



BURT C. PROOM, CPCU
President

JOHN E. HARWARD
Vice President - Claims

Arch'd copy sent to OGC

July 20, 1983

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

Subject: Abstract #104
Edward L. Zeller and Terry Zeller vs.
The Power Authority of the State of New York
State of New York Supreme Court, County of Oswego
Policy Nos. NF-208 and MF-77
D/O: January 19, 1982

Dear Mr. Salzman:

Enclosed find a copy of the Summons and Complaint filed against our policyholder, Power Authority of the State of New York, in connection with the captioned suit. It is my understanding that this suit arises out of a traumatic injury sustained at the PASNY nuclear facility and that the radiation exposures were minimal. It is not expected that any radiation injury could result from the minimal radiation exposure of the plaintiff, but he did receive a significant traumatic injury when a 650 lb. valve fell and fractured his lower right leg.

We have assigned the suit to defense counsel but have already undertaken measures to obtain the cooperation and participation of the conventional liability carrier of the policyholder and fully expect them to take an active role in the management of the future defense effort as well as participate in the expenses associated with this litigation.

Very truly yours,

J. E. Harward
J. E. Harward
Vice President, Claims

8308120005 830720
PDR ADOCK 05000333
J PDR

JEH/pbj
Enclosure

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STATE OF NEW YORK
SUPREME COURT ; COUNTY OF OSWEGO

EDWARD L. ZELLER and TERRY ZEILER,

Plaintiff;

Plaintiff

against

POWER AUTHORITY OF THE STATE OF NEW YORK,

Defendant

Index No.

Plaintiff designates
Oswego County

County as the place of trial

The basis of the venue is
Plaintiffs' residence

SUMMONS

Plaintiff resides at

RD #4, Seneca Hill, Box 76,
Oswego, New York
County of Oswego

To the above named Defendant

You are hereby summoned

to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated, May 31, 1983

Defendant's address:

Twin Tower
Suite 1950
99 Washington Avenue
Albany, New York 12210

Davidson & O'Mara, P.C.

Attorney(s) for Plaintiff
Office and Post Office Address

243 Lake Street
Elmira, New York 14901-31
Telephone: (607) 733-463

TELECOPY TO GERALD GOLDSTEIN - 2877

FROM GLORIA BALLIEN - ALBANY OFFICE - 6/13/83

ing duly sworn, deposes and says; that deponent is not
ary to the action, is over 18 years of age and resides

at No. 19 at No.

ment served the within summons on
defendant

by delivering a true copy of each to said de-
fendant personally; deponent knows the person
so served to be the person described as said
defendant therein.

a corporation,
by delivering thereto a true copy of each to

personally, deponent knew said corporation to
served to be the corporation described in said
summons as said defendant and knew said
individual to be thereof

by delivering thereto a true copy of each to
a person of suitable
age and discretion. Said premises is defend-
ant's—actual place of business—dwelling
house—usual place of abode—within the state.

by affixing a true copy of each to the door of
said premises, which is defendant's—actual
place of business—dwelling house—usual place
of abode—within the state. Deponent was un-
able, with due diligence to find defendant or
a person of suitable age and discretion, present,
having called there

Deposent also enclosed a copy of same in a
postpaid sealed wrapper properly addressed to
defendant at defendant's last known residence,
at

and deposited said wrapper in a post office—
official depository under exclusive care and
custody of the United States Postal Service
within New York State.

Index No.

STATE OF NEW YORK
SUPREME COURT—CHEMUNG COUNTY

EDWARD L. ZELLER and TERRY
ZELLER,

Plaintiff

against

THE POWER AUTHORITY OF THE
STATE OF NEW YORK,
Defendant

Summons

Action not based upon a
Consumer Credit Transaction

Davidson & O'Mara, P.C.

Attorney(s) for Plaintiff

Office, Post Office Address and Tel. No.
243 Lake Street
Elmira, New York 14901
Telephone: (607) 733-4635

DESCRIPTION

USE WITH Dependent describes the individual served
as follows: sex: ☐ male ☐ female;

☐ White Skin ☐ Under 5' ☐ Under 100 Lbs.
☐ Black Skin ☐ 5' 0" - 5' 5" ☐ 100 - 150 Lbs.
☐ Yellow Skin ☐ 5' 4" - 5' 8" ☐ 151 - 160 Lbs.
☐ Brown Skin ☐ 5' 9" - 6' 0" ☐ 161 - 200 Lbs.
☐ Red Skin ☐ Over 6' ☐ Over 200 Lbs.

