

BOSTON EDISON COMPANY
800 BOYLSTON STREET
BOSTON, MASSACHUSETTS 02199

WILLIAM D. HARRINGTON
SENIOR VICE PRESIDENT
NUCLEAR

BECO 85-004
January 14, 1985

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

License No. DPR-35
Docket No. 50-293

Notification of Claim

Dear Mr. Denton:

Pursuant to the requirements of 10 CFR 140.6, this letter serves as notification that a claim has been filed against Boston Edison Company arising out of or in connection with its operation of Pilgrim Nuclear Power Station. A copy of the legal documents are attached for your information.

Should there be any questions concerning this notification, please contact us.

Very truly yours,

W D Harrington

Attachment

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PDR ADOCK 05000293
J PDR

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TO PLAINTIFFS ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —
TORT — MOTOR VEHICLE TORT — CONTRACT —
EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
DEPARTMENT
OF THE
TRIAL COURT
CIVIL ACTION

MIDDLESEX ss
[seal]

No. 84-6204

Judith Whiting, Et. Al. Plaintiff(s)

Boston Edison Co., Inc., Defendant(s)

SUMMONS

To the above-named Defendant: Ferson Authorized to Receive Service, Boston Edison Co., Inc.
800 Boylston Street
Boston, Massachusetts

You are hereby summoned and required to serve upon James P. Keane, Esquire

plaintiff's attorney, whose address is One Post Office Square
Boston, Massachusetts 02109

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive 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. You are also required to file your answer to the complaint in the office of the Clerk of this court at East Cambridge either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(b), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, James P. Lynch, Jr., Esquire, at East Cambridge, Massachusetts
the Fifteenth (15th) day of November
in the year of our Lord one thousand nine hundred and Eighty-Four.

A true copy, Attest:

[Signature] Clerk
Suffolk County

Edward J. Sullivan
Clerk

NOTES

- 1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure
- 2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must file a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

MIDDLESEX, SS.

JUDITH WHITING, ADMINISTRATRIX OF
THE ESTATE OF GARY MICHAEL WHITING,
AND JUDITH WHITING, INDIVIDUALLY,
AND PPA OF MICHAEL WHITING

VS.

CIVIL ACTION NO.:

THE BOSTON EDISON COMPANY, INC.
JOHN DOE (ONE) CORPORATION
JOHN DOE (TWO) CORPORATION

Plaintiff's Claim Trial by Jury Including All Issues
Pursuant to Massachusetts Rules of Civil Procedure,
Rule 39(a-c) Inclusive

COMPLAINT

Now comes the plaintiffs, Judith Whiting, Administratrix of the Estate of Gary Michael Whiting, and Judith Whiting, Individually, and PPA of Michael Whiting, and for their causes of action and claims for relief, states as follows:

PARTIES

1. At all times herein pertinent, the plaintiff, Judith Whiting, Individually and Administratrix of the Estate of Gary Michael Whiting is the properly appointed legal representation of the Estate of Gary Michael Whiting who died on or about December 2, 1983, and that said plaintiff is a resident of the County of Middlesex, Commonwealth of Massachusetts (hereinafter, Plaintiff Administratrix). Further, Judith Whiting PPA, is the mother of Michael Whiting, a minor (hereinafter Plaintiff Individually and PPA).

2. The Boston Edison Company, Inc. is a corporation organized pursuant to the laws of the Commonwealth with its principle place of business at 800 Boylston Street, City of Boston, County of Suffolk,

Commonwealth of Massachusetts, and at all times herein pertinent was the owner, operator, and licensee of a certain Pilgrim Nuclear Power Plant at Plymouth, Massachusetts (hereinafter Boston Edison).

3. John Doe (One) Corporation and John Doe (Two) Corporation were duly organized pursuant to the various laws of the states of the United States and at all times herein pertinent were engaged by the Boston Edison to provide technical health services for its Pilgrim Nuclear Power Plant at Plymouth, Massachusetts.

JURISDICTION

4. The plaintiffs' claims for relief arises out of: the defendants' conduct, acting individually, jointly, severally, or in a concert of agreement and action, corporations organized pursuant to the Laws of the Commonwealth, transacting business in the Commonwealth, contracting to supply services and things in the Commonwealth, causing tortious injury by act or omission in the Commonwealth, causing tortious injury in the Commonwealth by an act or omission outside the Commonwealth, by regular doing business or soliciting business in the Commonwealth, engaging in persistent course of conduct, within the Commonwealth, and derived substantial revenues from goods used or consumed or services rendered in the Commonwealth.

COUNT I

(Nuisance - Wrongful Death - Pain and Suffering)

1-4. The Plaintiff, Administratrix, repeats and realleges paragraphs 1 through 3 of "Parties" and paragraph 4 of "Jurisdiction"

as her paragraphs 1 through 4 of Count I as through fully set forth herein.

