

# REGULATORY INFORMATION DISTRIBUTION SYSTEM (RIDS)

ACCESSION NBR: 8704220263 DOC. DATE: 87/03/11 NOTARIZED: NO DOCKET #  
 FACIL: 50-250 Turkey Point Plant, Unit 3, Florida Power and Light C 05000250  
 50-251 Turkey Point Plant, Unit 4, Florida Power and Light C 05000251  
 AUTH. NAME AUTHOR AFFILIATION  
 HARWARD, J. E. American Nuclear Insurers  
 RECIP. NAME RECIPIENT AFFILIATION  
 SALTZMAN, J. Assistant Director for State & Licensee Relations

SUBJECT: Forwards summons & complaint filed against util & Eberline  
 Instrument Corp re alleged injury resulting from radiation  
 exposure of plaintiff while working at plant.

DISTRIBUTION CODE: M012D COPIES RECEIVED: LTR 1 ENCL 1 SIZE: 18  
 TITLE: Insurance Claims (Indemnity)

## NOTES:

	RECIPIENT ID CODE/NAME	COPIES LTTR ENCL	RECIPIENT ID CODE/NAME	COPIES LTTR ENCL
	PD2-2 LA	1 0	McDONALD, D	1 1
INTERNAL:	AEOD/DDA	1 1	AEOD/DSP/TPAB	1 1
	NRR/PMAS/PTSB	1 1	OGC/HDS2	1 1
	OGC H ST	1 1	REG FILE 01	1 1
	RGN2	1 1		
EXTERNAL:	LPDR	1 1	NRC PDR	1 1
	NSIC	1 1		

TOTAL NUMBER OF COPIES REQUIRED: LTTR 12 ENCL 11

SECRET  
NOFORN  
NOEYES

ON 10/10/77  
AT 10:00 AM  
FROM THE  
OFFICE OF THE  
DIRECTOR

TO THE  
ATTORNEY GENERAL  
AND  
THE SECRETARY OF DEFENSE

RE: [illegible]

1. [illegible]

2. [illegible]

3. [illegible]

4. [illegible]

5. [illegible]

6. [illegible]

7. [illegible]

8. [illegible]

9. [illegible]

10. [illegible]

11. [illegible]

12. [illegible]

13. [illegible]

14. [illegible]

15. [illegible]

16. [illegible]

17. [illegible]

18. [illegible]

19. [illegible]

20. [illegible]

21. [illegible]

22. [illegible]

23. [illegible]

24. [illegible]

25. [illegible]

26. [illegible]

27. [illegible]

28. [illegible]

29. [illegible]

30. [illegible]

31. [illegible]

32. [illegible]

33. [illegible]

34. [illegible]

35. [illegible]

36. [illegible]

37. [illegible]

38. [illegible]

39. [illegible]

40. [illegible]

41. [illegible]

42. [illegible]

43. [illegible]

44. [illegible]

45. [illegible]

46. [illegible]

47. [illegible]

48. [illegible]

49. [illegible]

50. [illegible]

51. [illegible]

52. [illegible]

53. [illegible]

54. [illegible]

55. [illegible]

56. [illegible]

57. [illegible]

58. [illegible]

59. [illegible]

60. [illegible]

61. [illegible]

62. [illegible]

63. [illegible]

64. [illegible]

65. [illegible]

66. [illegible]

67. [illegible]

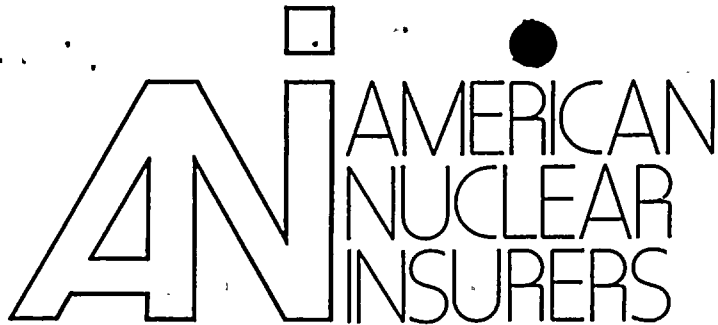
68. [illegible]

