

AN AMERICAN
NUCLEAR
INSURERS

EDWARD H. BOEHNER
Vice President - Claims

May 16, 1988

BURT C. PROOM, CPCU
President and Chief Executive Officer

Mr. Jerome Saltzman
Assistant Director
State and Licensee Relations
Office of State Programs
U.S. Nuclear Regulatory Commission
Mail Stop AR5037
Washington, D.C. 20555

Re: Abstract #131
Kenneth J. and Loretta Bubash vs. Philadelphia Electric
Company and Bartlett Nuclear Corporation

Dear Mr. Saltzman:

Enclosed is a copy of the Complaint brought by the above-named parties as plaintiffs in the Court of Common Pleas of Philadelphia County, Pennsylvania. The action against Philadelphia Electric and the other defendant includes numerous allegations of negligence and misconduct that allegedly resulted in injury because of exposure to radiation, primarily from Cobalt-60 on February 10, 1985.

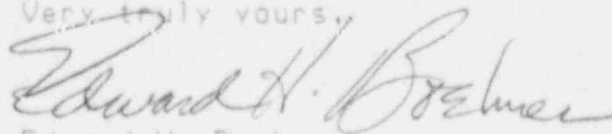
According to the investigation which is rather extensive, the plaintiff appears to have knowingly breached basic radiation protection procedures designed for protection of nuclear workers at atomic power plants. Accordingly, this matter is being defended by the law firm of Pepper, Hamilton and Scheetz, to include a defense on a reservation of rights with respect to those allegations of misconduct for which plaintiffs seek recovery of punitive damages.

You should be aware that the NRC conducted an extensive investigation. In that regard, you can refer to NRC reports 50-277/85-11 and 50-278/85-26 and 28.

Since suit has just been filed, this case will now proceed into discovery, and given the nature of the docket in Philadelphia County, the case would not be expected to be called for trial before 3 to 5 years from this date.

Any inquiries concerning this matter may be directed to my attention.

Very truly yours,


Edward H. Bohner
Vice President, Claims

8805260382 880516
PDR ADDCK G5000277
S PDR

EB/mbt
Enclosure

MOI 2
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SHRAGER, McDAID & LOFTUS

BY: Michael S. Bloom

IDENTIFICATION NO. 38432

17TH FLOOR, EIGHT PENN CENTER PLAZA
17TH STREET & JOHN F. KENNEDY BOULEVARD
PHILADELPHIA, PENNSYLVANIA 19103
(215) 568-7771

KENNETH J. BUBASH and LORETTA BUBASH,
his wife,

Plaintiffs,

vs.

PHILADELPHIA ELECTRIC COMPANY and
BARTLETT NUCLEAR CORPORATION,

Defendants.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
TRIAL DIVISION

FEBRUARY TERM, 1987

No. 1401

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Philadelphia Bar Association
Lawyer Referral and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
Telephone: (215) 238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociación De Licenciados De Filadelfia
Servicio De Referencia E Información Legal
One Reading Center
Filadelfia, Pennsylvania 19107
Teléfono: (215) 238-1701

SHRAGER, McDAID, LOFTUS & FLUM
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PLAINTIFFS' CIVIL ACTION COMPLAINT

Plaintiffs, by their attorneys, Shrager, McDaid, Loftus & Flum, P.C., hereby demands damages of the defendants herein for a sum in excess of twenty thousand dollars (\$20,000.00), exclusive of interest and costs, upon a cause of action whereof the following is a statement:

1. Plaintiffs are citizens and residents of the State of Arizona, residing therein at 7519 West Glenrosa Road, Phoenix.

2. Defendant Philadelphia Electric Company (hereinafter referred to as "PECO"), is a corporation and public utility organized under and existing by virtue of the laws of the Commonwealth of Pennsylvania with an office and place of business at 23rd and Market Streets, Philadelphia.

3. Defendant Bartlett Nuclear Corporation is a corporation organized under and existing by virtue of the laws of a state other than Pennsylvania with an office and place of business at 60 Industrial Park Road, Plymouth, Massachusetts.

4. At all times pertinent hereto, the defendant PECO was the owner and operator of certain facilities in Delta, Pennsylvania for the production of nuclear power generated electricity and known as the Peach Bottom Atomic Power Station (hereinafter alternatively referred to as "Peach Bottom" or "The Plant").

5. At all times pertinent hereto, the defendant Bartlett, through its agents, servants, workmen and employees, was acting as a piping replacement contractor at Peach Bottom engaged in assembling and welding replacement pipe in the main recirculatory system.

6. At all times pertinent hereto, the defendants assumed and maintained responsibility for job safety at the Plant, including assessment of radiological conditions and the

specification of radiation exposure controls.

7. At all times pertinent hereto, husband-plaintiff was employed by a third party as a weld instructor and weld coordinator for the actual pipe replacement on the above-described job.

