REPORT

CHEST PA: The heart shadow is within normal limits. The ascending aorta is prominent. The aortic knob is accentuated and calcified. The lungs are clear. There is no evidence of infiltration or consolidation.

IMPRESSION: 1. Aortic atherosclerosis.
APPLICATION FOR EMPLOYMENT

Gouverneur, N. Y. 9-3-56 15

Post Office Age     Phone Roseville 2145
and Street
City     Utica State N.Y.

Position Desired

Salary Expected Weekly per

At 160 Height 5-7 Married or Single Married No. Dependents 5

of Birth 5-28-14 Social Security No. 21-14-774 Physical Condition

Educational Service None Reserve Status None

did you leave last position? Why?

Secretary Bette Reis Referred by Charles Price

EDUCATION NAME OF SCHOOL OR COLLEGE - LOCATION YEARS ATTENDED COURSE

Secondary School or University Name of School Location Age or Grade

EXPERIENCE - Give an accurate chronological statement of the positions you have held

<table>
<thead>
<tr>
<th>Year &amp; Year</th>
<th>Employer's Name &amp; Address</th>
<th>Position Held</th>
<th>Reason for Leaving</th>
</tr>
</thead>
<tbody>
<tr>
<td>1941-12-1</td>
<td></td>
<td>Mine</td>
<td>Minery Manager</td>
</tr>
<tr>
<td>5/1942-10/4</td>
<td></td>
<td>Lt Joseph</td>
<td>Lt</td>
</tr>
<tr>
<td>1945</td>
<td></td>
<td>New York</td>
<td></td>
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<tr>
<td>1946-11/1</td>
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<td>Lt Joseph</td>
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<tr>
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<tr>
<td>1947-3/18</td>
<td></td>
<td>Lt Joseph</td>
<td>Lt</td>
</tr>
</tbody>
</table>

OCCUPATION

The above answers are absolutely true to which I affix my signature below:

Signature in Full

20 years Vanderbilt 1 Year Navy Yard 8 Years Other Mines
NAME: [REDACTED]  M.R.I.: 1603035  SM201-05
DOB: 05/26/1943  AGE: 60  SEX: Male  RACE: Caucasian  S.S.#: [REDACTED]
DATE/TIME OF DEATH: 05/17/01 7:05 AM  DATE/TIME OF AUTOPSY: 05/17/01 4:00 PM
PROTRACTOR: Shahandez Haghiri, MD  DEPUTY ATTENDING PHYSICIAN: Frank Rhode, MD

FINAL ANATOMICAL DIAGNOSIS

Asbestosis.
Malignant mesothelioma — pleural.
Pneumocystis (mixed dust deposition).
Atherosclerotic and ischemic heart disease; S/V bypass graft.

Autopsy report completed: 5/30/01 (SH:vlj)

PQ Exhibit A
SMC01-05  
Page 2  

GROSS DESCRIPTION:  

The autopsy is performed 7 hours after death. Permission is by the wife of the deceased. Authorization states: chest only.

EXTERNAL APPEARANCE:  

The subject is a 61-year-old white male. The body is consistent with the stated age, and the weight is approximately 130 pounds. The height is 64 inches. There is mild rigor mortis and dependent lividity. The skin is clear. The head is not decomposed. The hair is two to three inches and white. The eyes show a small amount of discharge. No jaundice is noted. The nose and external ears are unremarkable, and their passages are clear. The lips and gums show no lesion. Teeth are absent. Neck structures are symmetrical. There are no unusual masses. The thorax has the normal contour and symmetry. The male breasts are unremarkable. There is a midline thoracic scar, healed. There is a subcutaneous mound from suprasternal notch and extending to the xyphoid process. The abdomen is scaphoid. No abnormal masses or fluid waves are externally palpable. There are no abdominal scars. The external genitalia are that of a male; uncircumcised. The extremities show anterior scars on both knees.

INTERNAL EXAMINATION:  

The examination is restricted to the chest. A D-shaped incision is employed. The panniculus adiposus measures 1 cm. at thickness over the chest. The skeletal muscles are red-brown. The rib cage shows metallic sutures. The midline sternum. There is no subcutaneous emphysema or sign of pneumothorax. The left pleural cavity contains a minimal amount of clear fluid. The right pleural cavity is adhered secondary to talc pleurodesis. The pericardial cavity contains minimal amount of clear fluid. The serosal surfaces of the left side are smooth. The anterior serosal surfaces over the pericardium show extensive old adhesions.

Cardiovascular System:  

The heart weighs 430 grams. The ventricular wall thicknesses are 1.4 on the left and 0.3 cm. on the right. The muscular wall shows mild hypertrophic changes on the left side. The cardiac chambers are not dilated. The valves and appendages are unremarkable. The valve rings, especially the aortic valve, shows marked calcification. The epicardium shows chronic adhesions and is focally adhered to the right lung on the right atrial area. The coronary arteries arise in normal position. The vessel walls are thick with marked calcification. The lumina are moderately to markedly compromised. A patent bypass graft is noted. The aortic and pulmonary arteries arise in normal anatomic relation. The aortic wall shows marked calcification with complete loss of elasticity.

Respiratory System:  

The larynx and trachea are intact. The mucosa is smooth. The lung weights are left side 790 grams, the right side 1,980 grams. The left lung shows the normal shape and lobar division. The pleura is thin and shows anthracotic pigmentation. The bronchial tract is intact and free of mass, dilatation or mucosal changes. The pulmonary arteries do not show any major thrombi. The right lung shows extensive dense adhesion to the chest wall. The lower lobe and medial aspect of the lung is encased by a large at least 12 cm. firm white nodular mass, adherent to the diaphragm. The mass extends along the medial aspect of the lung into the mediastinum and bulky masses are noted over the mediastinum and upper lung medially. The lung parenchyma is dark red, emphysematous and exudes gray brown fluid on pressure.
INTERNAL EXAMINATION (Cont'd)

Respiratory System (Cont'd)

Several mediastinal lymph nodes, varying from 0.5 to 2 cm, are noted which are antracotic. Multiple representative sections from the heart and bilateral lungs and tumor mass are submitted for microscopic examination.

MICROSCOPIC DESCRIPTION

Sections from the heart show patchy fibrosis... Sections from the mediastinal lymph nodes show benign lymph nodes with many bright polarizable crystals, consistent with talc. Sections from bilateral lung parenchyma show many ferruginous bodies, with translucent cores, consistent with asbestos bodies. In some foci four or five asbestos bodies are noted per high power field (40x). Foci of mixed duct deposition and patchy fibrosis in the lung parenchyma are also noted. Sections from the tumor involving the right pleural and lung show a diffuse proliferation of atypical pleomorphic cells with sarcomatous and epithelioid patterns. Tumor necrosis is noted. These findings are consistent with diffuse malignant mesothelioma.
May 21, 2002

Workers' Compensation Board
935 James St.
Syracuse, New York 13203

Reference: WCB 60108425
Robert Rice (Dec'd) vs.
Gouverneur Talc
D/A 5/17/01

Gentlemen:

We represent Zurich regarding the above captioned claim. The autopsy report regarding this death claim notes a diagnosis of pneumoconiosis and asbestosis and thus it would be greatly appreciated if you would place the Special Funds on notice.

Very truly yours,

MCDONOUGH, LEITER & BRUNE, LLP

John F. McDonough, Jr.

JFMJr/jk
FAX COVER SHEET

DATE: 5/21/02

FAX NUMBER: 203-831-0648

TO: John Kelse

FROM: John McDonough, Jr.

NUMBER OF PAGES, INCLUDING COVER SHEET: 4

RE: Robert Rice (Dec'd)

MESSAGE:
NAME: Rice, Robert  
M.R.#: M0360395  
SMC01-05  
DOB: 05/28/14  
AGE: 86  
SEX: Male  
RACE: Caucasian  
S.S.#: 121-14-7716  
DATE/TIME OF DEATH: 05/17/01 7:05 AM  
DATE/TIME OF AUTOPSY: 05/17/01 4:00 PM  
PROsector: Shahandeh Haghir, MD  
ATTENDING PHYSICIAN: Frank Rhode, MD

FINAL ANATOMICAL DIAGNOSIS

Asbestosis.
Malignant mesothelioma.
Pneumoconiosis (mixed dust deposition).
Atherosclerotic and ischemic heart disease S/P bypass graft.

Autopsy report completed: 5/30/01 (SH:v1j)

Shahandeh Haghir, MD
Pathologist
Rice, Robert
SMC01-05
Page 2

GROSS DESCRIPTION:
The autopsy is performed 9 hours after death. Permission is by the wife of the deceased. Authorization stated: chest only.

EXTERNAL APPEARANCE:
The subject is a 50 year old white male. The body is consistent with the stated age. The weight is approximately 130 pounds. The height is 64 inches. There is mild rigor mortis and dependent lividity. The skin is clear. The head is not deformed. The hair is two to three inches and white. The eyes show a small amount of discharge. No jaundice is noted. The nose and external ears are unremarkable and their passages are clear. The lips and gums show no lesion. Teeth are absent. Neck structures are symmetrical. There are no unusual masses. The thorax has the normal contour and symmetry. The male breasts are unremarkable. There is a mid line thoracic scar, healed, starting from suprasternal notch and extending to the xiphoid process. The abdomen is scaphoid. No abnormal masses or fluid waves are externally palpable. There are no abdominal scars. The external genitalia are that of a male, uncircumcised. The extremities show anterior scars on both knees.

INTERNAL EXAMINATION:
The examination is restricted to the chest. A U-shaped incision is employed. The panniculus adiposus measures 1 cm. in thickness over the chest. The skeletal muscles are red brown. The rib cage shows metallic sutures in midline sternum. There is no subcutaneous emphysema or sign of pneumothorax. The left pleural cavity contains a minimal amount of clear fluid. The right pleural cavity is adhesed secondary to talc pleurodesis. The pericardial cavity contains minimal amount of clear fluid. The serosal surfaces of the left side are smooth. The anterior serosal surfaces over the pericardium show extensive old adhesions.

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INTERNAL EXAMINATION: (Cont'd)

Respiratory System: (Cont'd)

Several mediastinal lymph nodes, varying from 0.5 to 2 cm, are noted which are anthracotic. Multiple representative sections from the heart and bilateral lungs and tumor mass are submitted for microscopic examination.

MICROSCOPIC DESCRIPTION:

Sections from the heart show patchy old fibrosis. Sections from the mediastinal lymph nodes show benign lymph nodes with many bright polarizable crystals, consistent with talc. Sections from bilateral lung parenchyma shows many ferruginous bodies with translucent cores, consistent with asbestos bodies. In some foci four or five asbestos bodies are noted per high power field (40x). Foci of mixed dust deposition and patchy fibrosis in the lung parenchyma are also noted. Sections from the tumor involving the right pleura and lung show a diffuse proliferation of atypical pleomorphic cells with sarcomatous and epithelioid patterns. Tumor necrosis is noted. These findings are consistent with diffuse malignant mesothelioma.
State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION

keep for your records

At the Workers' Compensation hearing held on 05/13/2002 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wanamaker made the following decision, findings and directions:

DECISION: Prima facie medical evidence exists per C-64. Board to locate and place on notice carrier for Gouverneur Talc in October 76. Per enforcement investigation CNA was the carrier for 1976. CNA to verify coverage. Case is continued.

Information about Next Hearing / Meeting
Case continued for tentative date of 7/24/2002 in Canton at 9:30 am for Zurich to produce IME of the records. Formal hearing notice to follow.

Claimant - Robert Rice (deceased)
Social Security No. - 121-14-7716
WCB Case No. - 6010 8425
Date of Accident - 05/17/2001
District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No. -
Date of Filing of this Decision - 05/30/2002

ATENCION:
Puede llamar a la oficina de la Junta de Compensación Obrera, en su área correspondiente, cuyo número de teléfono aparece al principio de la página y pida información acerca de su reclamación(caso).

EC-23 (4/98)
FILE COPY
# CNA

## NOTICE THAT RIGHT TO COMPENSATION IS CONTROVERTED

**CHECK TYPE OF CASE:**  
- [x] WORKERS' COMPENSATION
- [ ] VOLUNTEER FIREFIGHTER
- [ ] VOLUNTEER AMBULANCE WORKER

**ANSWER ALL QUESTIONS FULLY**

### ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS

<table>
<thead>
<tr>
<th></th>
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</tr>
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<td>6010 8425</td>
<td>40530958 V7</td>
<td>W063002</td>
<td>5/17/01</td>
<td>121-14-7716</td>
</tr>
</tbody>
</table>

### 6. Injured Person
- **Name:** ROBERT RICE
- **Address to which notices should be sent**
  - (Give Number and Street, City, State, and Zip Code)
  - 68 W MAIN ST APT 3B1
  - GOVERNEUR, NY 13642
- **Apartment No.:**
  - 3B1

### 7. Employer
- **Name:** GOVERNEUR TALC
- **Address:**
  - PO BOX 89
  - GOVERNEUR, NY 13642

### 8. Carrier
- **Name:** CONTINENTAL CASUALTY CO
- **Address:**
  - PO Box 4855
  - Syracuse, NY 13221

### 9. Volunteer Fire or Ambulance Company, if applicable

### 10. Claimant's Doctor

*In volunteer firefighters and volunteer ambulance workers' benefit cases, the State political subdivision or municipal subdivision service as defined in Sec. 38 VAWR is deemed to be the "EMPLOYER".

### 11. Description (Diagnosis) of Alleged Injury

#### PATIALITY

### 12. Place where alleged injury occurred
- **Unknown, NY**
  - (City, Town or Village)
  - (County)
  - (State)

### 13. Right to compensation is controverted for the following reasons: State reasons fully and explicitly. Attach supporting medical reports if reasons include contention that disability is not causally related.

**EACH BASIS FOR CONTROVERSY MAY BE CONSIDERED FRAUDULOUS AND SUBJECT TO A PENALTY UNLESS SUPPORTING DOCUMENTATION IS ATTACHED.**

- **Question Accident, Notice and Causal Relationship**
- **Carrier Raises All Issues Including Sections 18, 28**
- **No Coverage for 5/17/01 Date of Death**

### 14. Date alleged disability began

### 15. Date employer or carrier first had knowledge of alleged injury, whichever is earlier

### 16. Date of receipt by carrier of employer's report of injury (C-2, VF-2 or VAW-2) (if None, So State)

### 17. 12 NYCRR 363.12 requires that an employer or carrier controverting a claim for benefits promptly furnish a copy of Form C-7 and medical report(s), if any, to the disability benefits carrier or self-insured employer.

- **A. Has a copy of this notice been sent to the Disability Benefits Carrier or Self-Insured Employer?**
  - [ ] Yes
  - [x] No

  **Enter name and address to whom sent, in the space provided below, and answer "B" below.

### B. Have you also sent copies of medical reports in your possession to the DB Carrier or Self-insured Employer?**

- [ ] Yes
- [x] No

---

**Dated:** 07/16/2002  
**Prepared By:** Toni M. Brazell  
**Official Title:** Claim Specialist

---

**C-7 (1-02) Prepared by Chair**  
**Workers' Compensation Board**  
**State of New York**

**SEE REVERSE SIDE**

**THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION.**

**cc: OOT & ASSOCIATES**

**WC 7757q2 (1-02) UNIFORM INFORMATION SERVICES, INC.**
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
935 JAMES STREET
SYRACUSE, NY 13203
www.web.state.ny.us
(315) 423-2932

State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION
(Death Claim)
keep for your records

At the Workers' Compensation hearing held on 07/24/2002 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wananaker made the following decision, findings and directions:

AWARD - THE EMPLOYER OR INSURANCE CARRIER ARE DIRECTED TO PAY AT ONCE AS FOLLOWS:

For funeral expenses, pay to:
  Holly Weaver in the amount of $2,310.00

Initial decision.