69. [illegible]

70. [illegible]

71. [illegible]

72. [illegible]



BURT C. PROOM, CPCU  
President and Chief Executive Officer

JOHN E. HARWARD  
Vice President - Claims

March 11, 1987

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

Subject: Abstract #124  
Eberline Instrument Corporation and  
Florida Power and Light Corporation, NF-185  
Turkey Point Nuclear Reactor  
Re: Gaspar Rodriguez  
D/O: March 1, 1984  
Suit -- Circuit Court, Dade County, Florida

Dear Jerry:

Attached find a copy of a Summons and Complaint filed against Florida Power and Light Company and Eberline Instrument Corporation.

This suit involves a claim by an employee of Florida Power and Light Company for alleged injury resulting from radiation exposure of the plaintiff while working at the Turkey Point Nuclear Power Reactor. The allegations against the employer include failure to properly train, instruct and protect the worker from radiation exposure and wrongful discharge from his employment. The allegations against the codefendant Eberline, include a claim that a portable survey meter, manufactured by Eberline, malfunctioned when the instrument went "off scale" causing the plaintiff to misinterpret his radiation exposure.

Even though the NRC has assessed a fine against Florida Power & Light Company for improper procedures in this case, the recorded exposure of the plaintiff was only .5 Rem, well below the permissible NRC quarterly limit.

8704220263 870311  
PDR ADDCK 05000250  
PDR  
JF

mo12  
1/1

1

[illegible] $\frac{d}{dt} \left( \frac{1}{r^2} \right) = -\frac{2}{r^3} \frac{dr}{dt}$ 

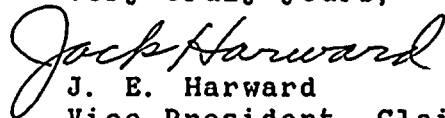
1. 凡在本行开立存款账户的客户，均可向本行申请开立支票。
 2. 支票的有效期为自签发之日起 10 个工作日内。
 3. 支票的金额不得超过账户余额。
 4. 支票的签发人必须为账户持有人或其授权代理人。
 5. 支票的收款人必须为本行客户。
 6. 支票的签发人必须妥善保管支票，防止丢失。
 7. 支票丢失后，应立即向本行挂失。
 8. 支票的金额必须以大写数字填写。
 9. 支票的金额必须以阿拉伯数字填写。
 10. 支票的金额必须以中文填写。

March 11, 1987

We do not cover the claim made against Florida Power and Light Company by their employee and are not participating in their defense. We are defending Eberline Instrument Corporation and have assigned counsel to defend them in this matter, although we have taken a reservation of rights with Eberline, with respect to the count for punitive damages, which is not covered in Florida unless involving the vicarious liability of a principal.

We are continuing our investigation to obtain additional facts in respect to the radiation exposure incident reported by the plaintiff and to confirm the levels of radiation exposure sustained by the plaintiff as a result of this occurrence.

Very truly yours,

A handwritten signature in cursive script that reads "Jack Harward".

J. E. Harward  
Vice President, Claims

JEH/pbj  
Enclosure

THE UNITED STATES OF AMERICA  
DO hereby certify that  
[Name] is a citizen of the United States  
and is entitled to the rights and  
privileges of citizenship.

Witness my hand and the seal of the  
Department of State at Washington  
this [Date] day of [Month], 19[Year].

John A. [Name]  
Secretary of State

19[Year]  
[Month] [Day]

Served  
Feb 11, 1987

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT OF FLORIDA. IN AND FOR DADE COUNTY

CASE NO. 87-01290

GASPAR RODRIGUEZ,

Plaintiff

GENERAL JURISDICTION DIVISION

-vs-

CIVIL ACTION  
SUMMONS

FLORIDA POWER & LIGHT  
COMPANY and EBERLINE  
INSTRUMENT CORPORATION,

Florida Bar No. 516813

Defendants.