8. On or about February 10, 1985, at or about 8:15 A.M., the husband-plaintiff, in furtherance of his duties as a weld coordinator, entered the Unit 2 containment vessel (drywell) at the Plant for purposes of inspecting certain well joints; while so engaged, husband-plaintiff was exposed to unreasonable unacceptable and dangerous levels of radiation, thereby causing injuries and damages as set forth with more particularity below.

9. Husband-plaintiff's radiation contamination resulted solely from the negligence, recklessness and outrageous misconduct of the defendants acting as aforesaid, and through their agents, servants, workmen and employees and was caused in no part by any act or failure to act on the part of the plaintiffs, or either of them.

10. The negligence, recklessness and outrageous misconduct of the defendants included the following:

(a) Failing to provide protective clothing, respirators and/or other radiation exposure controls to husband-plaintiff prior to his entry into the drywell and/or valve;

(b) Permitting husband-plaintiff to enter the drywell and/or valve without protective clothing, respirators and/or

other radiation exposure controls;

(c) Failing to warn husband-plaintiff of the need for, and advisability of, protective clothing, respirators and/or other radiation exposure controls prior to his entry into the drywell and/or valve;

(d) Generating, or permitting to be generated, inadequate, incomplete, and improper Radiation Work Permits (RWP's) to workers making entry into the drywell, including husband-plaintiff;

(e) Failing to incorporate entry procedures into specific valves, including Valve 81A, into the appropriate ALARA Review Package;

(f) Failing to conduct appropriate ALARA Review relative to valve entry;

(g) Failing to make or cause to make evaluations of the radiation hazard present in Valve 81A prior to entry by husband-plaintiff;

(h) Failing to properly determine radiation/contamination levels existing in or around the valve prior to husband-plaintiff's entry;

(i) Failing to take steps necessary to ensure a safe radiation/contamination level in and around the valve prior to husband-plaintiff's entry;

(j) Failing properly to decontaminate the valves, drywell, and other areas with which husband-plaintiff came in contact, prior to his exposure;

(k) Allowing unreasonable and unacceptably high levels of radiation to exist in and around the drywell and valves at the time of entry by husband-plaintiff;

(l) Failing to warn husband-plaintiff of the radiation/contamination levels then and there existing;

(m) Failing to properly and adequately decontaminate the husband-plaintiff after his exposure to the radiation;

(n) Failing to equip husband-plaintiff with appropriate personnel monitoring equipment;

(o) Failing to properly instruct workers and other personnel in proper procedures for personal radiation protection;

(p) Understaffing the project then and there existing at Peach Bottom with health physics technicians;

(q) Improperly and inadequately hiring and training the health physics technicians and ALARA engineers on the job site;

(r) Violating statutes, ordinances, laws, rules, and regulations of the Commonwealth of Pennsylvania and the United States relative to nuclear power plant operations in general and vessel entry in particular;

(s) Negligence and recklessness at law.

11. The conduct of the defendants, acting as aforesaid, was grossly negligent, reckless, outrageous and in wanton disregard of the rights of workers working in and around the Unit 2 drywell, including husband-plaintiff, thereby rendering defendants liable to plaintiffs for punitive damages.

12. As a result of the tortious misconduct of the defendants, acting as aforesaid, the husband-plaintiff received massive exposure to radiation, including approximately 50% of the maximum permissible organ burden (for the lungs) of cobalt-60. He has suffered and will continue to suffer for an indefinite time in the future from oncophobia and is at an increased risk of developing cancer later in life as a result of his exposure.

13. As a further result of the radiation exposure aforesaid, the husband-plaintiff suffered great loss and depreciation of his earnings and earning capacity and will continue to suffer same for an indefinite time in the future, to his great detriment and loss.

14. As a further result of the radiation exposure aforesaid, the husband-plaintiff has been unable to attend to his usual daily duties, occupations and labors and will continue to be unable to attend to same for an indefinite time in the future, to his great detriment and loss.

15. As a further result of the radiation exposure aforesaid, the plaintiffs have been obliged to expend various and diverse sums of money for medicines, hospitals, medical treatment and care in and about an effort to monitor for the development of cancer and they will continue to be obliged to expend such sums for an indefinite time in the future, to their great detriment and loss.

16. As a further result of the radiation exposure aforesaid, the husband-plaintiff has suffered severe physical

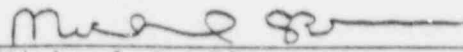
pain, mental anguish and torment, all of which shall continue for an indefinite time in the future, to his great detriment and loss.

17. As a further result of the radiation exposure aforesaid, the wife-plaintiff has been fearful of giving birth to more children, out of concern of birth defects resulting from her husband's radiation exposure; she has also been deprived of the services, society, companionship and consortium of her husband and will continue to be so deprived for an indefinite time in the future, to her great detriment and loss.

WHEREFORE, plaintiffs demand damages of the defendants herein for a sum in excess of twenty thousand dollars (\$20,000.00), exclusive of interest, costs and damages for prejudgment delay.