The period from 5/17/2001 to 7/24/2002 for 61.8 weeks totaling $5,968.64 is awarded as follows:

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<tr>
<th>Award to</th>
<th>Relation</th>
<th>DOB</th>
<th>Pct</th>
<th>Rate / week</th>
<th>Total</th>
<th>Pay to</th>
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</thead>
<tbody>
<tr>
<td>Geneva Rice</td>
<td>Spouse</td>
<td>10/26/1911</td>
<td>66.67%</td>
<td>*$96.58</td>
<td>$5,968.64</td>
<td>Geneva Rice</td>
</tr>
</tbody>
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*Rate due to Social Security Offset of $76.15

Carrier Continue Payments bi-weekly in the amount of $193.16

Any money previously paid for the above period(s) will be deducted from the total amount.

DECISION: The claimant Robert Rice (deceased) had a work related injury resulting in death. The claimant's average weekly wage for the year worked before this work related injury or occupational disease is determined to be $259.10 without prejudice. No further action is planned by the Board at this time.

*** Continued on next page ***

Claimant - Robert Rice (deceased)
Social Security No. - 121-14-7716
WCB Case No. - 6010 8425
Date of Accident - 05/17/2001
District Office - Syracuse

Employer - Gouverneur Talcott
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228501
Carrier Case No. - Date of Filing of this Decision - 08/02/2002

ATENCION:
Puede llamar a la oficina de la Junta de Compensación Obrera, en su área correspondiente, cuyo número de teléfono aparece al principio de la página y pida información acerca de su reclamación(caso).

EC-23 (4/98)
FILE COPY
State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

MEMORANDUM OF BOARD PANEL DECISION

keep for your records

Opinion By: Jeffrey R. Sweet
Carol G. McManus
Robert M. Zinck

In an application dated August 30, 2002, carrier, Zurich, requests review of the Workers' Compensation Law Judge ("WCLJ") decision filed August 2, 2002, wherein the WCLJ established the claim for a work-related death, and further found Zurich liable for the risk on the grounds that it was the carrier of record on the date of the claimant's causally related death, which occurred on May 17, 2001.

In the appeal, Zurich's attorney argues that the proper date of disability in the file should be sometime in October of 1976, the date that the claimant retired from work and therefore suffered his last injurious exposure which caused his death. Zurich argues that CNA, as the carrier on the risk in 1976 is the proper carrier on the risk for this case. In the appeal, Zurich also objects to the establishment of the claim but fails to provide any basis for this objection.

The claimant's attorney filed a rebuttal in which he indicated that the Zurich had failed to timely file a C-7 in this case and has therefore waived statutory defenses pursuant to Worker's Compensation Law section 25-2(b). The claimant's attorney further argues that the WCLJ's decision should be affirmed on the record.

Also in rebuttal, the attorney for CNA argues that the WCLJ's decision should be affirmed.

The WCLJ established this claim for causally related death based on a C-64, proof of death form, submitted by the claimant's physician, Dr. Frank Rhode, dated February 7, 2002 in which he indicated that the cause of death was malignant mesothelioma caused by exposure to talc and asbestos during the decedent's 20 years employment with the employer of record herein.

The Board Panel notes that the case law relied upon by the attorney for Zurich to support Zurich's position on the proper carrier relies on a finding that the claimant's disability was caused by a dust disease covered by Worker's Compensation Law section 44-a. There is no question that under §44-a, the carrier on the date of last injurious

***Continued on next page***

Claimant - Robert Rice (deceased) Employer - Gouverneur Talc
Social Security No. - 121-14-7716 Carrier - Zurich American Insurance Co.
WCB Case No. - 6010 8425 Carrier ID No. - W228001
Date of Accident - 05/17/2001 Carrier Case No. -
District Office - Syracuse Date of Filing of this Decision - 12/11/2002

ATENCION:
Puede llamar a la oficina de la Junta de Compensacion Obrero, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

EB8B-1 (499)
FILE COPY
exposure to the silicant is liable.

However, in this case, the claim is established for an asbestos-related disease, which resulted in the claimant’s death due to mesothelioma, which is established per Worker’s Compensation Law §3 subd. 30, and is not a silicosis or other dust disease, as defined under WCL §44-a. In this case therefore, under Worker’s Compensation Law §44, the carrier on the date of disablement is liable. Furthermore, under the facts of this case, in as much as there has been no established claim for the underlying disability, the proper date of disablement is the date of death, May 17, 2001. See Petty v. Dresser Industries ___NY A.D.___ 2d ___, 2002, decided by the Court on November 7, 2002.

The Board Panel finds, based on a review of the entire record, that the WCLJ’s decision finding causally related death is supported by the medical opinion contained in the C-64, that the date of disablement in this claim is May 17, 2001, and Zurich provided coverage on the date of disablement. As such, Zurich is liable for the claim.

Accordingly, the WCLJ decision filed August 2, 2002 is affirmed. The case is closed.

All concur.

Jeffrey R. Sweet  Carol G. McManus  Robert M. Zinck

Interest is due to the claimant on the unpaid portion of the award, if any, pursuant to WCL section 20 or DBL section 221.

Pursuant to the provisions of § 142(5) of the Workers’ Compensation Law, Zurich American Insurance Co. is assessed the sum of $150.00.

Payment of assessment must be made within 30 days. Make check payable to: "Chair, Workers’ Compensation Board" and forward with a copy of this notice to the Workers’ Compensation Board, Attention: Finance Unit, 20 Park St., Room 313, Albany New York 12207. If an appeal is taken to the Appellate Division of the Supreme Court, send a copy of the appeal to the Finance Unit. Please include the reference number 13148075 with your payment to ensure proper credit.

Claimant - Robert Rice (deceased)
Social Security No. - 121-14-7716
WCB Case No. - 6010 8425
Date of Accident - 05/17/2001
District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No.
Date of Filing of this Decision- 12/11/2002

ATENCION:
Puede llamar a la oficina de la Junta de Compensacion Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

EBRR-1 (4/99)  FILE COPY
"The employer in whose employment as employee was last exposed to an injurious dust hazard shall be liable for the payments required by this chapter when disability or death of the employee shall be due to silicosis or other dust disease."

Therefore, Section 44-a appears to require that if a condition falls under the dust disease group, that liability shall be fixed against the employer where the claimant was last exposed to the injurious product.

In the instant case, we believe that the claimant was last exposed in October 1976. In fact, this very finding was made by Notice of Decision dated 2/12/02 in respect to WCB 60108425. In that Decision, it was quite clearly noted that the last injurious exposure occurred in October 1976. At that hearing, CNA was directed to be placed on notice as the alleged carrier for Gouverneur Talc in 1976.

At the next hearing held on 5/13/02, CNA was present as was Zurich. At that hearing, CNA was ordered to verify coverage for Gouverneur Talc in 1976. At the next hearing held on 7/24/02, it appears that the Workers' Compensation Law Judge summarily made findings against Zurich without ever ruling whether CNA could be held accountable for this claim.

We also point out that according to C-49.2 contained within the electronic case folder, the Board investigation clearly showed that CNA was the proper carrier for Gouverneur Talc in 1976.

Based upon the fact that the claimant was last exposed in 1976 and that CNA was the proper carrier in 1976, this claim should never have been established against Zurich. Rather, the claim should have been established against CNA and Zurich should have been discharged from further liability in this matter.

In support of our position, we cite the matter of Willie Hinton vs. Acme Steel and Malleable Iron Works, 97 NYWCLR 2058 (Decided 10/30/97). In Hinton, the Appellate Division held that "the insurer on the risk at the time of the claimant's last exposure, not the date of disablement, has the burden of payment".

Furthermore, in the matter of Michael Kotakis vs. L & J Concrete Corp., 39 A.D. 2d 788 (3rd Dept. 1972), the Court held that since the last injurious exposure occurred when Hartford was on the risk, that Hartford should be liable for the claim. The Court specifically noted that since there was no harmful exposure while a subsequent carrier had coverage, that the claim was properly established against Hartford, who was on the risk when the claimant was last exposed.

Based upon the above, we believe that CNA is the proper carrier for this claim, since it had coverage when the claimant was last exposed.
II. We believe that this case falls under the provisions of Section 15-8ee.

As indicated, the claimant died from a pneumoconiosis. Under normal circumstances, Section 15-8ee would apply.

In the matter of St. Joe Resource, 93 NYWCLR 1080, Decided 3/18/93, the Board held that since the death was contributed to by causally related asbestosis, talcosis and silicosis conditions, Section 15-8ee would apply.

We believe that it was in error for the Judge to not address this particular issue and we believe that Section 15-8ee applies.

CONCLUSION

There appears to be no question that the Workers' Compensation Law Judge already ruled that the claimant was last exposed to asbestos in October 1976 and the CNA is the proper carrier. (See Notices of Decision dated 2/12/02 and 5/13/02). Based upon Section 44-a and the applicable case law, we believe that CNA is, therefore, the appropriate carrier in this claim and that it was in error for the Workers' Compensation Law Judge to establish the claim against Zurich.

In the alternative, we argue that Section 15-8ee applies and that appropriate findings should be made.

Based upon the above, we respectfully request that the Decision arising out of the hearing held on 7/24/02 as it pertains to WCB 60108425 be rescinded and that CNA be found the proper carrier and Zurich discharged from further liability in this matter. In the alternative, we request that Section 15-8ee be found applicable.

Respectfully submitted,

MCDONOUGH, LEITER & BRUNE, LLP

Tracy A. Brune

TAB/jk

cc: Robert Rice (Dec'd)
    Oot & Associates
    Wood & Richmond
    Special Funds
APPLICATION FOR
FULL BOARD REVIEW

January 9, 2003

Workers' Compensation Board
935 James St.
Syracuse, NY 13203

Reference: WCB 60108425
Robert Rice vs.
Gouverneur Talc Co.
Carrier No. 264 0097017-001

Honorable Members of the Board:

The carrier respectfully appeals from a Board Panel Decision dated 12/11/02. The Board held that since this claim is established for an asbestos related disease which resulted in the claimant's death due to mesothelioma, that this is not a silicosis or dust disease case. Furthermore, the Board held that when there is no established claim for the underlying disability, the proper date of disablement is the date of death.

We submit that the Board misstated the prior Decisions in this case to the extent that it noted the claim has been established for an asbestos related disease resulting in the claimant's death due to mesothelioma. In fact, this claim has only been established for ANCR death and the diagnosis is certainly in dispute based upon the medical records. Based upon this, we submit that the Decision should be rescinded and the case sent back to develop the record on whether the claimant died from a disease within the pneumoconiosis group. In support of our application, we not only refer to the prior medical evidence in this case but also note that in an addendum dated 12/4/02, Dr. Carl Friedman again raises the possibility that the claimant suffered from a disease that falls within the pneumoconiosis group. (See Exhibit A).

The claimant's estate has two separate Workers' Compensation files. WCB 60103382 appears to represent the lifetime claim for exposure to asbestos. WCB 60108425 is the companion death claim. At a hearing held on 7/24/02, WCB 60108425 was established for ANCR death with an average weekly wage of $259.10. Zurich was found to be the responsible carrier based upon the fact that Zurich did have coverage for Gouverneur Talc as of the claimant's death. Various awards were made and the case was closed. In WCB 60103382, the case was simply closed, as the claimant's estate had never produced prima facie medical evidence.

An appeal ensued by Zurich and this Application is being filed as a response to the Board Decision dated 12/11/02.
I. The claimant died from a condition in the pneumoconiosis group and, therefore, Section 44-a applies.

According to the autopsy report, the claimant died from asbestosis, malignant mesothelioma, as well as pneumoconiosis. (See Exhibit B). As such, Section 44-a would normally govern in regards to setting a proper date of disability. Section 44-a provides that:

"The employer in whose employment as employee was last exposed to an injurious dust hazard shall be liable for the payments required by this chapter when disability or death of the employee shall be due to silicosis or other dust disease".

Therefore, Section 44-a appears to require that if a condition falls under the dust disease group, that liability shall be fixed against the employer where the claimant was last exposed to the injurious product.

In the instant case, we believe that the claimant was last exposed in October 1976. In fact, this very finding was made by Notice of Decision dated 2/12/02 in respect to WCB 60108425. In that Decision, it was quite clearly noted that the last injurious exposure occurred on October 1976. At that hearing, CNA was directed to be placed on notice as the alleged carrier for Gouverneur Talc in 1976.

At the next hearing held on 5/13/02, CNA was present as was Zurich. At that hearing, CNA was ordered to verify coverage for Gouverneur Talc in 1976. At the next hearing held on 7/24/02, it appears that the Workers' Compensation Law Judge summarily made findings against Zurich without ever ruling whether CNA could be held accountable for this claim.

We also point out that according to a C-49.2 contained within the electronic case folder, the Board investigation clearly showed that CNA was the proper carrier for Gouverneur Talc in 1976.

Based upon the fact that the claimant was last exposed in 1976 and that CNA was the proper carrier in 1976, this claim should never have been established against Zurich. Rather, the claim should have been established against CNA and Zurich should have been discharged from further liability in this matter.

In support of our position, we cite the matter of Willie Hinton vs. Acme Steel and Malleable Ironworks, 97 NYWCLR 2068 (Decided 10/30/97). In Hinton, the Appellate Division held that "the insurer on the risk at the time of the claimant's last exposure, not the date of disablement, has the burden of payment".

Furthermore, in the matter of Michael Kotakis vs. L & J Concrete Corp., 39 A.D. 2d 788 (Third Dept. 1972), the Court held that since the last injurious exposure occurred when
Reference: WCB 60108425
Robert Rice vs.
Gouverneur Talc Co.
Page 3

Hartford was on the risk, that Hartford should be liable for the claim. The Court specifically noted that since there was no harmful exposure while a subsequent carrier had coverage, that the claim was properly established against Hartford who was on the risk when the claimant was last exposed.

Based upon the above, we believe that CNA is the proper carrier for this claim since it had coverage when the claimant was last exposed.

II. We believe this case falls under the provisions of Section 15-8(ee).

As indicated, the claimant died from a pneumoconiosis. Under normal circumstances, Section 15-8(ee) would apply.

In the matter of St. Joe Resource, 93 NYWCLR 1080, (Decided 3/18/93), the Board held that since the death was contributed to by causally related asbestosis, talcosis and silicosis conditions, that Section 15-8(ee) would apply.

We believe that it was in error for the Judge to not address this particular issue and we believe that Section 15-8(ee) applies.

CONCLUSION

We believe that the Three Member Panel ignored the critical issue that it had already been found in this matter that the claimant was last exposed to asbestos in October 1976 and that CNA is the proper carrier.

At the very least, there appears to be some question as to whether the claimant died from a pneumoconiosis. Clearly, this diagnosis is listed in the medical records. At the very least, this claim should be referred back to the trial calendar to further develop the record on this particular issue.

Respectfully submitted,

MCDONOUGH, LEITER & BRUNE, LLP

Tracy A. Brune

TAB/jk

cc: Geneva Rice
    Oot & Associates
    Special Funds
    Wood & Richmond
December 4, 2002

Zurich-American Insurance Group
P.O. Box 22
Jamaica, New York 11430-0022

Robert Rice
U.S. Highway 11
Lot 13
Gouverneur, NY 13642

Case #: 2640097617-001
D/A: 12/08/2000
D/D: 08/17/01
Employer: Robert J. Vanderbilt & Gouverneur Talc Co.

Att: Fran Hoffman

Dear Mrs. Hoffman:

I reviewed the evaluation performed on July 22, 2002. At this time I concluded that the patient worked in the talc industry. The nature of his exposure was not exactly known at the time of my evaluation. Talc is frequently contaminated with anthophyllite and thermolite. These are forms of asbestos. It is known that talcosis is another form of a pneumoconiosis that can occur which is plain pure talc exposure. The autopsy examination does describe ferruginous bodies which are structures associated with exposure to asbestos fibers which ultimately are coated with serum protein and collect iron particles. It appears as a ferruginous body when stain for iron on light microscopy.

In my opinion, the patient's pulmonary fibrosis certainly would have been associated with either contaminated talc which frequently occurs without knowing and diagnosis of talcosis is a source of pneumoconiosis which does not occur as frequently as asbestosis.

Even if exposure was to pure talc powder. It in itself can produce a pneumoconiosis that could result in respiratory disability. (Unfortunately, talc always comes contaminated with quartz and asbestos in N.Y.S.).
I state that I am a physician authorized by law to practice in the State of New York, am not a party to this proceeding, am the physician who subscribed to the above (or attached) report, have read the same and know the contents thereof, that the same is true to my knowledge, except as to the matters stated to be on information and belief, and as to those matters I believe to be true.