THE STATE OF FLORIDA:

To Each Sheriff of Said State:

YOU ARE HEREBY COMMANDED to serve this summons and a copy of the complaint or petition  
in this action on defendant:

EBERLINE INSTRUMENT CORPORATION

By Serving: C. T. Corporate Systems, as Registered Agent  
Address: 217 W. Manhattan Avenue  
Santa Fe, New Mexico 87501

Each defendant is required to serve written defenses to the complaint or petition on Plaintiff's  
attorney, to wit: MICHAEL R. SEWARD, ESQ.  
whose address is: 3520 Southeast Financial Center, 200 Biscayne Blvd.  
Miami, Florida 33131-2331 (305) 372-3852

within 20 days after service of this summons on that defendant, exclusive of the day of service,  
and to file the original of the defenses with the Clerk of this Court either before service on  
Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be  
entered against that defendant for the relief demanded in the complaint or petition.

DATED ON \_\_\_\_\_, 19\_\_\_\_.

Richard P. Brinker,  
as Clerk of said Court

by: DAVID L. MOORE  
as Deputy Clerk



IN THE CIRCUIT COURT OF  
THE 11TH JUDICIAL CIRCUIT  
IN AND FOR DADE COUNTY,  
FLORIDA

GENERAL JURISDICTION DIV  
CASE NO. 87-04290

GASPAR RODRIGUEZ, a  
citizen of Florida,

Plaintiff,

vs.

COMPLAINT

FLORIDA POWER & LIGHT  
COMPANY, a Florida  
corporation, and  
EBERLINE INSTRUMENT  
CORPORATION, a New  
Mexico corporation,

Florida Bar No. 516813

Defendants.

---

Plaintiff, GASPAR J. RODRIGUEZ ("RODRIGUEZ"), by and through  
his undersigned counsel, sues Defendants, FLORIDA POWER & LIGHT  
COMPANY ("FP&L") and EBERLINE INSTRUMENT CORPORATION,  
("EBERLINE") and alleges:

PARTIES AND JURISDICTION

1. This is an action for damages in excess of \$5,000.00,  
exclusive of interest and costs.
2. All of the reckless, wanton, negligent, and wrongful  
acts set forth herein occurred in Dade County, Florida, except  
for the design and manufacturing defects attributable to  
EBERLINE.
3. Plaintiff, RODRIGUEZ, is a Florida citizen residing in  
Dade County, Florida.
4. Defendant, FP&L, is a Florida corporation registered to  
do business in Dade County, Florida.
5. Defendant, EBERLINE, is a New Mexico corporation doing  
business in Dade County, Florida within the meaning of Section  
48.193 of the Florida Statutes (1985).
6. Venue is proper in Dade County, Florida because FP&L  
resides in Dade County and also because the cause of action



accrued therein.

#### GENERAL ALLEGATIONS

7. On March 1, 1984, FP&L employed RODRIGUEZ at its Turkey Point Nuclear Power Plant ("Turkey Point") in Dade County, Florida. RODRIGUEZ worked at Turkey Point as an Instrument and Control Technician, a specialized position involving the calibration and repair of instruments used to monitor the plant's two nuclear reactors.

8. On January 8, 1986, while working an otherwise routine night shift, RODRIGUEZ received a work order to repair a jammed probe in the Traversing Incore Probe drive area of Unit 3 containment (hereinafter, "the containment area"). The probe is necessary to monitor the condition of the nuclear fuel rods in the nuclear reactors.

9. The work order failed to provide adequate instructions to RODRIGUEZ. Nevertheless, RODRIGUEZ was aware of the general nature of the work to be performed as well as the importance of completing the work that night. Indeed, RODRIGUEZ's supervisor, Vern Miller, had placed a great deal of pressure on RODRIGUEZ to fix the probe quickly so that the reactor would be ready for use the next day.