SHRAGER, McDAID, LOFTUS & FLUM, P.C.

By:



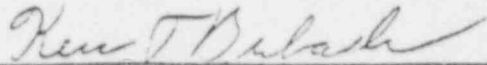
Michael S. Bloom
Identification No. 38432

Eight Penn Center
17th Floor
Philadelphia, PA 19103
(215) 568-7771

ATTORNEYS FOR PLAINTIFFS

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF PHILADELPHIA :

KENNETH J. BUBASH, being duly sworn according to law, deposes and says that he is the plaintiff in the foregoing action; that the attached Civil Action Complaint is based upon information which he has furnished to his counsel and information which has been gathered by his counsel in preparation of the lawsuit. The language of the Complaint is that of counsel and not of plaintiff. Plaintiff has read the Complaint and to the extent that it is based upon information which he has given to his counsel, it is true and correct to the best of his knowledge, information and belief. To the extent that the contents of the Answer are that of counsel, he has relied upon counsel in making this affidavit.



Kenneth J. Bubash

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 18th DAY
OF April, 1988.


Notary Public

CYNTHIA J. TAYLOR
Notary Public, Phila., Phila. Co.
My Commission Expires March 3, 1991

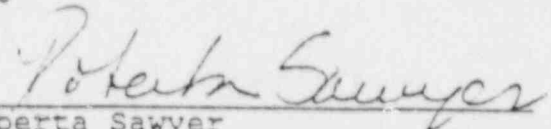
CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April, 1988, a true and correct copy of Plaintiffs' Civil Action Complaint endorsed with Notice to Plead was mailed by United States mail, postage prepaid, from Philadelphia, Pennsylvania to the following entities:

Philadelphia Electric Company
2301 Market Street
Philadelphia, PA 19103

Bartlett Nuclear Corporation
60 Industrial Park Road
P.O. Box 1800
Plymouth, MA 02360

By:


Roberta Sawyer
for Michael S. Bloom

07 FEB 01401

CIVIL ACTION

07-03/25/88 PG-0001

SUBASH-PHILADELPHIA ELECTRIC CO., ETAL

Jan

000001-KENNETH J SUBASH

ADDR-7519 W GLENROSA RD.

PHOENIX, AZ

ATTY-004099 EDWARD B MCDAID

000001-PHILADELPHIA ELECTRIC CO.

ADDR-2301 MARKET ST.

PHILADELPHIA, PA.

RULE 130 -- READY DATE 02/08/88

02/06/87 05:01P FILING ATTY- 004099 EDWARD B MCDAID

PROFESSOR \$115.50

AMOUNT AT ISSUE MORE THAN \$20,000.00

02/04/87 03:01P PRECIPITE TO ISSUE WRIT FILED.

WRIT OF SUMMONS ISSUED.

JURY TRIAL WAIVED.

(ENTERED 02-24-87 02.26 LEA PROE)

02/17/87 03:00P SERVED PECO

(ENTERED 03-05-87 03.11 JMI PROC 076)

*** END OF DOCKET ***

Commonwealth of Pennsylvania

COUNTY OF PHILADELPHIA

KENNETH J. BUBASH and LORETTA JEAN BUBASH, husband and wife, of 7519 West Glenrosa Road, Phoenix, AZ

VS.

PHILADELPHIA ELECTRIC COMPANY, of 23rd & Market Sts., Phila., PA; and BARTLETT NUCLEAR CORPORATION, 60 Industrial Park Rd., P.O. Box 1800, Plymouth, Massachusetts 02360

COURT OF COMMON PLEAS

FEBRUARY TERM 19 87

NO. _____

To (1) PHILADELPHIA ELECTRIC COMPANY 23rd and Market Streets Philadelphia, PA

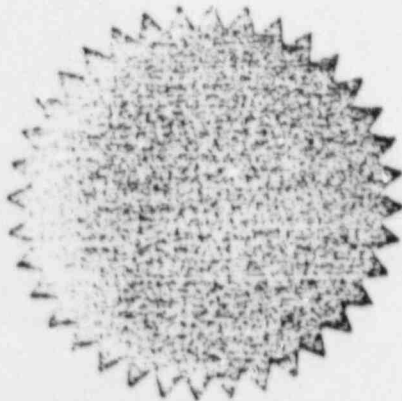
BARTLETT NUCLEAR CORPORATION 60 Industrial Park Road P.O. Box 1800 Plymouth, Massachusetts 02360

You are notified that the Plaintiff (2)

KENNETH J. BUBASH and LORETTA JEAN BUBASH 7519 West Glenrosa Road Phoenix, AZ

Has (have) commenced an action in (3)

Against you, which you are required to defend, or a default judgment may be entered against you.



JOHN J. PETTIT, JR. Prothonotary

By _____

Date _____

(1) Name(s) of Defendant(s) (2) Name(s) of Plaintiff(s) (3) Form of Action