The undersigned, hereby affirms that the foregoing statements are true under the penalties of perjury.

Sincerely yours,

[Signature]

Date: 12/4/03

CARL B. FRIEDMAN, M.D., P.C.

W.C. Authorization #106697-6B

FOR THE FOLLOWING WCB’S

AVAILABILITY

JAMAICA - 1st TUESDAY OF THE MONTH - A.M.

BROOKLYN - 2nd TUESDAY OF THE MONTH - A.M.

MANHATTAN - 4th TUESDAY OF THE MONTH - A.M.

WHITE PLAINS - TELEPHONE DEPOSITIONS ONLY!

HEMSTEAD - 2nd & 3rd FRIDAY OF THE MONTH - P.M.

NEWBURGH - TELEPHONE DEPOSITIONS ONLY!

YONKERS - TELEPHONE DEPOSITIONS ONLY!

HAUPPAUGE - 4th FRIDAY OF THE MONTH - P.M.

**DR. ALSO AVAILABLE FOR TELEPHONE DEPOSITIONS--CALL FOR AVAILABILITY**
Rice Robert
Page 3

GROSS DESCRIPTION:

The autopsy is performed 1 hour after death. Permission is by the wife of the deceased. An attempted suicide by__.

INTERNAL EXAMINATION:

The body is consistent with the stated age at the weight is approximately 150 pounds. The height is 66 inches.

The body is in a supine position, the skin is clear. The head is not deformed. The mouth is two to three inches and white. The eyes show a small amount of discharge. The coronary arteries are noted. The nose and external ear are unremarkable and their passages are clear. The lips and tongue are dry, the teeth are absent. The neck structures are symmetrical, there are no unusual masses. The thorax has the normal curvature and symmetry. The male breasts are unremarkable. There is a mid-line thoracic scar. Healed starting from the suprasternal notch and extending to the xiphoid process. The abdomen, is scaphoid. No abnormal masses or fluid waves are externally palpable. There are no abdominal sacs. The external genitalia are that of a male. Circumcised. The extrinsics show anterior scars on both knees.

CARDIOVASCULAR SYSTEM:

The heart weighs 430 grams. The ventricular wall thicknesses are 4.4 on the left and 0.3 cm on the right. The muscular wall shows mild hypertrophic changes on the left side. The cardiac chambers are not dilated. The aortic and appendages are unremarkable. The valves are thick, especially the aortic valve, shows marked calcification. The epicardium shows chronic adhesions and is locally adhered to the right lung on the right atrial area. The coronary arteries arise in normal position. The vessel walls are thickened with marked calcification. The lumina are moderately to markedly compromised. The aorta and pulmonary arteries arise in normal anatomic relation. The aortic wall shows marked calcification with complete loss of elasticity.

RESPIRATORY SYSTEM:

The larynx and trachea are intact. The mucosa is smooth. The larynx weighs 720 grams, the right side 1,860 grams. The left lobe shows the normal shape and lobular division. The pleura is clean and shows anthracotic pigmentation. The bronchial tract is intact and free of masses. No unusual changes. The right lung shows extensive dense adhesion to the chest wall. The lower lobe and mediastinal aspect of the lung is encased by a large at least 32 cm, white nodular mass. Aneurysms of the diaphragm. The mass extends, along the diaphragm, in the mediastinum and bulky masses are noted over the myocardium and upper lung medially. The lung parenchyma is dark red, edematous and exhibits grey-brown fluid on section.
INTERNAL EXAMINATION (Contd.)

Lymph Nodes (Contd.)

Seventy-five lymph nodes, varying in size from 0.5 to 3 cm. are noted which are embedded in multiple representative sections from the heart and bilateral lungs. The lymph nodes are representative of microscopic examination.

HISTOPATHOLOGICAL EXAMINATION

Sections from the heart show patchy old fibrosis. Sections from the mediastinal, hilar, and other lymph nodes show many bright polarizable crystals, consistent with taurocholate. Sections from bilateral lung parenchyma show many small, polynuclear bodies with characteristic cores, consistent with asbestos bodies. One 'cone' or five 'cones' of asbestos bodies are noted per high-power field (40x). Foci of mixed dust deposition and patchy fibrosis in the lung parenchyma are also noted. Sections from the tumor involving the right pleura show a diffuse proliferation of atypical, pleomorphic cells with focal necrosis and epithelioid patterns. No necrosis is noted. These findings are consistent with malignant mesothelioma.
January 22, 2003

Workers' Compensation Board
935 James St.
Syracuse, NY 13203

Reference: WCB 60108425
Robert Rice (Dec'd) vs.
Gouverneur Talc
D/A 5/17/01

SUPPLEMENTAL APPEAL

Honorable Members of the Board:

This office filed an Application for Full Board Review on 1/9/03. We now submit this Supplemental Application for Full Board Review and would like to draw attention to the attached addendum. (See Exhibit A).

In the attached addendum submitted by the carrier's IME, Dr. Carl B. Friedman, Dr. Friedman concludes that the claimant did not have a causally related death. Specifically, Dr. Friedman concludes that the claimant was exposed to "non-asbestiform amphiboles, and that this substance does not cause mesothelioma".

Based upon the previous arguments raised before the Full Board, as well as this attached addendum, we submit that the prior Decisions in this matter should be reversed and at the very least, the case remanded for testimony on causal relationship, as well as diagnosis.

Respectfully submitted,

MCDONOUGH, LEITER & BRUNE, LLP

Tracy A. Brune

TAB/jk

cc: Geneva Rice
Oot & Associates
Special Funds
Wood & Richmond

SERVICE BY E-MAIL OR FAX NOT ACCEPTED

ALL

PQ
CARL S. FRIEDMAN, M.D., F.A.C.

January 3, 2003

Eurich-American Insurance Groups
P.O. Box 22
Jamaica, NY 11430-0022

Att: Ms. Hoffman

Claimant: ROBERT RICE
Address: US Highway 11
Lot 13
Gouverneur, NY 13642

Case #: 2640097017-001
Employer: Robert J. Vanderbilt &
Gouverneur Talc Co.

D/A: 12/08/2000
D/D: 05/17/2001

Dear Ms. Hoffman:

I reviewed the evaluation which I performed following a review of
the claimant's death file on 07/22/2002.

The record indicated that the claimant died with a diagnosis of
asbestosis and malignant mesothelioma. In addition, he had co-

There was evidence of extensive adhesions secondary to talc
pluropiosis in the right chest wall on autopsy evaluation. The
lung was encased with a large, twelve centimeter, firm, white,
nodular mass which was adherent to the diaphragm and extended into
the mediastinum.

There was no question that there was evidence of patchy fibrosis as
well as a malignant mesothelioma diagnosed via a tissue specimen
consistent with both sarcomatous and epithelioid patterns.

I had the opportunity to review the medical literature concerning
Mr. Rice's exposures while working at the Vanderbilt Company as a
talc miner and miller.

EXHIBIT A
He was exposed to non-asbestosiform amphibole consistent with tremolite. A non-asbestosiform variety of asbestos does not have the health consequences that are associated with the fibrogenic asbestosiform variety. The carcinogenicity of these materials is not associated with an increasing risk factor for mesothelioma or lung cancer in cohorts inside and outside of the talc industry. This extends also to secondary talc users who were exposed to the Vanderbilt talc which is composed of non-asbestosiform tremolite from 40-50%. Specifically, elongated tremolite cleavage fragments, which is a product of non-asbestosiform asbestos, does not meet the neoplastic potential of fibrogenic asbestosiform fibers.

It is my opinion that exposures to non-asbestosiform tremolite did not cause the patient to develop mesothelioma.

It has been proven that non-asbestosiform cleavage fragments are associated with scarring of the lung but only in high concentrations and has been noted to occur in the Vanderbilt mines. Therefore, his diagnosis of asbestosis can be attributed to the claimant’s work activity mining talc. This would only occur with high concentrations and prolonged exposure with an effect much greater than the exposure needed to produce asbestosis with asbestosiform fibers.

I do not find that the claimant had a causally related death. His exposure to non-asbestosiform tremolite does not cause mesothelioma as does the asbestosiform tremolite.

I state that I am a physician authorized by law to practice in the state of New York, am not a party to this proceeding, am the physician who subscribed to the above (or attached) report, have read the same and know the contents thereof; that the same is true to my knowledge, except as to the matters stated to be on information and belief, and as to those matters I believe to be true.

The undersigned hereby affirms that the foregoing statements are true under the penalty of perjury.

Sincerely yours,

[Signature]

Date: 01/03/2003
WCB Rating Coding: CIM
W.C. Authorization #106687-68
February 4, 2003

State of New York
Workers’ Compensation Board
935 James Street
Syracuse, New York 13203

REBUTTAL TO APPLICATION FOR FULL BOARD REVIEW

Re: Robert Rice (Dec’d); Geneva Rice vs.
Gouverneur Talc
WCB#: 60103382 (CNA Insurance)
60108425 (Zurich Insurance)

CC#: 40530958V7 (CNA Insurance)
2640097017-001 (Zurich Insurance)

D/A: 5/17/01
SS#: 121-14-7716

Honorable Members of the Board:

The employer, Gouverneur Talc, and its workers’ compensation insurance carrier, CNA Insurance, hereby submits this Rebuttal to the Application for Full Board Review filed by Zurich American dated 1/9/03.

REQUESTED FINDINGS

CNA respectfully requests that the Decision of Board Panel dated 12/11/02 be affirmed in its entirety.
DISCUSSION

The facts in this matter are essentially without dispute, that being the claimant's Estate has filed two separate Workers' Compensation files, WCB number 60103382 under the risk of CNA, which has been closed for lack of prima facie medical and WCB number 60108425, under the risk of Zurich American, which is a death claim that has been established for an ANCR death with an average weekly wage of $259.10. It is also undisputed that the claimant suffered a death due to asbestos, malignant mesothelioma, as well as pneumoconiosis, according to the autopsy report. The date of the claimant's death is 5/17/01 and Zurich American was the carrier on notice at the time of the claimant's demise on 5/17/01 for Gouverneur Talc.

In WCB number 60103382, CNA Insurance was the responsible carrier on coverage at the date of the claimant's retirement, 9/30/76, from Gouverneur Talc.

At the hearing of 7/24/02 the Judge determined that based upon a previous finding of prima facie medical, the consultant's examination submitted by Zurich did find causal relationship and the case was established for an ANCR death. The average weekly wage was determined at $259.10 and awards were made.

With respect to WCB number 60103382, that case remained controverted and no further action was found in the CNA file based upon a lack of prima facie medical as previously determined by the Administrative Law Judge.

The Application for Board Review filed on 8/30/02 on behalf of Zurich concludes that CNA Insurance is the responsible carrier and Zurich states: "We believe that the claimant was last exposed in October of 1976", and based upon Zurich's belief concludes that CNA Insurance is the proper carrier, since it had coverage in 1976 and awards should be made under Section 44(a).

CNA Insurance strongly objects to this assertion and directs the Board's attention to the fact that prima facie medical has not been found in WCB number 60103382 and until that issue
Robert Rice (Dec'd) vs. Gouverneur Talc
Rebuttal of Application for FULL Board Review
WCB#: 60103382 (CNA INSURANCE)
Page 3 of 3

is fully explored and litigated that under Section 44, Zurich should continue to make payments
until such time as the issues are fully litigated.

Therefore, it is CNA's position that based upon the fact that there has been no *prima facie*
medical submitted and, in fact, all medical records in CNA's file indicate that the claimant retired
due to a knee condition, it is, therefore, CNA's position that the findings of the Administrative
Law Judge at the hearing of 7/24/02 should be affirmed in their entirety.

WCB number 60103382 should remain closed until such a time as *prima facie* medical is
produced.

Respectfully submitted,
WOOD & RICHMOND, LLP

By  
Anne M. Wood

AMW/km

CC: Robert Rice (Dec'd) / Geneva Rice
Gouverneur Talc
CNA Insurance
Zurich American
Oot & Associates
Special Funds Conservation Committee
Office of the Secretary
Attorney General Workers' Compensation Board
February 10th, 2003

Workers’ Compensation Board
935 James Street
Syracuse, NY 13203

REBUTTAL TO FULL BOARD

RE: Robert Rice (Deceased) vs Gouverneur Talc
WCB# 60108425(Zurich Ins.) D/A: 5/17/01
Our File #C95679-01-1

HONORABLE COMMISSIONERS:

We are in receipt of carrier’s Application for Full Board review dated January 9, 2003 regarding the above captioned workers’ compensation Decision filed against Zurich Insurance.

REQUESTED FINDINGS

1. Oot & Associates, on behalf of the claimant, respectfully request that the Decision of the Three Member Board Panel dated 12/11/2002 be affirmed in its entirety. All relevant issues were considered by the Three Member Board Panel. Additionally the Three Member Board Panel ruled unanimously in its Decision. No further review is warranted.

Respectfully submitted,

OOT & ASSOCIATES, PLLC

JAMES P. MCGEYN
The application of McDonough, Leiter & Brune, LLP, dated 01/09/2003, requesting full Board review and/or reconsideration of the Board Panel decision filed 12/11/2002 has been duly considered by the Board. The Board has determined that neither full Board review nor reconsideration of that decision is warranted.

Accordingly, the application is denied.

Very truly yours,

Cheryl M. Wood

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**Case Information**

<table>
<thead>
<tr>
<th>Claimant:</th>
<th>Robert Rice (deceased)</th>
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<tr>
<td>WCB Case No.:</td>
<td>60108425</td>
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<tr>
<td>Date of Accident:</td>
<td>05/17/2001</td>
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<tr>
<td>Employer:</td>
<td>Gouverneur Talc</td>
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<td>Social Security No.:</td>
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<td>W228001</td>
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<td>2640097017</td>
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<tr>
<td>Insurance Carrier:</td>
<td>Zurich American Insurance Co.</td>
</tr>
</tbody>
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July 16, 2002

Dr Carl Friedman
Lexington Professional Center
133 E. 73rd Street
New York, NY 10021

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RE: Claim #: 2640097017-001
Insured: Gouverneur Talc Co
Date of Loss: 12/08/00
Claimant: Robert Rice

Zurich North America.

Claims
P.O Box 22
Jamaica, NY 11416-0022

Telephone: (800) 366-6617
Fax: (516) 845-2530
http://www.zurich-na.com

Dear Dr Carl Friedman:

Please be kind enough to review the enclosed medical records to determine whether or not the deceased died as a result of a dust disease. If possible please determine whether or not the death was related to exposure to talcum dust while working for insured. Please also note in your report if you require any additional medical records to comment on the above.

Very truly yours,
Zurich American Insurance Company

[Signature]

Fran Hoffman
MCU SUPERVISOR
(631) 845-2417

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Addendum: Please provide RUSH evaluation and we will gladly reimburse you an additional cost for a RUSH report. Please fax to 631-845-2430. BEFORE 7/24/02.

ATTENTION FRAN HOFFMAN

WC# 60108425
COVER SHEET - REBUTTAL OF APPLICATION FOR FULL BOARD REVIEW

(Attach Brief or Letter)

WCB Case Number(s) | Carrier Case Number(s) | Carrier Code | Date of Injury | Social Security Number
--- | --- | --- | --- | ---
108425 (ZURICH) | 3640097617-001 | W228001 | 5/17/2001 | 121-14-7716
103382 (CNA INS.) | 46830958V7 | | |

Name: ROBERT RICE (DEC'D) ; GENEVA RICE
Address: 68 W. MAIN STREET, APT. 3B1
GOUVERNEUR, NY 13642

Insurer: GOUVERNEUR TALC
Address: GOUVERNEUR, NY 13642

Defendant: CNA INSURANCE
Address: 1 TELERGY PKWY., STE 300
EAST SYRACUSE, NY 13057

Representative, If Any: OOT & ASSOCIATES
Address: 603 E. WASHINGTON STREET
SYRACUSE, NY 13202

Other Parties, If Any: See sched affidavit for cont.
Address: WOOD & RICHMOND, LLP
ZURICH AMERICAN
SPECIAL FUNDS CONS. COMM.
Address: 3300 VICKERY RD., N. SYRACUSE, NY 13212
P.O BOX 22
JAMAICA, NY 11430
5750 WATERSFRONT PKWY.
DE Witt, NY 12214

any making Rebuttal (Please Print): CARRIER/EMPLOYER

Loss Date: 12/11/02
W.C. Law Judge Decision or Board Panel Decision Date of Other Party's Application: 1/9/2003

Signature: ANNE M. WOOD
Tele. No.: (315) 461-4277
Date: 2/3/2003
Attorney Licensed Representative (if applicable)

TO THE SENDER: The original of this notice and any attachments should be SENT DIRECTLY to your local district office, listed above. A copy of this rebuttal and any attachments MUST be sent to ALL parties in interest. Complete the Affidavit or Affirmation of Service on the reverse side of this form.