10. Along with the work order, RODRIGUEZ received a radiation work permit ("RWP"), stating that the area surrounding the probe contained less than 0.1 REM (one REM is the equivalent of 50 chest x-rays). In fact, the area contained at least 8.0 REMs of radiation -- more than 100 times the amount listed on the RWP by FP&L's Health Physics Department.

11. After receiving his work order and the RWP, RODRIGUEZ entered the containment area to repair the probe. RODRIGUEZ was equipped with a hand-held survey meter which had been issued to him by FP&L. The survey meter was designed and manufactured by EBERLINE to allow technicians to measure nuclear radiation so as to avoid overexposure.



12. Inside the containment area, the radiation level was so great that it caused RODRIGUEZ's hand-held survey meter to overload and malfunction. Because of design and manufacturing defects, the overloaded survey meter registered "zero"; thereby, leading RODRIGUEZ to believe that he was being exposed to a minimal dosage of nuclear radiation, if any, when in fact his body was being physically bombarded by potentially lethal dosages of nuclear radiation.

13. Both EBERLINE and FP&L failed to warn RODRIGUEZ that his hand-held survey meter would register zero after it had reached a saturation level. Therefore, RODRIGUEZ had no reason to suspect that his body was being exposed to potentially lethal dosages of nuclear radiation as he worked to repair the jammed probe.

14. After repairing the jammed probe, RODRIGUEZ left the containment area and removed his protective overalls. He then glanced at his dosimeter -- an instrument kept in the technician's pocket to gauge the technician's cumulative nuclear radiation exposure level -- and realized for the first time that he had been overexposed to nuclear radiation.

15. In a state of fear, panic, and anxiety, RODRIGUEZ reported to FP&L's Health Physics Officer. The officer downplayed RODRIGUEZ's dosimeter reading, suggesting that the instrument probably was broken. Subsequent tests revealed that the dosimeter was not broken. To the contrary, the hand-held survey meter had malfunctioned and RODRIGUEZ had been exposed to a potentially lethal dosage of nuclear radiation.

16. The next morning, Everett Hayes, FP&L's Instrument and Control Department Supervisor, telephoned RODRIGUEZ and ordered him to attend a meeting at Turkey Point. Hayes informed RODRIGUEZ that the entire incident was "snowballing" and that RODRIGUEZ should come to the plant immediately.

17. RODRIGUEZ promptly reported to Turkey Point. Unknown to RODRIGUEZ, FP&L officials had already decided -- without

1944

conducting an investigation or hearing of any sort -- to terminate RODRIGUEZ. Once RODRIGUEZ arrived at the plant, FP&L officials conducted a kangaroo court in which they expressed concern that an incident of this magnitude could cause the Nuclear Regulatory Commission to revoke Turkey Point's operating license. In an unsuccessful attempt to shift blame from FP&L to RODRIGUEZ, FP&L filed a report claiming that RODRIGUEZ's overexposure was entirely his fault.

18. To support its decision that RODRIGUEZ was entirely at fault, FP&L demoted RODRIGUEZ to a broom-pushing job and banned him from ever again working in the field of nuclear energy. To a man like RODRIGUEZ, whose specialized training and career aspirations focused solely on nuclear energy, FP&L's conduct constituted a constructive termination.

19. RODRIGUEZ is presently working sporadically as a roofer.

20. The Nuclear Regulatory Commission subsequently conducted an independent investigation of RODRIGUEZ's overexposure. The Commission concluded that FP&L had violated numerous federal statutes pertaining to the health and safety of employees. Moreover, the Commission categorized FP&L's violations as a "Severity Level III problem." Severity Level III problems are defined as violations that are cause for significant concern.

#### COUNT I

##### Negligence Against FP&L

Plaintiff realleges and adopts herein paragraphs 1 through 20.