5. That on or about 1977 to and including 1980, the plaintiff decedent was an employee of certain contractors engaged in the repair, maintenance, and renovation of the Pilgrim Nuclear Power Plant, Plymouth, Massachusetts. That as part of his job duties and responsibilities, the plaintiff was required to work upon the premises owned, operated and licensed by Boston Edison and to have certain technical health services performed by John Doe (One) and (Two).

6. That as part of the premises aforesaid, the defendant Boston Edison owned, maintained, and control a certain ultra-hazardous substance commonly known as radioactive nuclear materials.

7. That John Doe (One) and (Two) during the aforementioned time period were to provide certain health services including the establishment of procedures and safeguards for the protection of persons lawfully upon the premises and the general public.

8. That the ownership, maintenance and control of radioactive nuclear material, and the open discharge or release of said materials in its associated forms constituted a hazardous situation and a nuisance.

9. That on or about 1977 to and including 1980, the plaintiff decedent came in contact with the radioactive materials and/or its associated components within the confines of the hazardous situation and the nuisance created by Boston Edison and maintained by John Doe (One) and (Two).

10. That as a direct and proximate result of the individual, joint and several conduct of the defendants' establishment and maintenance of a hazardous situation and nuisance, the plaintiff sustained the distinguishable personal injury of cancer and death.

11. That by the very nature of the hazardous situation, nuisance, and the nature of the radioactive materials and its component parts, the plaintiff decedent did not know, could not have reasonably discovered, could not ascertain facts, and in the exercise of reasonable diligence did not discover the true facts for sometime after his exposure and the discovery of his cancerous condition.

12. Prior to his injury and death, the plaintiff decedent was in good health and his next of kin are entitled to the fair monetary value of the decedent including, but not limited to compensation for loss of the reasonable expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent and to the reasonable medical, financial and burial expenses incurred.

WHEREFORE, the Plaintiff as Administratrix of the Estate of Gary Whiting for his wrongful death and conscious pain and suffering prays judgment, individually and jointly, against the defendants, Boston Edison Company, Inc., John Doe (One) Corporation and John Doe (Two) Corporation in the sum of Three Million (\$3,000,000.00) Dollars together with interest and costs.

COUNT II

(Negligence - Wrongful Death - Pain and Suffering)

1-4. The plaintiff Administratrix, repeats and realleges Paragraphs 1 through 3 of "Parties" and Paragraph 4 of "Jurisdiction" as her Paragraphs 1 through 4 of Count II as though fully set forth herein.

5-11. The plaintiff repeats and realleges Paragraph 5 through 11 of Count I as her Paragraph 5 through 11 of Count II as though fully set forth herein.

12. That notwithstanding the duties owed by the defendants to the plaintiff decedent, the defendants were negligent in one or more of the following acts or omissions:

- a) Negligently failed to provide a proper and safe place for the decedent to work.
- b) Negligently failed to implement and enforce adequate safeguards for the protection of persons lawfully upon the premises.
- c) Negligently failed to supervise the personnel whose duty it was to monitor, inspect and provide technical/health services on the premises.
- d) Negligently failed to adequately inspect the premises to determine areas of danger.
- e) Negligently failed to warn persons lawfully upon the premises of dangerous areas.

- f) Negligently failed to monitor persons upon the premises for exposure to radioactive materials.
- g) Negligently failed to provide adequate, fit and proper self-monitoring equipment for persons lawfully upon the premises.
- h) Negligently failed to adopt adequate standards, procedures, and protocols for the health and safety of persons lawfully upon the premises.
- i) Negligently violated the established standards, procedures, protocols, statutes, rules and regulations established for the protection of the health and safety of persons lawfully upon the premises.
- j) Negligently failed to protect persons lawfully upon the premises from exposure to radioactive materials.
- k) Were otherwise negligent in the use and occupancy of the premises so as to expose persons lawfully upon the premises to radioactive materials.

13. That as a direct and proximate result of the defendants' negligent acts and omissions aforesaid, the plaintiff was caused to sustain severe personal injuries and death from cancer.

14. Prior to his injury and death the plaintiff decedent was in good health and his next of kin are entitled to the fair monetary value of the decedent including, but not limited to the fair monetary value of the decedent including, but not limited to, compensation for loss of the reasonable expected net income, services, protection, care, assistance, companionship, comfort, guidance, counsel, and advice of the decedent and to the reasonable medical, financial, and burial expenses incurred.

WHEREFORE, the Plaintiff as Administratrix of the Estate of Gary Whiting for his wrongful death and conscious pain and suffering prays judgment, individually and jointly, against the defendants Boston Edison Company, Inc., John Doe (One) Corporation, and John Doe (Two) Corporation in the sum of Three Million (\$3,000,000.00) Dollars together with interest and costs.

COUNT III

Strict Liability In Tort - Ultra Hazardous Activity

1-4. The Plaintiff repeats and realleges Paragraphs 1 through 3 of "Parties" and Paragraph 4 of "Jurisdiction" as her Paragraph 1 through 4 of Count III as though fully set forth herein.