AL REMITENTE: El original de este aviso y sus anexos deben ENVIARSE DIRECTAMENTE a su oficina de diario, cuya dirección aparece a la izquierda de la página. Copia de este escrito y sus anexos SÍTEN Algunas partes en el pliego. Llene la Declaración Jurada o la Afimación de Servicio que aparece en el dorso de este formulario.

RULE 13 [12 NYCRR 300.13]. Application for review:

(a) An application to the board to review a decision of a Workers' Compensation Law Judge shall be in writing and shall be accompanied by a cover sheet form prescribed by the chair, and shall specify the issues and grounds for such review. The application must make reference to the record before such part thereof as is relevant to the issues and grounds raised in such application and indicate when and where they were raised before the Workers' Compensation Law Judge. Such application shall be filed with the board within 30 days after notice of filing of the decision of the Workers' Compensation Law Judge together with proof of service upon all other parties in interest. Such proof of service shall consist of a United States Postal Service certificate of mailing by registered or certified or first class mail or affidavit or affirmation of personal service, or other satisfactory proof of service.

(b) A rebuttal to an application for review shall be in writing and shall be accompanied by a cover sheet form prescribed by the chair. Such rebuttal shall be served upon the board within 30 days after service of the application for review upon the party making such rebuttal, together with proof of service upon all other parties in interest. Such proof of service shall consist of a United States Postal Service certificate of mailing by registered or certified or first class mail, an affidavit or affirmation of service by mail or affidavit or affirmation of personal service, or other satisfactory proof of service.

(c) A claimant who is not represented by an attorney or licensed representative shall not be required to use the cover sheet forms prescribed by the chair as set forth in subdivisions (a) and (b) of this section, but shall be required to comply with all other provisions of this section.

(d) The board file shall contain a copy of all stenographic minutes of hearings where the issue or issues raised in the application for review were covered, and the file shall only be considered by a board panel after the minutes covering the disputed issues are inserted in the file. The review bureau shall promptly mark arrangements for the transcription of all minutes not heretofore inserted in the file, as set forth above, and such minutes shall be inserted in the file.

(e) (i) The board panel may deny review:

(1) The complete application for review, including the prescribed cover sheet form if required, was not timely filed with the board or served upon the parties in interest within the 30-day period set forth in subdivision (a) of this section; or
(2) Where the application failed to specify issues or grounds for review; or
(3) Any issues raised in the application that were not raised before the Workers' Compensation Law Judge.

85-5-2 (2-00)

RULE 13[12 NYCRR 300.13]. Application for review:
January 3, 2003

Zurich-American Insurance Groups
P.O. Box ZZ
Jamaica, NY 11430-0022

Att: Ms. Hoffman

Claimant: ROBERT RICE
Address: US Highway 11
Lot 13
Gouverneur, NY 13642
Case #: 2640097017-001
Employer: Robert J. Vanderbilt &
Gouverneur Talc Co.
D/A: 12/08/2000
D/D: 05/17/2001

Dear Ms. Hoffman:

I reviewed the evaluation which I performed following a review of
the claimant's death file on 07/22/2002.

The record indicated that the claimant died with a diagnosis of
asbestosis and malignant mesothelioma. In addition, he had co-
morbidities of arteriosclerotic heart disease, status post coronary
artery bypass surgery.

There was evidence of extensive adhesions secondary to talc
pleurodesis in the right chest wall on autopsy evaluation. The
lung was encased with a large, twelve centimeter, firm, white,
nodular mass which was adherent to the diaphragm and extended into
the mediastinum.

There was no question that there was evidence of patchy fibrosis as
well as a malignant mesothelioma diagnosed via a tissue specimen
consistent with both sarcomatous and epithelioid patterns.

I had the opportunity to review the medical literature concerning
Mr. Rice's exposures while working at the Vanderbilt Company as a
talc miner and miller.
He was exposed to non-asbestiform amphibols consistent with tremolite. A non-asbestiform variety of asbestos does not have the health consequences that are associated with the fibrogenic asbestiform variety. The carcinogenicity of these materials is not associated with an increasing risk factor for mesothelioma or lung cancer in cohorts inside and outside of the talc industry. This extends also to secondary talc users who were exposed to the Vanderbilt talc which is composed of non-asbestiform tremolite from 40-60%. Specifically, elongated tremolite cleavage fragments, which is a product of non-asbestiform asbestos, does not meet the neoplastic potential of fibrogenic asbestiform fibers.

It is my opinion that exposures to non-asbestiform tremolite did not cause the patient to develop mesothelioma.

It has been proven that non-asbestiform cleavage fragments are associated with scarring of the lung but only in high concentrations and has been noted to occur in the Vanderbilt mines. Therefore, his diagnosis of asbestosis can be attributed to the claimant's work activity mining talc. This would only occur with high concentrations and prolonged exposure with an effect much greater than the exposure needed to produce asbestosis with asbestiform fibers.

I do not find that the claimant had a causally related death. His exposure to non-asbestiform tremolite does not cause mesothelioma as does the asbestiform tremolite.

I state that I am a physician authorized by law to practice in the State of New York, am not a party to this proceeding, am the physician who subscribed to the above (or attached) report, have read the same and know the contents thereof; that the same is true to my knowledge, except as to the matters stated to be on information and belief, and as to those matters I believe to be true.

The undersigned hereby affirms that the foregoing statements are true under the penalty of perjury.

Sincerely yours,

[Signature]

Date: 01/03/2003
WCB Rating Coding: CIM
CARL B. FRIEDMAN, M.D., P.C.
W.C. Authorization #106697-6B
February 4, 2003

State of New York
Workers’ Compensation Board
935 James Street
Syracuse, New York 13203

REBUTTAL TO APPLICATION FOR FULL BOARD REVIEW

Re: Robert Rice (Dec’d); Geneva Rice vs. Gouverneur Talc
WCB#: 60103382 (CNA Insurance)
       60108425 (Zurich Insurance)
CC#: 40530958V7 (CNA Insurance)
       2640097017-001 (Zurich Insurance)
D/A: 5/17/01
SS#: 121-14-7716

Honorable Members of the Board:

The employer, Gouverneur Talc, and its workers' compensation insurance carrier, CNA Insurance, hereby submits this Rebuttal to the Application for Full Board Review filed by Zurich American dated 1/9/03.

REQUESTED FINDINGS

CNA respectfully requests that the Decision of Board Panel dated 12/11/02 be affirmed in its entirety.
DISCUSSION

The facts in this matter are essentially without dispute, that being the claimant's Estate has filed two separate Workers' Compensation files. WCB number 60103382 under the risk of CNA, which has been closed for lack of prima facie medical and WCB number 60108425, under the risk of Zurich American, which is a death claim that has been established for an ANCR death with an average weekly wage of $259.10. It is also undisputed that the claimant suffered a death due to asbestos, malignant mesothelioma, as well as pneumoconiosis, according to the autopsy report. The date of the claimant's death is 5/17/01 and Zurich American was the carrier on notice at the time of the claimant's demise on 5/17/01 for Gouverneur Talc.

In WCB number 60103382, CNA Insurance was the responsible carrier on coverage at the date of the claimant's retirement, 9/30/76, from Gouverneur Talc.

At the hearing of 7/24/02 the Judge determined that based upon a previous finding of prima facie medical, the consultant's examination submitted by Zurich did find causal relationship and the case was established for an ANCR death. The average weekly wage was determined at $259.10 and awards were made.

With respect to WCB number 60103382, that case remained controverted and no further action was found in the CNA file based upon a lack of prima facie medical as previously determined by the Administrative Law Judge.

The Application for Board Review filed on 8/30/02 on behalf of Zurich concludes that CNA Insurance is the responsible carrier and Zurich states: "We believe that the claimant was last exposed in October of 1976". and based upon Zurich's belief concludes that CNA Insurance is the proper carrier, since it had coverage in 1976 and awards should be made under Section 44(a).

CNA Insurance strongly objects to this assertion and directs the Board's attention to the fact that prima facie medical has not been found in WCB number 60103382 and until that issue
Robert Rice (Dec'd) vs. Gouverneur Talc
Rebuttal of Application for FULL Board Review
WCB#: 60103382 (CNA INSURANCE)
Page 3 of 3

is fully explored and litigated that under Section 44, Zurich should continue to make payments
until such time as the issues are fully litigated.

Therefore, it is CNA's position that based upon the fact that there has been no prima facie
medical submitted and, in fact, all medical records in CNA's file indicate that the claimant retired
due to a knee condition, it is, therefore, CNA's position that the findings of the Administrative
Law Judge at the hearing of 7/24/02 should be affirmed in their entirety.

WCB number 60103382 should remain closed until such a time as prima facie medical is
produced.

Respectfully submitted,
WOOD & RICHMOND, LLP

By Anne M. Wood

AMW/km
Dictated but not reviewed

CC: Robert Rice (Dec'd) / Geneva Rice
Gouverneur Talc
CNA Insurance
Zurich American
Oot & Associates
Special Funds Conservation Committee
Office of the Secretary
Attorney General Workers' Compensation Board
FEES:

As lien on above award payable by separate check by carrier TO CLAIMANT'S REPRESENTATIVE
OR ATTORNEY:

Sum of $1,500.00 To Oot & Associates

Claimant - Robert Rice (deceased) Employer - Gouverneur Yale
Social Security No. - 121-14-7716 Carrier - Zurich American Insurance Co.
WCB Case No. - 6010 8425 Carrier ID No. - W228001
Date of Accident - 05/17/2001
District Office - Syracuse Carrier Case No. -

Date of Filing of this Decision- 08/02/2002

ATENCION:
Puede llamar a la oficina de la Junta de Compensacion Obra, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

EC-23 (4/98) FILE COPY Page 2 of 2
Robert Rice (deceased)
Geneva Rice (widow)
68 W. Main Street
Apt. 3B1
Gouverneur, NY  13642

Copies To:
Claimant:
Carrier:
Employer:
Attorney/Representative:
Robert Rice (deceased)
Zurich American Insurance Co.
Gouverneur Talc
Oct & Associates
Special Funds Sec 15-8
Continental Casualty Company
Holly Weaver
Geneva Rice

Gouverneur Talc
Gouverneur, NY  13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY  11430

Oct & Associates
Thaddeus B. Oct
503 E Washington St
Syracuse, NY  13202-1917

Special Funds Sec 15-8
5789 Widerwaters Pkwy.
Syracuse, NY  13214-1855

Continental Casualty Company
c/o CNA
PO Box 4855
Syracuse, NY  13221-4855

Holly Weaver
64 Main St
Richville, NY  13681

Geneva Rice
1599 US 11
Gouverneur, NY  13642

EC-23 (498)
FILE COPY

OVER
APPLICATION FOR A FEE BY CLAIMANT’S ATTORNEY OR REPRESENTATIVE
in accordance with Board Rule 12 NYCRR 300.17

Unless specifically requested by the Board, this form is required only where the amount of the fee requested is more than $450.

★ TO THE CLAIMANT: IF YOU DID NOT OR WILL NOT ATTEND THE HEARING/MEETING/CONFERENCE/ARBITRATION AT
WHICH THIS FEE REQUEST IS SUBMITTED TO THE BOARD, SEE SECTION C ON REVERSE.

<table>
<thead>
<tr>
<th>WCB Case No.</th>
<th>Claimant's Name</th>
<th>Claimant's Social Security Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>10102425</td>
<td>Robert Rice, Jr.</td>
<td>121-14-7214</td>
</tr>
<tr>
<td>R: 0700027</td>
<td></td>
<td>7-10-61</td>
</tr>
</tbody>
</table>

OUT & ASSOCIATES, attorney/representative, request a fee of $1,500
for the following services rendered in the above case.

A. SERVICES RENDERED TO THE CLAIMANT

1. List dates of hearing/meeting/confereence/arbitration you attended with a short summary of the assistance rendered and all services performed at each, and indicate amount of time spent for the performance of the services. (Use additional pages if necessary.)

   Prepare and create file for causally-related death.
   Submit appropriate paperwork including C&D, C/E, MARRIAGE CERTIFICATE, and SOCIAL SECURITY BENEFITS AWARD LETTER. OBTAIN NECESSARY MEDICAL OPINION in form of C/D to proceed with claim. Our office has attended 3 out of three hearings in CANTON, NY. A FINDING OF PRIOR FAKE MEDICAL EVIDENCE was obtained with a direction to the carrier to obtain an IME if desired. CLAIM ESTABLISHED.

2. List other assistance rendered to claimant: ANCE DEATH, WITH BENEFITS payable to the widow from 5-27-61 and continuing. Paid expenses of $23.10 to be reimbursed.

3. List disbursements actually incurred:

RECEIVED
WORKERS COMPENSATION BOARD
JUL 24 2002
CANTON CSC.
SYRACUSE DISTRICT OFFICE

OC-400.1 (7-97) Continued on reverse
B. SUBSTITUTION OF ATTORNEY/REPRESENTATIVE

1. Has the claimant to your knowledge any other attorney or representative?  □ Yes  □ No
   If yes, have you served Notice of Substitution upon the former attorney or representative?  □ Yes  □ No
   List previous attorneys and/or representatives:

   Name_________________________  Address_________________________

   Name_________________________  Address_________________________

2. What arrangement have you entered into with the other attorneys or representatives who have preceded you?

   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________

C. FEE REQUEST SUBMITTED WHERE CLAIMANT IS NOT PRESENT AT HEARING/MEETING/CONFERENCE/ARBITRATION

TO THE ATTORNEY/REPRESENTATIVE

Important: When the claimant is not present at the proceeding at which this fee is requested, the attorney or representative must complete item 6 below and immediately mail a copy of this Application for Fee to the claimant. When the attorney/representative knows in advance that the claimant will not be present, the claimant’s copy may be mailed in advance.

I affirm that a copy of this application was mailed or otherwise delivered to the claimant on _______.

TO THE CLAIMANT:

At the hearing/meeting/conference/arbitration on _______, I requested or will request a fee of $______ for representing you. The Workers' Compensation Board will render a decision on my request 15 days after this fee application is mailed to you or on the date of the proceeding, whichever is later. The fee approved will be deducted from your award and paid directly to me by the insurance company or employer.

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, OR SELF-INSURER, ANY INFORMATION CONTAINING ANY FALSE MATERIAL STATEMENT OR CONCEALS ANY MATERIAL FACT SHALL BE GUILTY OF A CRIME AND SUBJECT TO FINES AND IMPRISONMENT.

J. McLean, OI Associates

Signature of Attorney / Representative  7-24-82

503 E. Washington St.  13202

Syracuse, NY  327 4687

Address of Attorney / Representative  Telephone No.