21. At all times material hereto, FP&L was engaged in the business of maintaining, conveying, handling, and distributing atomic and nuclear power, and for this purpose did own, operate, maintain, manage and control the Turkey Point Nuclear Power Plant.



22. Pursuant to 10 C.F.R. 19.12 (1986), FP&L was required to instruct and train RODRIGUEZ in the health protection problems associated with exposure to nuclear radiation and in the precautions and procedures to minimize exposure.

23. FP&L knew, or in the exercise of due diligence should have known, of its statutory duty to instruct and train RODRIGUEZ as described in paragraph 22.

24. In breach of its statutory duty, FP&L failed to instruct and train RODRIGUEZ in the health protection problems associated with exposure to nuclear radiation and in the precautions and procedures to minimize exposure. Particularly, FP&L failed to instruct RODRIGUEZ to avoid prolonged exposure to a high level of nuclear radiation.

25. Pursuant to 10 C.F.R. 19.12 (1986), FP&L was required to instruct and train RODRIGUEZ in the purposes and functions of protective devices, including hand-held radiation survey meters, and in the methods of detecting instrument failures and the actions to be taken if the instrument was suspected of failure.

26. FP&L knew, or in the exercise of due diligence should have known, of its statutory duty to instruct and train RODRIGUEZ as described in paragraph 25.

27. In breach of its statutory duty, FP&L failed to instruct and train RODRIGUEZ in the purposes and functions of protective devices, including hand-held radiation survey meters, and in the methods of detecting instrument failures and the actions to be taken if the instrument was suspected of failure. Particularly, FP&L failed to instruct RODRIGUEZ that his hand-held survey meter might register "zero" radiation after it had reached a saturation level.

28. In further breach of its statutory duty, FP&L failed to do the following:

A. Provide adequate instructions on the plant work order for the maintenance and repair tasks to be performed;

B. Obtain a health physics technician to accompany



RODRIGUEZ into the containment area while RODRIGUEZ repaired the jammed probe; and

C. Limit RODRIGUEZ's exposure to nuclear radiation to the limits established by the plant work order.

29. As a result of FP&L's breach of its statutory duty, RODRIGUEZ's body was physically bombarded by potentially lethal dosages of nuclear radiation.

30. In addition to physical injury, RODRIGUEZ has suffered, and will continue to suffer, mental anguish and emotional distress because of the thought of the severe and potentially lethal dosages of nuclear radiation to which his body has been exposed.

31. FP&L's conduct constitutes negligence per se.

32. FP&L's conduct was grossly negligent, willful and wanton and accompanied by a reckless disregard for human life.

WHEREFORE, Plaintiff demands a trial by jury and a judgment in his favor and against FP&L for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.

## COUNT II

### Strict Liability Against FP&L

Plaintiff realleges and adopts herein paragraphs 1 through 20.

33. At all times material hereto, FP&L was engaged in an inherently dangerous activity and an ultrahazardous activity.

34. RODRIGUEZ's injuries occurred while he was working within the scope of his employment at FP&L.

35. FP&L is strictly liable to RODRIGUEZ for the injuries he received when his body was physically bombarded by potentially lethal dosages of nuclear radiation.

36. In addition to physical injury, RODRIGUEZ has suffered, and will continue to suffer, mental anguish and emotional distress because of the thought of the severe and potentially



lethal dosages of nuclear radiation to which his body has been exposed.

37. FP&L's conduct was willful and wanton and accompanied by a reckless disregard for human life.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against FP&L for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.

COUNT III

Wrongful Discharge Against FP&L

Plaintiff realleges and adopts herein paragraphs 1 through 20.

38. Prior to January 9, 1986, RODRIGUEZ had invested much of his time, finances and resources into the training necessary to become a skilled nuclear radiation technician.

39. RODRIGUEZ enjoyed his work and his profession and looked forward to a successful and longtime career in the field of nuclear energy.