5-11. The Plaintiff repeats and realleges Paragraphs 5 through 11 of Count I as her Paragraphs 5 through 11 of Count III as though fully set forth herein.

12-13. The Plaintiff repeats and realleges Paragraph 12 and 13 of Count II as her Paragraphs 12 and 13 of Count III as fully set forth herein.

14. That the activity carried on at the premises of the Boston Edison, with the active assistance of the other defendants, was an ultra-hazardous undertaking and unreasonably dangerous.

15. That said ultra-hazardous activity and unreasonably dangerous undertaking proximately caused the plaintiff decedent's injuries and death while he was lawfully upon the premises. Further

the plaintiffs decedent injuries and death were the direct result of the strict liability in tort of the defendants ultra-hazardous activities.

16. Prior to his injury and death the plaintiff decedent was in good health and his next of kin are entitled to the fair monetary value of the decedent including, but not limited to the fair monetary value of the decedent including, but not limited to, compensation for loss of reasonable expected net income, services, protection, care, assistance, companionship, comfort, guidance, counsel, and advice of the decedent and to the reasonable medical, financial and burial expenses incurred.

WHEREFORE, the Plaintiff as Administratrix of the Estate of Gary Whiting for his wrongful death and conscious pain and suffering prays judgment, individually and jointly, against the defendants Boston Edison Company, Inc., John Doe (One) Corporation, and John Doe (Two) Corporation in the sum of Three Million (\$3,000,000.00) Dollars together with interest and costs.

COUNT IV

PUNITIVE DAMAGES

1-4. The plaintiff Administratrix repeats and realleges Paragraphs 1 through 3 of "Parties" and Paragraph 4 of "Jurisdiction" as her Paragraphs 1 through 4 of Count IV as though fully set forth herein.

5-11. The plaintiff repeats and realleges Paragraphs 5 through 11 of Count I as her Paragraphs 5 through 11 of Count IV as though fully set forth herein.

12-13. The plaintiff repeats and realleges Paragraphs 12 and 13 of Count II as her Paragraphs 12 and 13 of Count IV as though fully set forth herein.

14-16. The plaintiff repeats and realleges Paragraphs 14 through 16 of Count III as her Paragraphs 14 through 16 of Count IV as though fully set forth herein.

17. The plaintiff decedent's injuries and death were the direct and proximate results of the wilful, wanton, and reckless maintenance of a nuisance, negligence and strict liability in tort for the undertaking of an ultra-hazardous activity.

18. Prior to his injury and death the plaintiff decedent was in good health and the next of kin are entitled to punitive damages against the defendants for their wilful, wanton, and reckless acts and omissions.

WHEREFORE, the plaintiff as Administratrix of the Estate of Gary Whiting for his death and conscious pain and suffering prays judgment, individually and jointly, for punitive damages against the defendants Boston Edison Company, Inc., John Doe (One) Corporation and John Doe (Two) Corporation in the sum of Ten Million (\$10,000,000.00) Dollars together with interest and costs.

COUNT V

(Loss of Consortium)

1-4. The plaintiff Individually and PPA repeats and realleges Paragraphs 1 through 3 of "Parties" and Paragraph 4 of "Jurisdiction"

as her Paragraphs 1 through 4 of Count V as though fully set forth herein.

5-11. The plaintiff Individually and PPA repeats and realleges Paragraph 5 through 11 of Count I as her Paragraphs 5 through 11 of Count V as though fully set forth herein.

12-13. The plaintiff Individually and PPA repeats and realleges Paragraphs 12 and 13 of Count II as her Paragraphs 12 and 13 of Count V as though fully set forth herein.

14-16. The plaintiff Individually and PPA repeats and realleges Paragraphs 14 through 16 of Count III as her Paragraphs 14 through 16 of Count V as though fully set forth herein.

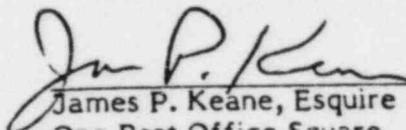
17-18. The plaintiff repeats and realleges Paragraphs 17 and 18 of Count IV as her Paragraphs 17 and 18 of Count V as though fully set forth herein.

19. That as a direct and proximate result of the nuisance, negligence, breach of strict liability in tort (Ultra-Hazardous Activity) and the wilful, wanton and reckless misconduct of the defendants, the plaintiff, individually and as PPA of Michael Whiting were denied the care, comfort and consortium of their husband and father while he lived, all to their loss and damages in the amount of One Million (\$1,000,000.00) Dollars together with interest and costs.

WHEREFORE, the Plaintiff, individually and is PPA of Michael Whiting prays judgment, individually and jointly, against the

defendants Boston Edison Company, Inc., John Doe (One)
Corporation, and John Doe (Two) Corporation in the sum of One
Million (\$1,000,000.00) together with interest and costs.

For the Plaintiff
MADAN AND MADAN


James P. Keane, Esquire
One Post Office Square
Boston, Massachusetts 02109
423-2600