7/24/82  1500

Date  Amount of Fee Approved  W.E. Law Judge's / Conciliator's or Designated Employee's Initials

OC-400.1 (7-97) Reverse
**DECISION AND AWARD**

- **AWW**: 259-10 Wk. Prg.
- **ATTY/REP FEE**: $1,800, Payable To: [Name]
- **Disability**: No PMF, No NME, No NCLT, No DLWP, No NFCRD, No RTW
- **Permanency**: PPD, PTD, DES, No NEMP, Facial Dis $, No PHP, PHP weeks
- **Penalty**: 25-1E, 25-2C ($300 to clmt.), 25-3C ($75 to clmt., $25 to §151(2) Fund), 114-A
- **Sp. Funds**: §15-8D, §15-8EE, §15-8 premature, §14-6, §22-A (discharge CR)
- **Authorized**: Treatment, Surgery, MRI, EMG, NCV, CAT Scan, PT
- **Misc.**: Cr. Ref., FTP, FA, TPA settled w/consent, net $, M&T $ subject to audit
- **C-8.1**: CR.1, HP, OR.1, CR

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<tr>
<th>MPA</th>
<th>FROM</th>
<th>TO</th>
<th>RATE</th>
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<tr>
<td>5/17/01</td>
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**ADDITIONAL FINDINGS (BY PERIOD)**

- **Social Security**
  - Claim to commence: Holly Weaver on Mar 23
  - 3/10 - funeral bill paid - Rachel We
  - [Amount]

- **Depositions requested of**: Within ____ Days.

- **Issues to be resolved**: [No Further Action]

**W.C. Law Judge**: Wannamaker, Giles  
**Date and Place Of Hearing**: CAN 1 07/24/2002 9:30 AM  
**Cont. on Reverse**: [No]
NOTICE OF WORKERS COMPENSATION HEARING

<table>
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<th>Place of Hearing</th>
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<th>Time</th>
<th>District Office</th>
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<td>1</td>
<td>07/24/2002</td>
<td>9:30 AM 15 Min</td>
<td>Syracuse</td>
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WCB Case No. | Carrier ID No. | Carrier Case No. | Date of Accident | Social Security No. |
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<tbody>
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<td>60108425</td>
<td>W228001</td>
<td></td>
<td>05/17/2001</td>
<td>121-14-7718</td>
</tr>
</tbody>
</table>

Robert Rice (deceased)
Geneva Rice (widow)
68 W. Main Street
Apt. 3B1
Gouverneur, NY 13642

Gouverneur Talo
Gouverneur, NY 13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

*A1 Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY 13202-1917

*C1 Continental Casualty Company
c/o CNA
PO Box 4855
Syracuse, NY 13221-4855

*F2 Special Funds Sec 15-8
5769 Widewaters Pkwy.
Syracuse, NY 13214-1855

PURPOSE OF HEARING:
Question of accident, notice to employer and causal relationship of accident to injury.

EVIDENCE TO BE PRODUCED:
By Employer Or Carrier. CNA to verify coverage. Zurich to produce IME of the records.

IMPORTANT INFORMATION FOR THE CLAIMANT:
In a compensable workers' compensation case, bills for related medical treatment are the responsibility of your own employer or its workers' compensation insurance carrier. If you have used a private health insurance policy (Blue Cross, Blue Shield, G.H.I., H.I.P., or other) for payment of any bills in your workers' compensation case, please advise the private health insurer immediately.

In order to be reimbursed for any payments or co-payments you may have made for treatment or services which are the responsibility of the workers' compensation insurance carrier, you must tell the judge at this hearing about this payment.

Dated: 06/29/2002
Robert Rice (deceased)
Geneva Rice (widow)
68 W. Main Street
Apt. 3B1
Gouverneur, NY  13642

Ott & Associates
Thaddeus B. Ott
503 E Washington St
Syracuse, NY  13202-1917

Gouverneur Talc
Gouverneur, NY  13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY  11430

Continental Casualty Company
c/o CNA
PO Box 4855
Syracuse, NY  13221-4855

OVER
Claimant: Robert Rice (deceased)
Alleged Employer: Gouverneur Talc
Gouverneur, NY 13642

Entity:
Coverage: card files indicate CNA is correct carrier.

ATTACH OTHER CORROBORATING INFORMATION (DOCUMENTS, LICENSE SEARCHES, ETC.)
☐ CCU Printout ☐ Business Certificate ☐ Other:
☐ Corporations Inquiry Report ☐ DMV Report

District Office: Syracuse

Investigator:

Senior Investigator: Harold A Ellsworth/SYR/WCB

Interviews should include names and titles of persons interviewed, dates, times, and location of interviews and information obtained. If necessary, attach second sheet.

5-20-02 Checked old employer card files CNA was carrier for 1976.

Status: Draft

Document History:
Document created by Harold A Ellsworth/SYR/WCB on 05/21/2002 09:33:46 AM.
**DECISION AND AWARD**

- **Disability:**
  - NoPFM
  - NME
  - NCLT
  - DLWP
  - NFCRD
  - RTW

- **Permanency:**
  - PPD
  - PTD
  - DES
  - NoMEP
  - Facial Dis
  - $ 
  - % POB

- **Penalty:**
  - 25-1E
  - 25-2C ($300 to clmt.)
  - 25-3C ($75 to clmt., $25 to §151[2] Fund)
  - 114-A

- **Sp. Funds:**
  - $15-5D
  - $15-SEE
  - $15-8 premature
  - $14-S
  - $25A (discharge CR)

- **Authorized:**
  - Treatment
  - Surgery
  - MRI
  - EMG
  - NCV
  - CAT Scan

- **Misc.:**
  - Cr/Jaf.
  - FTP
  - FA
  - TPA settled w/o consent, net $ 
  - M&T $ 

- **NPA:**
  - FROM
  - TO
  - RATE

- **Additional Findings:**
  - "Find PFM 5 Pen C-162"

- **Depositions requested or to be held:**
  - Within ___ Days.

- **Issues to be resolved:**
  - Continued
  - No Further Action
  - Reserved Decision

---

**W.C. Law Judge: Wannamaker, Gilles**

**Date and Place Of Hearing:** CAN 1 05/13/2002 3:30 PM

**Cont. on Reverse**
NOTICE OF WORKERS COMPENSATION HEARING

State of New York
WORKERS' COMPENSATION BOARD

FILE COPY

Place of Hearing  Part  Date of Hearing  Time  District Office
Carton, NY    1  05/13/2002  3:30 PM  Syracuse
15 Min

WCB Case No.  Carrier ID No.  Carrier Case No.  Date of Accident  Social Security No.
60108425  W228001  05/17/2001  121-14-7716

Robert Rice (deceased)
Geneva Rice (widow)
68 W. Main Street
Apt. 3B1
Gouverneur, NY  13642

Gouverneur Talc
Gouverneur, NY  13642

60103382

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY  11430

*A1  Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY  13202-1917

*C1  Continental Casualty Company
c/o CNA
PO Box 4855
Syracuse, NY  13221-4855

PURPOSE OF HEARING:
To consider Prima Facie evidence.

IMPORTANT INFORMATION FOR THE CLAIMANT:

In a compensable workers' compensation case, bills for related medical treatment are the responsibility of your own employer or its workers' compensation insurance carrier. If you have used a private health insurance policy (Blue Cross, Blue Shield, G.H.I., H.I.P., or other) for payment of any bills in your workers' compensation case, please advise the private health insurer immediately.

In order to be reimbursed for any payments or co-payments you may have made for treatment or services which are the responsibility of the workers' compensation insurance carrier, you must tell the judge at this hearing about this payment.

Dated: 04/19/2002
Robert Rice (deceased)
Geneva Rice (widow)
68 W, Main Street
Apt. 3B1
Gouverneur, NY 13642

DATE OF MAILING | CLAIMANT'S S.S. NO.
----------------|------------------
4/22/2002       | 121-14-7716

WCB CASE NO.    | DATE OF ACCIDENT
----------------|------------------
60108425        | 05/17/2001

CARRIER CASE NO. | CARRIER I.D. NO.
-----------------|------------------
WZ28001          | WZ28001

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<th>CLAIMANT'S NAME</th>
<th>EMPLOYER'S NAME</th>
<th>CARRIER'S NAME</th>
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<tbody>
<tr>
<td>Robert Rice (deceased)</td>
<td>Gouverneur Talo</td>
<td>Zurich American Insurance Co.</td>
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</table>

IMPORTANT: PROVIDE THIS W.C.B. NUMBER IF YOU WRITE OR CALL US.
(PROVEA ESTE NUMERO W.C.B. SI NOS ESCRIBE O NOS LLAMA)

We acknowledge receipt of your correspondence dated 04/11/2002.

This case is being processed for hearing. You will receive a formal notice of the date, time and place of this hearing.

Your WCB Case Number is important. In all future correspondence please refer to the WCB Case Number shown above. It will help us to expedite the processing of future correspondence you send to us.

Su numero de caso WCB Case Number es importante. Su correspondencia en el futuro debera de indicar el numero de su caso WCB Case Number que aparece arriba. Esto nos ayudara a procesar rapidamente la correspondencia que usted nos envie.

By _neh_ 
Unit _1_

Telephone No. (315)423-2932

EC-88 (5/21/95)
# PARTIES OF INTEREST

<table>
<thead>
<tr>
<th>Cot &amp; Associates</th>
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<tr>
<td>Thaddeus B. Cot</td>
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<tr>
<td>503 E Washington St</td>
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<tr>
<td>Syracuse, NY 13202-1917</td>
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April 11, 2002

Workers’ Compensation Board
935 James Street
Syracuse, NY 13203

RE: Our File # C95679, ROBERT RICE, Dec’d vs. Gouverneur Talc Co.
WCB # 60108425 D/A: 05/17/01

Gentlemen:

As you know, this firm represents the claimant in connection with the above captioned Workers’ Compensation claim.

In furtherance of our prior request of 02/11/02 and the C-64 form submitted on that date, please advise when this case will be scheduled for a hearing in CANTON on the issue of causally related death.

Thank you for your attention and prompt cooperation in this matter.

Very truly yours,

OOT & ASSOCIATES, PLLC

xc: Mrs. Robert A. Rice
1599 US Highway 11
Gouverneur, NY 13642
NOTICE OF CLAIM FOR REIMBURSEMENT OUT OF THE SPECIAL DISABILITY FUND UNDER SECTION 15, SUBD. 8

<table>
<thead>
<tr>
<th>ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS</th>
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<td>2640097017</td>
<td>W228001</td>
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<tr>
<td>SOCIAL SECURITY NUMBER</td>
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</table>

NAME$_{injured}$_{person}  Robert Rice  1399 Us Hwy 11, Lot 13  Gouverneur  NY 13642  Apt No.

Employer  Gouverneur Talc Co  Gouverneur  NY 13642

The Carrier on behalf of the above-named employer is requesting appointment of any liability that may be awarded for compensation or medical expenses on this claim and an order directing reimbursement pursuant to Workers' Compensation Law, Section 15 (b). The following information is furnished in support of this notice and claim, subject to further development of the record:

1. Previous physical impairment; (The nature and extent must be given in detail)

   When inured: prior to d/a

2. If such impairment was the subject of either a compensation claim or court action, give full particulars: (Give name of employer, Insurance carrier, W.C.B. Case No.)

   a. If previous permanent partial disability or schedule loss, state date and particulars of award.

   b. If judgment or settlement, attach particulars (e.g. date, court, defendant, index number, counsel, carrier, etc.).

3. Details of present claim:

   a. See attached copy of Form C-2  Claimant's age: A.W.M. 0.00

   b. Is the right to compensation in this proceeding controverted?  Yes  No  If 'Yes' upon what ground(s):

   c. Compensation has been paid from to . Payments are continuing  are not continuing

4. Description of alleged injury in present claim: (See attached copy of report(s) from examining doctor and/or consultant)

   Occupational exposure to talc & asbestos dust

5. If a death claim, give the date of death and nature of the injury which claimant alleges caused the death: (Attach a copy of death certificate).

6. Copy of this notice with enclosure has been served on the local office of the Special Funds Conservation Committee on (date): 03/18/2002

ENCLOSURES: (If previously filed with the WORKERS' COMPENSATION BOARD; send only to the SPECIAL FUNDS CONSERVATION COMMITTEE)

- [ ] Employer's Report of Injury, Form C-2
- [ ] Medical report from treating doctor or consultant
- [ ] Other

Zurich American Insurance Co.  Jamaica

By: Fran Hoffman  MCU SUPERVISOR  03/18/2002  (631) 232-5854

(MAIL THIS CLAIM TO DISTRICT OFFICE WHERE COMPENSATION CLAIM WAS FILED)

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION.

C-250 (7-99) Prescribed by Chair
Workers' Compensation Board State of New York

PQQ
February 20, 2002

This case has been reopened to consider: Prima Facie evidence received from claimant’s attorney.

You will be notified shortly regarding the next step of the issue resolution process.

If you have questions regarding this matter, please contact me at the telephone number indicated below.

Very truly yours,

MaryJane
Examiner
(315)423-1273

Note: If the carrier or Special Funds Conservation Committee wishes to have the claimant examined, it should do so immediately. Reports of any examination must be submitted to the Board at the time the parties appear for the next step in the issue resolution process.

<table>
<thead>
<tr>
<th>Case Information</th>
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<tr>
<td>Claimant:</td>
<td>Robert Rice (deceased)</td>
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<tr>
<td>WCB Case No.:</td>
<td>60108425</td>
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<tr>
<td>Date of Accident:</td>
<td>05/17/2001</td>
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<tr>
<td>Employer:</td>
<td>Gouverneur Talc</td>
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<td>Zurich American Insurance Co.</td>
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PARTIES OF INTEREST

Robert Rice (deceased)
Geneva Rice (widow)
68 W. Main Street
Apt. 3B1
Gouverneur, NY 13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

Oet & Associates
Thaddeus B. Oet
503 E Washington St
Syracuse, NY 13202-1917

Continental Casualty Company
PO Box 4855
Syracuse, NY 13221-4855
February 11, 2002

Workers’ Compensation Board
935 James Street
Syracuse, NY 13203

Re: Our File # C95679, ROBERT RICE, Deceased vs. Gouverneur Talc Co.
D/A: 05/17/01 WCB # 60108425

Gentlemen:

As you know, this firm represents the claimant in the above captioned Workers’ Compensation claim.

In furtherance of the hearing held on 02/04/02, enclosed herewith for your file will be found a C-64 form properly filled out and signed by Dr. Rhode dated 02/07/02.

Thank you for your attention.

Very truly yours,

OOT & ASSOCIATES, PLLC

JAMES P. McGEVNA
hew
Enclosure
State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION

At the Workers' Compensation hearing held on 02/04/2002 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wansacker made the following decision, findings and directions:

DECISION: No prima facie medical evidence last injurious exposure October 1976. Find date of death 5/17/01. Continental Casualty is placed on notice as the carrier for Gouverneur Talc in 1976. No further action is planned by the Board at this time.

Claimant - Robert Rice (deceased)
Social Security No. - 121-14-7716
WCB Case No. - 6010 8425
Date of Accident - 05/17/2001
District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No. -
Date of Filing of this Decision- 02/12/2002

ATENCION:

Puede llamar a la oficina de la Junta de Compensacion Otrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

EC-23 (4/98)
FILE COPY

Page 1 of 1
Copies To:
Claimant:
Carrier:
Employer:
Attorney/Representative:

Robert Rice (deceased)
Geneva Rice (widow)
68 W. Main Street
Apt. 3B1
Gouverneur, NY 13642

Gouverneur Talc
Gouverneur, NY 13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY 13202-1917

Continental Casualty Company
PO Box 4855
Syracuse, NY 13221-4855
NOTICE OF WORKERS COMPENSATION HEARING

FILE COPY

Place of Hearing | Part | Date of Hearing | Time | District Office
--- | --- | --- | --- | ---
Canton, NY | 1 | 02/04/2002 | 9:30 AM 15 Min | Syracuse

WCB Case No. | Carrier ID No. | Carrier Case No. | Date of Accident | Social Security No.
--- | --- | --- | --- | ---
60108425 | W228001 | | / | 121-14-7716

Robert Rice (deceased)
Geneva Rice (widow)
1599 U.S. Hightway 11
Lot 13
Gouverneur, NY 13642

Gouverneur Talc
Gouverneur, NY 13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

*A1 Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY 13202-1917

***ANY QUESTIONS PLEASE CALL (315) 366-1789 OR (315) 366-1774.***

PURPOSE OF HEARING:

Judge to consider imposition of a penalty of $50 under section 25(3)(E) (CH. 190, L. 1990) for Carrier's failure to file form C-6, C-7 or C-9 as requested on the NOTICE OF INDEXING dated 07/27/2001.