☐ Black Hair ☐ 14 - 20 Yrs.
☐ Brown Hair ☐ 21 - 35 Yrs.
☐ Blond Hair ☐ 36 - 50 Yrs.
☐ Gray Hair ☐ 51 - 65 Yrs.
☐ Red Hair ☐ Over 65 Yrs.
☐ White Hair
☐ Balding

Other identifying features:

Sworn to before me on

STATE OF NEW YORK
SUPREME COURT : COUNTY OF OSWEGO

EDWARD L. ZELLER and TERRY ZELLER,

Plaintiffs,

COMPLAINT

-against-

POWER AUTHORITY OF THE STATE OF
NEW YORK,

Defendant.

The plaintiffs, Edward L. Zeller and Terry Zeller, by their attorneys, Davidson & O'Mara, P.C., complaining of the defendant herein, show to the Court and allege:

1. The plaintiffs reside at RD #4, Seneca Hill, Box 76 Oswego, New York.

2. Upon information and belief, the defendant, Power Authority of the State of New York, is a public authority organized and existing under and pursuant to the provisions of the Public Authorities Law of the State of New York.

3. Upon information and belief, at all times hereinafter mentioned, the defendant, Power Authority of the State of New York was and still is the owner of the James Fitzpatrick Nuclear Power Plant in Oswego, New York, and manages, maintains and controls said premises.

4. Upon information and belief, prior to January 19, 1982, the Power Authority of the State of New York entered into a contract with various contractors calling for the performance of construction work at the James Fitzpatrick Power Plant in Oswego, New York.

5. On or about January 19, 1982, the plaintiff, Edward L. Zeller, was employed as a pipe fitter by CN Flagg Company of

Meridan, Connecticut, and was lawfully on the premises of the James Fitzpatrick power plant for the purpose of helping to install a check valve to a pipe in a dry well which was part of the water cooling system surrounding the nuclear reactor at said plant.

6. On or about January 19, 1982, as the check valve was being placed into position, the hoisting cable broke causing the check valve to fall upon the plaintiff, Edward L. Zeller.

7. The aforesaid occurrence was caused by and due to the gross and wanton negligence of the defendant in the ownership, management, maintenance and control of the aforesaid premises and its appurtenances and by the gross and wanton negligence of the defendant in failing to provide plaintiff with a safe place to work as required by law, in furnishing plaintiff with unreasonably dangerous, defective and unsafe construction equipment and in otherwise failing to prevent this occurrence.

8. The aforesaid occurrence was not caused by or due to the carelessness or negligence of or on the part of the plaintiff, Edward L. Zeller.

9. By reason of the negligence of the defendant, plaintiff, Edward L. Zeller, sustained severe physical and personal injuries, mental suffering and has been informed and believes that his injuries are permanent and that he will require treatments in the future.

10. By reason of the negligence of the defendant, plaintiff, Edward L. Zeller, became exposed to dangerous radiation and sustained physical injuries and mental suffering and has been

informed and believes that these injuries are permanent and that he will require treatment in the future.

11. By reason of the negligence of the defendant, plaintiff, Edward L. Zeller, was obliged to and did expend and incur large sums of money for medicines and medical and hospital care and treatment.

12. As a result of the defendant's negligence, plaintiff Edward L. Zeller, has been damaged in the sum of Two Million Dollars (\$2,000,000.00).

✓ FOR A SECOND CAUSE OF ACTION
THE PLAINTIFF, EDWARD L. ZELLER,
SHOWS TO THE COURT AND ALLEGES:

13. Plaintiff, Edward L. Zeller, repeats, reiterates and realleges each and every allegation in those paragraphs designated "1" through "11" as though fully set forth and repeated herein.

14. The aforesaid occurrence was caused by and due to the defendant's gross and wanton violation of provisions of the Labor Law of the State of New York and regulations promulgated thereunder and/or provisions of the Federal Occupational Health and Safety Act and regulations promulgated thereunder in that defendant failed to furnish or erect or caused to have furnished or erected for the performance of plaintiff's labor, proper and safe hoists, bolts, cables, stays, blocks, pulleys, braces, irons and other devices and equipment so constructed, placed and operated as to give plaintiff proper protection.

15. By reason of the defendant's violation of these statutory duties, plaintiff, Edward L. Zeller, sustained severe physical injuries and mental suffering and has been informed and

and believes that his injuries are permanent.

16. By reason of the defendant's violation of the statutory duties, plaintiff, Edward L. Zeller, became exposed to dangerous radiation and sustained physical injuries and mental suffering and has been informed and believes that these injuries are permanent.

