a lawyer on a contingency basis.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Zolotarevsky", with a horizontal line extending to the right from the end of the signature.

Victor A. Zolotarevsky,
pro se, Plaintiff
242 Boylston Street
Shrewsbury, MA 01545
(508)842-6890

Dated: September 30, 1993