Question of accident, notice to employer and causal relationship of accident to injury. to consider death benefits and to whom payable

EVIDENCE TO BE PRODUCED:

By Employer Or Carrier. File C-669, C-7. Carrier is to produce proof of mailing of C-669 or C-7, If its contention is that the form was timely filed. Failure to produce such evidence at this hearing will be construed as an admission that the carrier has violated section 25(3)(E)(CH. 190, L. 1990).

IMPORTANT INFORMATION FOR THE CLAIMANT:

In a compensable workers' compensation case, bills for related medical treatment are the responsibility of your own employer or its workers' compensation insurance carrier. If you have used a private health insurance policy (Blue Cross, Blue Shield, G.H.I., H.I.P., or other) for payment of any bills in your workers' compensation case, please advise the private health insurer immediately.

In order to be reimbursed for any payments or co-payments you may have made for treatment or services which are the responsibility of the workers' compensation insurance carrier, you must tell the judge at this hearing about this payment.

Dated: 01/11/2002
Were any medical/hospital bills paid by a private health carrier?  □ YES  □ NO. If "YES" place private health insurer on notice and if appropriate direct reimbursement. Give name and address of health insurance carrier below.

DECISION AND AWARD

□ Work related injury  □ OD ___________________________ □ ILFD ___________________________

□ AWW ___________________________ □ DOD ___________________________

ATTY/REP FEE: $ ________ Payable To ___________________________

$ ________ Payable To ___________________________

□ Fee App Received? □ WPA ___________________________

□ Fee App Received? □ WPA ___________________________

Disability □ NoPFM □ NME □ NCLT □ DLWP □ NFCRD □ RTW

Permanency □ PPD □ PTD □ DES □ NoMEP □ Facial Dis $ ________ □ NoPHP □ PHP ________ weeks

□ SLU % POB + % POB =Total Weeks

Penalty □ 25-1E □ 25-2C ($300 to clmt.) □ 25-3C ($75 to clmt., $25 to §15(2) Fund) □ 114-A

□ 25-1D □ 25-2A □ 25-3E (form ________) $ ________ to Chair

□ 25-3F (dec. filed 1/1) $ ________ paid on 1/1 (Penalty $ ________ to clmt. $ ________ to State)

Sp. Funds □ §15-8D □ §15-8EE □ §15-8 premature □ §14-6 □ §25A (discharge CR

□ $15-8D □ $15-8EE □ $15-8 premature □ $14-6 □ $25A (discharge CR

Authorized □ Treatment □ Surgery □ MRI □ EMG □ NCV □ CAT Scan □ PT

Misc. □ Ctr.ref. □ FTP □ FA □ TPA settled w/consent, net $ □ M&T $ __________ subject to audit

C-8.1 □ C-8.1 □ HP □ C-8.1 □ CR

WPA FROM TO RATE ADDITIONAL FINDINGS (BY PERIOD)

Date of Death - 5/17/01.


Board to investigate coverage in Government间的Company in Oct 1976.

A DNF - Company and carrier.

Bil to date - 601 033 52 (life time case) to insane.

Reopen in DME. Within ________ Days.

Issues to be resolved:

□ Continued □ No Further Action □ Reserved Decision

W.C. Law Judge: Wamkaker, Giles Date and Place Of Hearing: CAN 1 02/04/2002 9:30 AM Cont. on Reverse □

ECF-16.1 (2/01)
Zurich American Insurance Co.

NOTICE THAT RIGHT TO COMPENSATION IS CONTROVERSED

CHECK TYPE OF CASE: [Volunteer Firefighter] [Volunteer Ambulance Worker] [Worker's Compensation]

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>60108425</td>
<td>2640097017</td>
<td>228001</td>
<td>5/17/01</td>
<td>121147716</td>
</tr>
</tbody>
</table>

Name: Robert Rice
Address to which notices should be sent
(Give number and street, city, state, and zip code)

Gouverneur, NY 13642

Employer: Gouverneur Talc Co
Carrier: Zurich American Insurance Co.

Volunteer Fire or Ambulance Company, if applicable

Chamber of Commerce

Description (Diagnosis) of Alleged Injury: Death due to lung condition

Place where alleged injury occurred: Gouverneur
(City, Town, Village) (County) (State)

Right to compensation is contested for the following reasons: State reasons fully and explicitly. Attach supporting medical reports if reasons include contention that disability is not causally related.

Penalty unless supporting documentation is attached.

Question of accident notice and causal relationship. Question of QNCR. Question of coverage.

Date alleged disability began: 5/17/01

Date employer or carrier first had knowledge of alleged injury, whichever is earlier: 03/12/01

Date of receipt by carrier of employer’s report of injury (C-2, VF-2 or VAW-2) (if none, so state): 03/16/01

12 NYCCR 383.12 requires that an employer or carrier controverting a claim for benefits promptly furnish a copy of Form C-7 and medical report(s), if any, to the disability benefits carrier or self-insured employer.

A. Has a copy of this notice been sent to the DISABILITY BENEFITS CARRIER or SELF-INSURED EMPLOYER?

[ ] YES
[ ] NO

Signature and address to whom sent. In the space provided below, and answer "B" below.

Date sent: 03/26/00

Reasons for failure to comply with 12 NYCCR 383.12. If unable to determine disability benefits carrier, send copy of Form C-7 with medical report(s), if any, to the employer and advise employer to transmit to his DB carrier. (In VF/VAW cases, send to Regular Employer, if any, and enter name and address below.)

Date sent: 03/26/00

[ ] YES
[ ] NO

Listed below is the name and address of DB carrier - Please endeavor to identify the DB carrier in every instance.

Dated: 03/26/00

Signed by: [Signature]

Official Title: Case Manager

SEE REVERSE SIDE THE WORKERS’ COMPENSATION BOARD EMPLOYES AND Serves PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION.

RECEIVED WORKERS COMPENSATION BOARD

FEB 04 2002
CANTON CSC.
SYRACUSE DISTRICT OFFICE
FILE COPY

DATE OF MAILING: 10/5/2001
CLAIMANT'S S.S. NO.: 121-14-7715
WCB CASE NO.: 60109425
DATE OF ACCIDENT: 10/5/2001
CARRIER CASE NO.: W226001
CARRIER I.D. NO.:

CLAIMANTS NAME: Robert Rice (deceased)
EMPLOYER'S NAME: Gouverneur Talc
CARRIER'S NAME: Zurich American Insurance Co.

IMPORTANT: PROVIDE THIS W.C.B. NUMBER IF YOU WRITE OR CALL US.
(PROVEA ESTE NUMERO W.C.B. SI NOS ESCRIBE O NOS LLAMA)

We acknowledge receipt of your correspondence dated 09/26/2001.

This case is being processed for hearing. You will receive a formal notice of the date, time and place of this hearing.

Your WCB Case Number is important. In all future correspondence please refer to the WCB Case Number shown above. It will help us to expedite the processing of future correspondence you send to us.

Su numero de caso WCB Case Number es importante. Su correspondencia en el futuro debe de indicar el numero de su caso WCB Case Number que aparece arriba. Esto nos ayudara a procesar rapidamente la correspondencia que usted nos envia.

By: [signature] Unit: 1
Telephone No.: (315)423-2932

EC-89 (6/21/95)
PARTIES OF INTEREST

Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY 13202-1917
September 26, 2001

Workers' Compensation Board
935 James Street
Syracuse, NY 13203

RE: Our File # C95679, ROBERT RICE, Dec'd vs. Gouverneur Talc Co.
WCB # 60108425 D/A: 05/17/01

Gentlemen:

As you know, this firm represents the claimant in connection with the above captioned Workers' Compensation claim.

In furtherance of our prior request, please advise when this case will be scheduled for a hearing in CANTON.

Thank you for your attention and prompt cooperation in this matter.

Very truly yours,

OOT & ASSOCIATES, PLLC

hew

xc: Mrs. Robert A. Rice
1599 US Highway 11
Gouverneur, NY 13642
DATE OF MAILING | CLAIMANT'S S.S. NO.  
---|---
8/28/2001 | 121-14-7716  
WCB CASE NO. | DATE OF ACCIDENT  
60108425 |  
CARRIER CASE NO. | CARRIER I.D. NO.  
| W228001  

<table>
<thead>
<tr>
<th>CLAIMANT'S NAME</th>
<th>EMPLOYER'S NAME</th>
<th>CARRIER'S NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Rice (deceased)</td>
<td>Gouverneur Talc</td>
<td>Zurich American Insurance Co.</td>
</tr>
</tbody>
</table>

Under the Workers' Compensation Law, you are required to complete and file without delay the following forms which are needed to complete the Board's file in the above-captioned case: C-669 or C-7

Failure to file the request form may result in a penalty.

Please forward a statement by return mail explaining the delay in filing the report together with the proper report if it has not yet been filed.

Your attention is directed to Section 25 of the Workers' Compensation Law which provides that a penalty of $100 may be imposed for failure either to file a notice of controversy or to begin payment within the prescribed period or within ten days after receipt of a copy of the notice prescribed in Section 110, whichever period is greater. In addition, under Section 25-3 (e), a penalty of $50 may be imposed for failure to file a notice or report requested or required by the Chair or Board or otherwise required within the specified time period or within 10 days if a time period is not specified.

By susan till
Unit 1
Telephone No. (315) 423-1046
August 9, 2001

Workers' Compensation Board
935 James Street
Syracuse, NY 13202

Re: Our File # C95679, ROBERT RICE, Deo'd vs. Gouverneur Talc Co.
D/D: 05/17/01  WCB # 60108425

Gentlemen:

As you know, this firm represents the Estate of Robert Rice in the above captioned Workers' Compensation claim.

Enclosed herewith for your file will be found a signed C-64 which incorporates the death certificate and office notes relative to this matter. Please note the death certificate lists talc exposure as a contributory cause.

Also enclosed please find a duplicate of the C-65 and itemized funeral bill which was forwarded on 07/17/01. A copy of the Social Security Award letter is also enclosed.

Thank you for your attention.

Very truly yours,

OOT & ASSOCIATES, PLLC
hew
Enclosures
XC: Zurich American w/enclosures
STATE OF NEW YORK
WORKERS’ COMPENSATION BOARD
PROOF OF BURIAL AND FUNERAL EXPENSES-BY UNDERTAKER

W. C. B. Case No. 60106475 Carrier Case No. Social Security No.

STATE OF NEW YORK ..........................................................

COUNTY OF .................................

Michael V. Green, being duly sworn, says, that (s)he is a duly licensed undertaker of ................................., NY at 33 Park Street (street and number) that on the 17th day of May 2001, (s)he prepared the body of Robert Rice, a crema
tion body in a cremation tray & taken to Frederick Brothers Crematory in cemetery; that (s)he shipped said body via

to ........................................ at .................................i

that (s)he was directed to conduct such burial by ........................................... Geneva Rice (name)

1599 US Hwy 11, Gouverneur (address) who authorized the following itemized bill:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>direct cremation</td>
<td>$1,345.00</td>
</tr>
<tr>
<td>supervision &amp; facilities for memorial service</td>
<td>$455.00</td>
</tr>
<tr>
<td>van &amp; mileage for post mortem exam</td>
<td>$150.00</td>
</tr>
<tr>
<td>folders, register, acknowledgements</td>
<td>$75.00</td>
</tr>
<tr>
<td>cash advances clergy $75.00, death cert. $50.00</td>
<td>$280.00</td>
</tr>
</tbody>
</table>

Total $2,310.00

That (s)he was informed said bill would be paid by Holly Weaver

64 Main Street, Richville, NY

that no part of said bill of expenses so authorized for said burial has been paid, except,

$2,310.00 by Holly Weaver, 64 Main Street, Richville, NY

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, OR SELF-INSURER, ANY INFORMATION CONTAINING ANY FALSE MATERIAL STATEMENT OR CONCEALS ANY MATERIAL FACT SHALL BE GUILTY OF A CRIME AND SUBJECT TO SUBSTANTIAL FINES AND IMPRISONMENT.

Subscribed and sworn to before me, this 11 day of July 2001

(Notary Public)

Barbara A. Finnie
Notary Public, State of New York
St. Lawrence County 432018
My Commission Expires 03/19/2022

C-65 (8-00)
<table>
<thead>
<tr>
<th>No.</th>
<th>8146</th>
</tr>
</thead>
</table>

**Green Funeral Home, Inc.**

33 PARK STREET
GOUVERNEUR, NEW YORK 13642
(315) 267-1330

Date: May 31, 2001

Received From: **Hills Weaver**

$2,310.00

Two Thousand Three Hundred Ten and 00/100 Dollars

For Funeral Expenses Of: **Robert Rice**

<table>
<thead>
<tr>
<th>Amount of Account</th>
<th>$2,310.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount Paid</td>
<td>$2,310.00</td>
</tr>
<tr>
<td>Balance Due</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

☐ Check # 3350

Thank You,

[Signature]

- [ ] Cash
- [ ] Social Security
- [ ] VA Benefit
- [ ] Life Insurance
ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED

The following are the charges for the services, merchandise and livery you have selected. You will not be charged for any item you do not choose unless it is necessary because of other selections you have made. Any such charges are explained below. (See Page 2).

I. FUNERAL HOME CHARGES

(Indicate $ if for item of service and / or merchandise that are not provided)

A. Alternative Services
   1. Direct Cremation .......................................................... $1345.00
   2. Direct Burial ............................................................... N/A

B. Transfer of remains to the funeral establishment including personnel, equipment and vehicle ................................................ $ N/A

C. Preparation of Remains
   1. Embalming (Including use of preparation room) ............................................... $ N/A
      If you select a funeral for which this firm requires embalming such as a funeral with viewing, you may have to pay for embalming. If you do not approve if you select arrangements such as direct cremation or direct burial. If we charge for embalming, we will explain why below. (See Page 2).
   2. Other Preparation (Including use of preparation room but excluding embalming)
      a. Topical Disinfection ....................................................... N/A
      b. Custodial Care .............................................................. N/A
      c. Dressing / Gasketing ................................................... N/A
      d. Cosmetology ............................................................... N/A
      e. Restoration .............................................................. N/A
      f. Other (specify) .......................................................... N/A

D. Arrangements ................................................................. N/A

Basic arrangements: including funeral director, other staff, equipment and facilities to respond to initial request for services, the arrangement conference, securing of necessary authorizations and coordination of service plans with parties involved in the final disposition of the deceased.