40. At all times material hereto, RODRIGUEZ's work at Turkey Point had been satisfactorily performed in accordance with plant procedures and requirements.

41. RODRIGUEZ showed great promise as a competent Instrument and Control Technician. Indeed, RODRIGUEZ scored grades well above average in his "red badge" and other periodic plant tests. Moreover, RODRIGUEZ was being "groomed" for a management position and had already successfully worked in a temporary management position.

42. Despite RODRIGUEZ's history of satisfactory performance and his promising future in the field of nuclear energy, FP&L constructively fired RODRIGUEZ on January 9, 1986.

43. Without cause or justification, FP&L demoted RODRIGUEZ to a broom-pushing job. Simultaneously, FP&L forever banned RODRIGUEZ from the field of nuclear energy. RODRIGUEZ's promising career and his secure future were instantly destroyed.



44. FP&L's conduct was intended, calculated and designed to force RODRIGUEZ to leave employment at FP&L.

45. FP&L's action constituted a wrongful discharge and a retaliatory termination.

46. FP&L's conduct was willful and wanton and purposefully designed to shift blame for RODRIGUEZ's overexposure to nuclear radiation from FP&L to RODRIGUEZ.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against FP&L for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.

#### COUNT IV

##### Negligent Infliction of Emotional Distress Against FP&L

Plaintiff realleges and adopts herein paragraphs 1 through 20.

47. At all times material hereto, FP&L had a duty to avoid inflicting unnecessary emotional distress upon RODRIGUEZ.

48. FP&L knew, or in the exercise of reasonable care should have known, of its duty to avoid inflicting unnecessary emotional distress upon RODRIGUEZ.

49. In breach of its duty, FP&L inflicted unnecessary and extreme emotional distress upon RODRIGUEZ by wrongfully accusing RODRIGUEZ of being entirely at fault for his overexposure to nuclear radiation.

50. Despite RODRIGUEZ's plea for FP&L officials to consider his account of the overexposure, FP&L officials wrongfully refused to admit or consider FP&L's own fault in RODRIGUEZ's overexposure.

51. FP&L inflicted further emotional distress upon RODRIGUEZ by demoted him from a specialized position to a menial position and forever banning him from his chosen profession -- that of nuclear energy.

52. In one quick fell swoop, FP&L destroyed RODRIGUEZ's



promising career.

53. FP&L's conduct was grossly negligent, willful and wanton and purposefully designed to shift blame for RODRIGUEZ's overexposure to nuclear radiation from FP&L to RODRIGUEZ.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against FP&L for compensatory and punitive damages in the amount of \$10,000,000.00 and further relief as this Court shall deem proper.

COUNT V

Intentional Infliction of Emotional Distress Against FP&L

Plaintiff realleges and adopts herein paragraphs 1 through 20.

54. FP&L intentionally inflicted extreme emotional distress upon RODRIGUEZ by wrongfully accusing RODRIGUEZ of being entirely at fault for his overexposure to nuclear radiation.

55. FP&L knew, or in the exercise of due diligence should have known, that FP&L was largely or entirely at fault for RODRIGUEZ's overexposure to nuclear radiation.

56. FP&L intentionally inflicted extreme emotional distress upon RODRIGUEZ by wrongfully demoting him from a specialized position to a menial position and forever banning him from the field of nuclear energy.

57. FP&L knew, or in the exercise of due diligence should have known, that there was no cause or justification to demote RODRIGUEZ or to ban him from the field of nuclear energy.

58. FP&L's conduct was willful and wanton and purposefully designed to inflict emotional distress upon RODRIGUEZ by shifting blame for RODRIGUEZ's overexposure to nuclear radiation from FP&L to RODRIGUEZ.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against FP&L for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.



1. The first part of the document is a list of names and addresses of the members of the committee.

COUNT VI

✓ Negligence Against Eberline

Plaintiff realleges and adopts herein paragraphs 1 through 20.