17. By reason of the defendant's violation of these statutory duties, the plaintiff, Edward L. Zeller, was obliged to and did expend and incur large sums of money for medicines and medical and hospital care and treatment.

18. As a result of the defendant's violation of these statutory duties, plaintiff, Edward L. Zeller, has been damaged in the sum of Two Million Dollars (\$2,000,000.00).

FOR A THIRD CAUSE OF ACTION,
THE PLAINTIFF, EDWARD L. ZELLER,
SHOWS TO THE COURT AND ALLEGES:

19. Plaintiff, Edward L. Zeller, repeats, reiterates, and realleges each and every allegation in those paragraphs designated "1" through "11" and "14" through "17" as those fully set forth and repeated herein.

20. Following said occurrence, the defendant, its agents, servants or employees were grossly and wantonly careless and negligent in that the defendant, its agents, servants or employees failed to properly attend to the plaintiff, Edward L. Zeller, and failed to remove the plaintiff from a dangerous radiation zone within a reasonable time after said occurrence.

21. By reason of the negligence of the defendant, its agents, servants or employees the plaintiff, Edward L. Zeller, sustained physical injuries and mental suffering and has been

informed and believes that these injuries are permanent.

22. By reason of the negligence of the defendant, its agents, servants or employees, the plaintiff, Edward L. Zeller, was obliged to and did expend and incur large sums of money for medicines and medical and hospital care and treatment.

23. As a result of the negligence of the defendant, its agents, servants or employees, plaintiff, Edward L. Zeller, has been damaged in the sum of Two Million Dollars (\$2,000,000.00

FOR A FOURTH CAUSE OF ACTION
THE PLAINTIFF, TERRY ZELLER,
SHOWS TO THE COURT AND ALLEGES:

24. Plaintiff, Terry Zeller, repeats, reiterates and realleges each and every allegation in those paragraphs designated "1" through "11", "14" through "17" and "20" through "22" as though fully set forth and repeated herein.

25. That prior to January 19, 1982, plaintiff, Terry Zeller, was and still is the wife of plaintiff, Edward L. Zeller.

26. That by reason of the foregoing, plaintiff, Terry Zeller, has been deprived of the aid, companionship, company, society, comfort and services of her husband, Edward L. Zeller, has suffered loss of consortium having been deprived of the right and interests which has accrued by reason of her said marriage and her continuation of her said marriage relationship. All to her damage in the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00).

WHEREFORE, plaintiff, Edward L. Zeller, demands judgment against the defendant in the sum of Two Million Dollars (\$2,000,000.00) compensatory damages and Two Million Dollars

plaintiff, Edward L. Zeller, demands judgment against the defendant in the sum of Two Million Dollars (\$2,000,000.00) compensatory damages and Two Million Dollars (\$2,000,000.00) punitive damages on the second cause of action; plaintiff, Edward L. Zeller, demands judgment against the defendant in the sum of Two Million Dollars (\$2,000,000.00) compensatory damages and Two Million Dollars (\$2,000,000.00) punitive damages on the third cause of action and plaintiff, Terry Zeller, demands judgment against the defendant in the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) compensatory damages and Two Million Dollars (\$2,000,000.00) punitive damages on the fourth cause of action together with the costs and disbursements of this action.

Dated: May 31, 1983

DAVIDSON & O'MARA, P.C.
Attorneys for the plaintiffs
Office & Post Office Address
243 Lake Street
Elmira, New York 14901-3192
Telephone: (607) 733-4635

NOTICE OF ENTRY

Sir :- Please take notice that the within is a (certified)
true copy of a
duly entered in the office of the clerk of the within
named court on 19

Dated,

Yours etc.

DAVIDSON & O'MARA, P. C.
Attorneys for

243 LAKE STREET
ELMIRA, NEW YORK

To
Attorney for

NOTICE OF SETTLEMENT

Sir :- Please take notice that an order

of which the within is a true copy will be presented for
settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19
at M.
Dated,

Yours etc.

DAVIDSON & O'MARA, P. C.
Attorneys for

Index No.

Year 19

STATE OF NEW YORK
SUPREME COURT:COUNTY OF OSWEGO

EDWARD L. ZELLER and TERRY
ZELLER,

Plaintiffs,

-against-

POWER AUTHORITY OF THE STATE
OF NEW YORK,

Defendant.

Copy

SUMMONS and COMPLAINT

DAVIDSON & O'MARA, P. C.
Attorneys for Plaintiffs

243 LAKE STREET
ELMIRA, NEW YORK
(607) 733-4631

To

Attorney for