E. Supervision (funeral director and staff)
   1. Supervision for visitation ............................................... N/A
   2. Supervision for funeral service ........................................ N/A
   3. Other supervision (specify) ............................................ $350.00

F. Use of the Facilities
   1. Use of the facilities for visitation ...................................... N/A
   2. Use of the facilities for funeral service ............................. N/A
   3. Other use of facilities (specify) ...................................... $205.00

G. Livery
   1. a. Hearse or ................................................................. N/A
   2. Alternative vehicle (Specify type: van, limousine, etc.) .......... N/A
   3. Limousine(s) ............................................................... N/A
      (Specify number: .............................................. 1 limousine)
   4. Passenger car(s) .......................................................... N/A
      (Specify number: .............................................. 1 car)

   (Continued on Page 2)
GREEN FUNERAL HOME, INC.
35 PARK STREET
GULFEBNERS, NEW YORK 13042
(315) 394-1330

GREEN FUNERAL HOME, INC.
MAIN STREET
HERMON, NEW YORK 13435
(315) 394-3466

Name: Robert Rose
No. 3211

ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED

<table>
<thead>
<tr>
<th>H. Merchandise</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Casket or Alternative Container</td>
<td>$ N/A</td>
<td></td>
</tr>
<tr>
<td>a. Supplier</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Model name or number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Material: Species of wood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>or kind of metal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>or alternative container (describe)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Interior</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 2. Outer Interment Receptacle | $ N/A | |
| a. Supplier | | |
| b. Model name or number | | |
| c. Material | | |

<table>
<thead>
<tr>
<th>I. Additional Services and Merchandise Selected</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. MEMORIAL FOLDERS</td>
<td>$ 40.00</td>
<td></td>
</tr>
<tr>
<td>2. MEMORIAL REGISTER</td>
<td>$ 15.00</td>
<td></td>
</tr>
<tr>
<td>3. ACKNOWLEDGMENT CARDS</td>
<td>$ 15.00</td>
<td></td>
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<tr>
<td>4.</td>
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<td>5.</td>
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<td>6.</td>
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<td>8.</td>
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<td>9.</td>
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<td>10.</td>
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<thead>
<tr>
<th>J. Limited Services</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>1. Forwarding remains to</td>
<td>$ N/A</td>
<td></td>
</tr>
<tr>
<td>2. Receiving remains from</td>
<td>$ N/A</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL OF FUNERAL HOME CHARGES: $ 290.00

<table>
<thead>
<tr>
<th>II. CASH ADVANCES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>These are estimated charges for items to be paid to others. We will charge you no more for these items than is actually paid the third parties, (except and above subcontracted charges)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. CEMETERY</td>
<td>$ N/A</td>
<td></td>
</tr>
<tr>
<td>2. CLERGY</td>
<td>$ 75.00</td>
<td></td>
</tr>
<tr>
<td>3. HONORARUM</td>
<td>$ 50.00</td>
<td></td>
</tr>
<tr>
<td>4. CERTIFIED DEATH CERTIFICATES</td>
<td>$ 15.00</td>
<td></td>
</tr>
<tr>
<td>5. COMMUNION CHARGE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td></td>
<td></td>
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<tr>
<td>7.</td>
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<td>8.</td>
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<td>9.</td>
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<td>10.</td>
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<tr>
<td>11.</td>
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<tr>
<td>12.</td>
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</tbody>
</table>

ESTIMATE TOTAL OF CASH ADVANCES: $ 290.00

<table>
<thead>
<tr>
<th>III. SUMMARY OF CHARGES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Funeral Home Charges</td>
<td>$ 290.00</td>
<td></td>
</tr>
<tr>
<td>2. Cash Advances</td>
<td>$ 290.00</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL FUNERAL CHARGES: $ 2390.00

IV. EXPLANATION OF CHARGES

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined charge for facilities &amp; staff for visitation</td>
<td>$ N/A</td>
<td></td>
</tr>
<tr>
<td>Combined charge for facilities &amp; staff for hospital service</td>
<td>$ 455.00</td>
<td></td>
</tr>
</tbody>
</table>

Signature of Licensed Funeral Director
Michael V. Genn
Printed or Typed Name of Funeral Director

Date
5/17/201

ACKNOWLEDGEMENT OF RECEIPT
I have received the following funeral services and merchandise selected:

Date
5/17/201

PUBLIC NOTICE: The New York State Department of Health is responsible for licensing and regulating New York State funeral directors under the Public Health Law. You may contact the Department at the Bureau of Funeral Directing, New York State Department of Health, 423 River Street, Suite 323, Troy, New York 12180-3230.

BILLING INFORMATION

Bill To: [Redacted]
Address: [Redacted]
City-State: [Redacted]
Zip: [Redacted]
Phone: [Redacted]

The only warranty on the casket and/or outer burial container sold in connection with this service is the separate written warranty, if any, provided by the manufacturer, vendor or supplier. PART OF FUNERAL HOME SALES WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE CASKET AND/OR OUTER BURIAL RECEPTACLE.

ACKNOWLEDGEMENT AND AGREEMENT
I hereby acknowledge that I have the legal right to arrange the final services for the deceased, and authorize this funeral establishment to perform services, furnish goods, and incur charges specified on this statement. I acknowledge that I have reviewed the General Price List, and have been offered an opportunity to review the Color Flash Price List and Outer Interment Receptacle Price List.

Terms of Payment:

After
Due
At
Date

I agree to pay the charges listed on this Statement, plus any Late Charge, in the event default is paid to the funeral establishment. I agree to pay reasonable attorney's fees and costs in court in addition to any Late Charge applicable. I understand and agree that I am assuming personal liability for the charges set forth in this Statement and that this is in addition to the liability imposed by law upon the estate of the deceased. By my signature below, I hereby agree to all of the above and acknowledge receipt of a copy of this Statement.

Signed
[Redacted]
Date
5/17/201

Co-Signed
[Redacted]
Date
5/17/201

Co-Signed
[Redacted]
Date
5/17/201

ACCEPTANCES This funeral establishment agrees to provide all services, merchandise and cash advances indicated on this Statement.

By
Michael V. Genn

PAYMENT RECEIVED FROM

$ [Redacted]

$ [Redacted]

$ [Redacted]
Social Security Administration
Retirement, Survivors, and Disability Insurance
Notice of Award

Northeastern Program
Service Center
1 Jamaica Center Plaza
Jamaica, New York 11432-3898
Date: June 19, 2001
Claim Number: 113-10-0176 A

GENEVA H RICE
1599 US HIGHWAY 11
LOT NO 13
GOUVERNEUR NY 13642

We are writing to let you know that you are entitled to monthly widow's benefits from Social Security beginning May 2001.

What We Will Pay

- Your first payment is for $410.00.
- This is the money you are due through May 2001.
- After that, you will receive $987.00 on or about the third of each month.
- Your monthly payments will go to the financial institution you selected.

Your Benefits

Your first check includes a lump-sum payment of $255.00. This is a one-time payment we make because of a worker's death.

Your benefit is $660.00 as a widow. This is in addition to the benefit of $327.00 on your own earnings record.

We are stopping the benefits you have been receiving as a widow on Maynard W Jones’s Social Security record. This is because you are entitled to an equal or larger benefit on another person's record.

We will send you both benefits in one check each month under your own claim number.

SEE NEXT PAGE
Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

A file has been prepared, numbered as above, in which you are indicated as the carrier. If this case is not properly charged to you, please return this form immediately, stating in space provided below the reason you are not on the risk.

[ ] improperly charged (explain)

(If you receive more than one notice of indexing in connection with the same injury, please notify us of the duplication, specifying both WCB Case Numbers.)

If properly charged, kindly send this office the forms listed below which are required to complete the file.

C-2; C-669; C-7; Medical Report;

Your attention is directed to Section 25 of the Workers' Compensation Law, as amended, which provides that a penalty of $150 may be imposed for failure either to file the prescribed notice of controversy or to begin payment of compensation within the required period. Section 25 (W.C.L.) is applicable to volunteer firefighters and volunteer ambulance workers' benefit cases pursuant to Section 49 (V.F.B.L. and V.A.W.B.L.).

If no forms are listed, none is now requested and this letter will serve as notice of the Workers' Compensation Board case number. To facilitate claims examination kindly refer to this number on all reports and in correspondence.

If forms requested have already been filed, additional filing is not required.

In cases where wages are paid by the employer as an advance payment of compensation, and where reimbursement is or will be sought, you are hereby directed to file with the Board before award of compensation is made, proof of claim of reimbursement consisting of receipts of advance payments of compensation signed by the claimant and written request for reimbursement signed by the employer showing the amount of advance payments made, the period of disability for which payments were made, the dates of such payments and the amount requested as reimbursement.

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION

EC-84 (5-96)
PARTIES OF INTEREST

Gouverneur Talc
Gouverneur, NY 13642

Robert Rice (deceased)
Geneva Rice (widow)
1599 U.S. Hightway 11
Lot 13
Gouverneur, NY 13642
### NOTICE OF RETAINER AND APPEARANCE

**STATE OF NEW YORK**

**WORKERS' COMPENSATION BOARD**

**WCB Case No.: 113-10-0176**

**Date of Accident / Illness / Injury:** 05/12/01

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Employer</th>
<th>Carrier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gennia G. Pecce</td>
<td>Yorronsos Sales</td>
<td>Zurich American</td>
</tr>
</tbody>
</table>

**Attorney or Representative:** Oot & Associates, PLC

**Telephone No. of Atty/Rep.: 716-674-4700**

**Date:** 07-10-01

---

**A. CLAIMANT COMPLETE THIS SECTION**

- **Signature of Claimant:** Genna G. Pecce

---

**B. ATTORNEY/REPRESENTATIVE COMPLETE THIS SECTION**

- **Signature of Attorney/Representative:**     

---

**C. FOR SUBSTITUTION ONLY - ATTORNEY/REPRESENTATIVE COMPLETE THIS SECTION**

- **Name of Former Attorney or Representative:**
- **Address:**

---

**D. REQUEST AND NOTICE TO HEALTH PROVIDER**

- **Signature of Attorney or Representative appearing for claimant:**

---

**NOTICE TO ATTORNEY OR REPRESENTATIVE:**

1. This form may be used by either an original or a substituted attorney or representative. Check appropriate box at top of form.
2. Send a copy of this form to all of the claimant's health providers.

---

**Syracuse, N.Y.**
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
PROOF OF BURIAL AND FUNERAL EXPENSES-BY UNDERTAKER

W. C. B. Case No. 
Carrier Case No. 
Social Security No. 

STATE OF NEW YORK 
COUNTY OF 

Michael V. Green , being duly sworn, says, that (s)he is a duly licensed undertaker of Gouverneur, NY, at 33 Park Street, (city or town) that on the 17th day of May 2001, (date) at (street) (school and number) (street) (street) (street) (street) that (s)he prepared the body of Robert Rice, (name of deceased) for cremation at Gouverneur, NY, that (s)he placed the body in a cremation tray & taken to Frederick Brothers Crematory in Geneva, Rice, (name of cemetery) that (s)he shipped said body to 1599 US Hwy 11, Gouverneur, (relative, friend, etc.) cremation at Geneva, Rice, (name) who authorized the following itemized bill:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct cremation</td>
<td>$1345.00</td>
</tr>
<tr>
<td>Supervision &amp; facilities for memorial service</td>
<td>$455.00</td>
</tr>
<tr>
<td>Van &amp; mileage for post-mortem exam</td>
<td>$160.00</td>
</tr>
<tr>
<td>Folders, register, acknowledgements</td>
<td>$70.00</td>
</tr>
<tr>
<td>Cash advances clergy $75.00, death cert. $50.00</td>
<td>$280.00</td>
</tr>
<tr>
<td>Crematory $155.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2310.00</strong></td>
</tr>
</tbody>
</table>

That (s)he was informed said bill would be paid by Holly Weaver, 64 Main Street, Richville, NY, (name) (address) that no part of said bill of expenses so authorized for said burial has been paid, except, $ 2310.00 by Holly Weaver, 64 Main Street, Richville, NY, (name) (address)

ANY PERSON WHO KNOWLINGLY AND WITH INTENT TO DEFRAUD PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, OR SELF-INSURER, ANY INFORMATION CONTAINING ANY FALSE MATERIAL STATEMENT OR CONCEALS ANY MATERIAL FACT SHALL BE GUILTY OF A CRIME AND SUBJECT TO SUBSTANTIAL FINES AND IMPRISONMENT.

Subscribed and sworn to before me, this day of .

Barbara Finnie
Notary Public

C-65 (8-00)
<table>
<thead>
<tr>
<th>No.</th>
<th>8146</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green Funeral Home, Inc.</td>
<td></td>
</tr>
<tr>
<td>33 PARK STREET</td>
<td></td>
</tr>
<tr>
<td>GOVERNEUR, NEW YORK 13642</td>
<td></td>
</tr>
<tr>
<td>(315) 267-1530</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>May 21, 2001</td>
</tr>
</tbody>
</table>

Received From: Hollis Weaver  
$2310.00

Two Thousand Three Hundred Ten and 00/100 Dollars

For Funeral Expenses Of Robert Rice

Amount of Account $2310.00  
Check # 3350

Amount Paid $2310.00

Balance Due $0.00

Cash
Social Security
VA Benefit
Life Insurance

Thank You,

Signature: [Signature]

Note: The document includes a handwritten signature at the bottom.
ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED

The following are the charges for the services, merchandise and livery you have selected. You will not be charged for any item you do not choose unless it is necessary because of other selections you have made. Any such charges are explained below. (See Page 2).

I. FUNERAL HOME CHARGES

(Assume: Ask for items of service and/or merchandise that are not provided)

A. Alternative Services

1. Direct Cremation ........................................ $1345.00
2. Direct Burial ........................................ $N/A

B. Transfer of remains to the funeral establishment Including personnel, equipment and vehicle ........................................ $N/A

C. Preparation of Remains

1. Embalming (including use of preparation room) ........................................ $N/A
   If you select a funeral for which this firm requires embalming such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming if you do not approve if you select arrangements such as direct cremation or direct burial. If we charge for embalming, we will explain why below. (See Page 2).

2. Other Preparation (including use of preparation room but excluding embalming)
   a. Topical Disinfection ........................................ $N/A
   b. Custodial Care ........................................ $N/A
   c. Dressing / Casketing ........................................ $N/A
   d. Cosmetology ........................................ $N/A
   e. Restoration ........................................ $N/A
   f. Other (specify) ........................................ $N/A

D. Arrangements ........................................ $N/A
   Basic arrangements; including funeral director, other staff, equipment and facilities to respond to initial request for service, the arrangement conference, securing of necessary authorizations and coordination of service plans with parties involved in the final disposition of the deceased.

E. Supervision (funeral director and staff)

1. Supervision for visitation ........................................ $N/A
2. Supervision for funeral service ........................................ $N/A
3. Other supervision (specify) ........................................ $250.00

F. Use of the Facilities

1. Use of the facilities for visitation ........................................ $N/A
2. Use of the facilities for funeral service ........................................ $N/A
3. Other use of facilities (specify) ........................................ $205.00

G. Livery

1. a. Hearse or ........................................ $N/A
   b. Alternative vehicle ........................................ $160.00
      (Specify type: $ )
2. Flower vehicle ........................................ $N/A
3. Limousine(s) ........................................ $N/A
   (Specify number: $ )
4. Passenger car(s) ........................................ $N/A
   (Specify number: $ )
**GREEN FUNERAL HOME, INC.**
33 PARK STREET
OUVERNEUR, NEW YORK 13642
(315) 267-1330

**GREEN FUNERAL HOME, INC.**
MAIN STREET
HERMON, NEW YORK 13652
(315) 347-2459

*Name: Robert Roe*
*No.: 3911*

**ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED**

<table>
<thead>
<tr>
<th>H. Merchandising</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Casket or Alternative Container</td>
<td>$ 0 / A</td>
</tr>
<tr>
<td>a. Supplier</td>
<td></td>
</tr>
<tr>
<td>b. Model name or number</td>
<td></td>
</tr>
<tr>
<td>c. Material: Species of wood or kind of metal</td>
<td></td>
</tr>
<tr>
<td>or alternative container (describe)</td>
<td></td>
</tr>
<tr>
<td>d. Interior</td>
<td></td>
</tr>
<tr>
<td>2. Outer Interment Receptacle</td>
<td>$ 0 / A</td>
</tr>
<tr>
<td>a. Supplier</td>
<td></td>
</tr>
<tr>
<td>b. Model name or number</td>
<td></td>
</tr>
<tr>
<td>c. Material</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>I. Additional Services and Merchandise Selected</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(Specify and state price)</td>
<td></td>
</tr>
<tr>
<td>1. MEMORIAL FOLDERS</td>
<td>$ 140.00</td>
</tr>
<tr>
<td>2. MEMORIAL REGISTER</td>
<td>$ 15.00</td>
</tr>
<tr>
<td>3. ACKNOWLEDGMENT CARDS</td>
<td>$ 15.00</td>
</tr>
<tr>
<td>4.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
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<td>6.</td>
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<td>7.</td>
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<td>8.</td>
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<tr>
<td>9.</td>
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</tr>
<tr>
<td>10.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>J. Limited Services</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Forwarding remains to</td>
<td>$ 0 / A</td>
</tr>
<tr>
<td>2. Receiving remains from</td>
<td>$ 0 / A</td>
</tr>
</tbody>
</table>

**TOTAL OF FUNERAL HOME CHARGES**

$ 2000.00

**II. CASH ADVANCES**

These are estimated charges for items to be paid to others. We will charge you no more for these items than is actually paid the third parties. (Describe and show estimated charges)

| 1. CEMETARY | $ 0 / A |
| 2. CLERGY | $ 75.00 |
| 3. HONORARIUM | $ 0 / A |
| 4. CERTIFIED DEATH CERTIFICATES | $ 50.00 |
| 5. CASHIER'S CHANGE | $ 13.00 |
| 6. |  |
| 7. |  |
| 8. |  |
| 9. |  |
| 10. |  |
| 11. |  |
| 12. |  |

**ESTIMATE TOTAL OF CASH ADVANCES**

$ 290.00

**III. SUMMARY OF CHARGES**

1. Funeral Home Charges: $ 2000.00
2. Cash Advances: $ 290.00

**TOTAL FUNERAL CHARGES**

$ 2300.00

**IV. EXPLANATION OF CHARGES**

Explain charges for embalming and for any item that is not required by law but may be necessary because of existing requirements, emergency requirements, or any other selection made.