59. At all times material hereto, EBERLINE was engaged in the business of designing and manufacturing devices and instruments to detect and measure nuclear radiation.

60. At all times material hereto, EBERLINE was engaged in the business of distributing and selling and otherwise furnishing to consumers devices and instruments to detect and measure nuclear radiation.

61. Prior to January 8, 1986, FP&L purchased a hand-held survey meter from EBERLINE. That instrument was designed and manufactured by EBERLINE and distributed to FP&L by EBERLINE. The hand-held survey meter was issued to RODRIGUEZ on the evening of January 8, 1986.

62. On January 8, 1986, RODRIGUEZ was working at the Turkey Point Nuclear Power Plant owned and operated by FP&L. At the time, RODRIGUEZ was equipped with the hand-held survey meter.

63. Relying on the accuracy of the hand-held survey meter, RODRIGUEZ unknowingly entered an area (the containment area) of nuclear radiation measuring at least 8.0 REMS.

64. While performing maintenance work in the containment area, RODRIGUEZ's hand-held survey meter malfunctioned. As a result, the needle on the gauge registered "zero" REMS. Continuing to rely on the accurateness of his hand-held survey meter, RODRIGUEZ remained in the containment area until he had finished his work. Unknown to him, his body was being physically bombarded by potentially lethal dosages of nuclear radiation.

✓ 65. At all times material hereto, EBERLINE was negligent in the design and manufacturing and the placement on the market of the hand-held survey meter used by RODRIGUEZ.

66. EBERLINE knew, or in the exercise of reasonable care



should have known, that the hand-held survey meter would be used by RODRIGUEZ or other persons who would rely on the machine's accuracy while working in or about areas of high radiation such as the containment area.

67. EBERLINE had a duty to provide RODRIGUEZ with a safe hand-held survey meter.

68. EBERLINE had a duty to warn RODRIGUEZ of the potential hazards accompanying the use of the hand-held survey meter.

69. In breach of these duties, EBERLINE failed to provide RODRIGUEZ with a safe hand-held survey meter and failed to warn him of the potential hazards accompanying the use of the hand-held survey meter.

70. As a direct and proximate result of the foregoing negligent acts and omissions, RODRIGUEZ's body was physically bombarded by potentially lethal dosages of nuclear radiation.

71. In addition to physical injury, RODRIGUEZ has suffered, and continues to suffer, mental anguish and emotional distress because of the thought of the severe and potentially lethal dosages of nuclear radiation to which his body has been exposed.

✓ 72. EBERLINE's conduct was grossly negligent, willful and wanton and accompanied by a reckless disregard for human life.

✓ WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against EBERLINE for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.

#### COUNT VII

##### ✓ Breach of Implied Warranty of Merchantability Against Eberline

Plaintiff realleges and adopts herein paragraphs 1 through 20.

73. At all times material hereto, EBERLINE was a seller within the purview and meaning of Sections 672.313, 672.314, and 672.315 of the Florida Statutes (1985).

74. EBERLINE impliedly warranted that its hand-held survey



meter was reasonably fit for a particular purpose and for its intended use as an instrument to detect and measure the amount of nuclear radiation to which a human body is being exposed.

75. The hand-held survey meter was not fit for a particular purpose nor for its intended use as an instrument to detect and measure the amount of nuclear radiation to which a human body is being exposed. The hand-held survey meter lacked adequate safety and protective devices; thereby, rendering it exceedingly unfit for its particular purpose and for its intended use.

76. EBERLINE represented to the general public and to RODRIGUEZ and his employer, FP&L, that the hand-held survey meter was safe, when in truth, EBERLINE knew, or in the exercise of reasonable care should have known, that the hand-held survey meter was designed and manufactured such that the hand-held survey meter lacked adequate and proper safety devices to prevent injuries from extreme and/or potentially lethal dosages of nuclear radiation.

77. As a direct and proximate result of EBERLINE's breach of warranty, RODRIGUEZ, while engaged in the performance of his duties as a nuclear radiation technician, was physically bombarded by potentially lethal dosages of nuclear radiation.

78. In addition to physical injury, RODRIGUEZ has suffered, and continues to suffer, mental anguish and emotional distress because of the thought of the severe and potentially lethal dosages of nuclear radiation to which his body has been exposed.

79. EBERLINE's conduct was willful and wanton and accompanied by a reckless disregard for human life.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against EBERLINE for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.



COUNT VIII

✓ Breach of Express Warranty of Fitness  
for a Particular Purpose Against EBERLINE

Plaintiff realleges and adopts herein paragraphs 1 through 20.

80. At all times material hereto, EBERLINE was a seller within the purview and meaning of Sections 672.313, 672.314, and 672.315 of the Florida Statutes (1985).

81. EBERLINE expressly warranted in its advertising that the hand-held survey meter was appropriate for the use to which it was being put at the time of RODRIGUEZ's overexposure to nuclear radiation.

82. The advertisements were part of the basis of the bargain between EBERLINE and FP&L, RODRIGUEZ's employer.

83. The hand-held survey meter was purchased with this inducement and FP&L relied on these representations for the safety of RODRIGUEZ and other employees.

✓ 84. By designing, manufacturing and distributing the hand-held survey meter in a defective condition, EBERLINE failed to conform to the representations made; thereby, breaching its express warranty.

85. As a direct and proximate result of EBERLINE's breach of warranty, RODRIGUEZ, while engaged in the performance of his duties as a nuclear radiation technician, was physically bombarded by potentially lethal dosages of nuclear radiation.

86. In addition to physical injury, RODRIGUEZ has suffered, and continues to suffer, mental anguish and emotional distress because of the thought of the severe and potentially lethal dosages of nuclear radiation to which his body has been exposed.

87. EBERLINE's conduct was willful and wanton and accompanied by a reckless disregard for human life.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against EBERLINE for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this



Court shall deem proper.

COUNT IX

✓ Strict Liability Against Eberline

Plaintiff realleges and adopts herein paragraphs 1 through 20.

88. EBERLINE placed a hand-held survey meter in the stream of commerce.

89. The hand-held survey meter was in a defective condition unreasonably dangerous at the time of its sale to FP&L.

90. The hand-held survey meter was in a defective condition for all of the following reasons:

- ✓ (1) EBERLINE designed it defectively;
- ✓ (2) EBERLINE manufactured it defectively; and
- ✓ (3) EBERLINE failed to warn the intended user of its inherent dangers.

91. The hand-held survey meter was used by RODRIGUEZ, an intended user, in the performance of his employment at FP&L.

92. Without misuse of the product by RODRIGUEZ, the hand-held survey meter malfunctioned causing RODRIGUEZ to be physically bombarded by potentially lethal dosages of nuclear radiation.

93. In addition to physical injury, RODRIGUEZ has suffered, and continues to suffer, mental anguish and emotional distress because of the thought of the severe and potentially lethal dosages of nuclear radiation to which his body has been exposed.

94. EBERLINE's conduct was willful and wanton and accompanied by a reckless disregard for human life.

WHEREFORE, RODRIGUEZ demands a trial by jury and a judgment in his favor and against EBERLINE for compensatory and punitive damages in excess of \$10,000,000.00 and further relief as this Court shall deem proper.



Respectfully submitted,

LAW OFFICES OF  
MICHAEL R. SEWARD  
Attorneys for Plaintiff  
One Southeast Financial  
Center  
Suite 3520  
Miami, FL 33131-2331  
(305) 372-3852

BY: Michael R. Seward  
MICHAEL R. SEWARD

FERRARO & ASSOCIATES, P.A.  
Attorneys for Plaintiff  
One Southeast Financial  
Center  
Suite 3520  
Miami, FL 33131-2331  
(305) 371-4028

BY: James L. Ferraro  
JAMES L. FERRARO