Combined charge for facilities & staff for visitation: $ 0 / A
Combined charge for facilities & staff for visitation: $ 135.00

*Signature: Mark V. Cain*

Purchased by: General Price

**BILLING INFORMATION**

<table>
<thead>
<tr>
<th>Bill To:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship to Decedent</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td></td>
</tr>
<tr>
<td>City-State</td>
<td></td>
</tr>
<tr>
<td>Zip</td>
<td></td>
</tr>
<tr>
<td>Phone</td>
<td></td>
</tr>
</tbody>
</table>

The only warranty on the casket is limited to a full refund or a replacement casket at no cost. THE FUNERAL HOME MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING AN IMPLIED WARRANTY OF MERCHANTABILITY AND AN IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE CASKET OR OTHER OUTER INTERMENT RECEPTACLE.

**ACKNOWLEDGEMENT AND AGREEMENT**

I hereby acknowledge that I have the legal right to arrange the funeral services for the deceased, and authorize this funeral establishment to perform services, furnish goods, and incur outside charges specified in this Statement. I understand that I am assuming personal liability for the charges set forth in this Statement, and that this is in addition to the liability imposed by law upon the executors of the deceased. By my signature below, I hereby agree to all of the above and acknowledge receipt of a copy of this Statement.

*Mark V. Cain*

**PAYMENT RECEIVED FROM**

<p>| |</p>
<table>
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<tbody>
<tr>
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<tr>
<td></td>
</tr>
</tbody>
</table>
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CLAIM FOR COMPENSATION IN DEATH CASE

This claim will be processed more quickly if copies of necessary documents are submitted to the Board. Attach copies of the documents which you have in your possession. Otherwise, death certificates and bring them to the first hearing. DO NOT DELAY filing this claim form.

Necessary documents are as follows:

- a. A medical report from doctor who treated the deceased.
- b. Proof of relationship such as birth certificate, marriage certificate, adoption papers, etc.
- c. Death certificate.
- d. Burial or funeral bill.

<table>
<thead>
<tr>
<th>WCBS CASE NO.</th>
<th>CABEER CASE NO.</th>
<th>DECEASED</th>
<th>SPONSOR</th>
<th>CLAIMANTS SO. SEC. NO.</th>
<th>DATE OF DEATH</th>
</tr>
</thead>
<tbody>
<tr>
<td>(State)</td>
<td>(State)</td>
<td>NAME</td>
<td>ADDRESS</td>
<td>SOCIAL SEC. NO.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Robert A. Rice</td>
<td>1234 5678 9012 3142</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I hereby make claim under the Workers' Compensation Law for compensation arising out of the death of the deceased named above as the result of injury sustained in the employ of the above-named employer, and, in support of this claim submit the following statements:

1. a. Date of accident: ___________________________ at ________, N.Y. ____________________________
   b. How did accident or occupational disease happen? (Describe fully, stating whether the injured person fell, was struck, etc. and what factors or events led up to or contributed to the accident)
   occupational exposure

2. Place of Accident: ____________________________

3. Nature of injury and part of body injured: ____________________________

Note: Attach a medical report, if available.

2. ATTENDING PHYSICIAN
   Name: Dr. Callahan, Jr., Rhode
   Address: 53-59 Public St, N.Y.

3. LAST PHYSICIAN
   Name: John, D.O.
   Address: 33 Park St, N.Y.

4. UNDERTAKER
   Name: Holly Weaver
   Address: 164 Richard St, N.Y.

5. PERSON WHO PAID UNDERTAKER BILL
   Name: John Doe
   Address: 53-59 Public St, N.Y.

6. Amount of Undertaker's Bill $ ____________
   Amount paid, if any $ ____________

7. Claimant's date of birth: ________________
   Relationship to deceased: Spouse

8. Is deceased survived by a spouse and/or children under 18 years of age or under 21 years of age and enrolled and attending as full time student in any accredited educational institution? □ Yes □ No

9. Survivors or dependents of the deceased: (See reverse side for instructions)

   (Attach proof of relationship such as birth certificate, marriage certificate, adoption papers, etc., if available)

   (SEE INSTRUCTIONS ON REVERSE SIDE)

C-62 (1-00) C-62 C-62 C-62 C-62

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION
11. IF YOU ARE THE SPOUSE OR CHILD OF THE DECEASED ENTER THE FOLLOWING INFORMATION AS APPLICABLE:
   a. You were married to the deceased on ____________ by ____________________________ (Attach marriage certificate, if available)
   b. Number of children under 16 years of age at the time of death of the deceased ____________
   c. Number of children at least 18 years of age but under 23, enrolled and attending as full-time students in any accredited educational institution at time of death of the deceased ____________

12. IF YOU ARE THE SPOUSE OF THE DECEASED, indicate your share of survivor's insurance benefits, if any, being received under the Social Security Act. $__________ (If available, attach copy of Social Security Award certificate showing your share of survivor’s insurance benefits or, copy of check showing the amount of the award.)

13. IF YOU ARE NEITHER THE SPOUSE OF THE DECEASED OR CHILD OF THE DECEASED UNDER 18 YEARS OF AGE OR UNDER 23 YEARS ENROLLED AND ATTENDING AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION, ENTER THE FOLLOWING INFORMATION:
   a. Were you wholly or partially dependent on the deceased for your support? ____________
   b. If partially dependent, to what degree? ____________
   c. I own property as follows:
      (1) Real estate, assessed value $__________, from which I receive an income of $__________ annually and on which there is an indebtedness of $__________
      (2) What other sources of income do you have? (Name each source and give amounts derived from each source named.)

14. IF YOU ARE A CHILD OR DEPENDENT GRANDCHILD, DEPENDENT BROTHER OR DEPENDENT SISTER, AT LEAST 18 YEARS OF AGE BUT UNDER 23 AND ENROLLED AND ATTENDING AS A FULL TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION, ENTER THE FOLLOWING INFORMATION AND ATTACH CERTIFICATION OF ATTENDANCE, IF AVAILABLE FROM SUCH INSTITUTION.

NAME OF STUDENT ____________________________
EDUCATIONAL INSTITUTION ____________________________
DATE ATTENDANCE BEGAN ____________

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER OR SELF-INSURER, ANY INFORMATION CONTAINING ANY FALSE MATERIAL STATEMENT OR CONCEALS ANY MATERIAL FACT SHALL BE GUILTY OF A CRIME AND SUBJECT TO SUBSTANTIAL FINES AND IMPRISONMENT.

Dated 07-10-01 Signed by ____________________________
(Claimant's Signature)

Telephone No. ____________________________

Signed by ____________________________
(A person on behalf of Claimant)

TO THE CLAIMANT

A. Under the Workers' Compensation Law, a claim for compensation in a death case may be filed by:
   1. SPOUSE OF THE DECEASED;
   2. CHILDREN OF THE DECEASED WHO ARE UNDER AGE 18 AT THE TIME OF DEATH;
   3. CHILDREN OF ANY AGE WHO WERE TOTALLY BLIND OR PHYSICALLY DISABLED AT THE TIME OF ACCIDENT AND WHOSE DISABILITY IS TOTAL AND PERMANENT;
   5. PARENTS AND GRANDPARENTS OF THE DECEASED WHO WERE WHOLLY OR PARTIALLY DEPENDENT ON THE DECEASED FOR SUPPORT AT THE TIME OF THE ACCIDENT;

The spouse and the children may file a single claim. Each dependent grandchild, brother, sister, parent or grandparent must file a separate claim.

PRIVACY LAW NOTIFICATION

The authority to request this personal information and all future information is found in Sections 20, 117, 141 of the Workers' Compensation Law. The principal purpose for which the information is collected is to enable the Workers' Compensation Board in determining your eligibility for workers' compensation benefits. The information will be used by the officers and employees of this agency as well as any other party to the case in order to assist in the adjudication and determination of the claim and for disclosure under the Freedom of Information Law, Public Officers Law, Article 6. Failure to provide the requested information may delay the processing of your claim or result in the denial of the claim.

This information will be maintained by the Privacy Compliance Officer, Office of the General Counsel, Workers' Compensation Board, 20 Park Plaza, Albany, NY 12207 (518) 486-5594.

Claims should be sent to the district office of the Workers' Compensation Board at one of these addresses:
ALBANY 12241 - 100 Broadway, Menands (518) 467-6574. For all accidents in the following counties: Albany, Clinton, Columbia, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Orange, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, Washington, BINGHAMTON 13901 - State Office Building, 44 Hawley Street (607) 721-4368. For all accidents in the following counties: Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Sullivan, Tioga, Tompkins, SUFFOLK 11770 - State Office Building, 125 Main Street (516) 847-3198. For all accidents in the following counties: Nassau, Suffolk, NEW YORK CITY 11248 - 180 Livingston Street, Brooklyn (718) 822-6500. For all accidents in the following counties: Bronx, Kings, New York, Queens, Richmond, Rockland, Westchester, ROCHESTER 14614 - 130 Main Street West (716) 229-0300. For all accidents in the following counties: Allegany, Cattaraugus, Livingston, Monroe, Orleans, Oswego, Steuben, Wayne, Wyoming, Yates. SYRACUSE 13203 - 250 James Street (315) 474-2534. For all accidents in the following counties: Cayuga, Herkimer, Jefferson, Lewis, Madison, C-62 (1-00)
NEW YORK STATE DEPARTMENT OF HEALTH
DIVISION OF VITAL STATISTICS
ALBANY

This is an Official Record

Certificate of Birth

[Name]

Sex: Female

Birth Date: 1912

Place of Birth: [Place]

Father: [Name]

Mother: [Name]

Issued: [Date]

Register No.: [Number]

[Signature]

[Seal]

[Date]

[Register]

[Registrar]
New York State Department of Health
Certificate of Marriage Registration

This is to certify that the persons identified below were married on the date and at the place specified as shown by the duly registered license and certificate of marriage on file in this office.

**Groom**
- Name: Robert A. Rice
- New Surname (if applicable)
- Residing at: B.O. Box 217, Richville, New York 13681
- Date of Birth: May 28, 1914
- Place of Birth: Gouverneur, New York
- Premarriage Surname

**Bride**
- Name: Geneva H. Jones Blair
- New Surname (if applicable)
- Residing at: R/4 Box 101A, Gouverneur, New York 13642
- Date of Birth: Oct. 26, 1911
- Place of Birth: Gouverneur, New York
- Premarriage Surname
- Maiden Name (if different from premarriage surname)

Date of Marriage: April 18, 1991
Place of Marriage: Richville, New York
City, Town or Village: NEW YORK

(SEAL)

Town or City Clerk: Marguerite A. Hall
Month Day Year: April 23, 1991

Any Alteration Invalidates This Certificate
Issued Pursuant to Section 14-a, Domestic Relations Law

DOH-130 (5/80) (Formerly VS-12)
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
935 JAMES STREET
SYRACUSE, NY 13203
www.wcb.state.ny.us
(315) 423-2932

Robert R. Snashall
Chairman

State of New York - Workers' Compensation Board
In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION
keep for your records

At the Workers' Compensation hearing held on 05/13/2002 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wanamaker made the following decision, findings and directions:

DECISION: Prima facie medical evidence exists per C-64. Board to locate and place on notice carrier for Gouverneur Talc in October 76. Per enforcement investigation CNA was the carrier for 1976. CNA to verify coverage. Case is continued.

Information about Next Hearing / Meeting
Case continued for tentative date of 7/24/2002 in Canton at 9:30 am for Zurich to produce IME of the records. Formal hearing notice to follow.

Claimant - Robert Rice (deceased)
Social Security No. - 121-14-7716
WCB Case No. - 6010 8425
Date of Accident - 05/17/2001
District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No. -
Date of Filing of this Decision - 05/30/2002

AYENCIEN:
Puede llamar a la oficina de la Junta de Compensacion Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
935 JAMES STREET
SYRACUSE, NY 13205
www.wcb.state.ny.us
(315) 423-2932

State of New York - Workers' Compensation Board
In regard to Robert Rice, WCB Case #6010 3382

NOTICE OF DECISION
keep for your records

At the Workers' Compensation hearing held on 05/13/2002 involving the claim of Robert Rice at the Canton hearing location, Judge Giles Wanamaker made the following decision, findings and directions:

DECISION: Place on notice Continental Casualty. CNA to verify coverage. Case is continued.

Information about Next Hearing / Meeting
Case continued for tentative date of 7/24/2002 in Canton at 9:30 am. Formal hearing notice to follow.

Claimant - Robert Rice
Social Security No. - 121-14-7716
WCB Case No. - 6010 3382
Date of Accident - District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No. - 
Date of Filing of this Decision - 05/30/2002

ATENCION:
Puede llamar a la oficina de la Junta de Compensacion Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

ROBERT RICE (DEC'D) ; GENEVA RICE

Claimant,

-vs-

GOUVERNEUR TALC

Employer/Carrier,

WCB Case No.:08425 (ZURI60103382)

STATE OF NEW YORK
COUNTY OF ONONDAGA) ss

Kristin M Mayfield, being duly sworn, deposes and says that she is over the age of twenty-one years and am not an interested party in the herein matter.

That on day 4 in the month of February year 2002, I mailed one true copy of the herein Rebuttal of Application for FULL Board Review to the following named parties:

ROBERT RICE (DEC'D) ; GENEVA RICE
68 W. MAIN STREET., APT. 3B1
GOUVERNEUR, NY 13642

GOUVERNEUR TALC
GOUVERNEUR, NY 13642

CNA INSURANCE
1 TELERGY PKWY., STE 300
EAST SYRACUSE, NY 13057

OOT & ASSOCIATES
503 E. WASHINGTON STREET
SYRACUSE, NY 13202

ZURICH AMERICAN
P O BOX 22
JAMAICA, NY 11430

SPECIAL FUNDS CONS. COMM.
5789 WIDEWATERS PKWY.
DEWITT, NY 13214
New York State Workers' Compensation Board
Office of the Secretary
20 Park Street
Albany, NY 12207

Attorney General, State of New York
Attorney for Workers' Compensation Board Respondent
120 Broadway
New York, NY 10271

by depositing said true copy of the Rebuttal of Application for FULL Board Review in the mailbox provided by the United States Postal Service in Syracuse, NY, directed to the above parties at the address listed for each, and bearing sufficient postage for delivery of same, and by delivering the same personally to the persons at the addresses indicated below:

Workers' Compensation Board
935 James Street
Syracuse, NY 13201

______________________________
Kristin M. Mayfield

Sworn to before me on
February 4, 2002

______________________________
Notary Public

Nancy D. Hoekema
Notary Public, State of New York
Qualified in Onondaga Co. No. 01108036/05
My Commission expires 11/27/05
State of New York
WORKERS' COMPENSATION BOARD
PRACTITIONER'S REPORT OF REQUEST FOR INFORMATION/RESPONSE TO REQUEST REGARDING INDEPENDENT MEDICAL EXAMINATION

<table>
<thead>
<tr>
<th>1. PRACTITIONER'S NAME AND ADDRESS</th>
<th>2. NAME AND ADDRESS OF PARTY REQUESTING INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>CARL B FRIEDMAN MD PC</td>
<td>ZURICH</td>
</tr>
<tr>
<td>123 MAPLE AVENUE STE 203</td>
<td>P.O. BOX ZZ</td>
</tr>
<tr>
<td>CEDARHURST, NEW YORK 11516-2240</td>
<td>JAMAICA, NY 11430-00ZZ</td>
</tr>
<tr>
<td>ATT: FRAN HOFFMAN</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. PRACTITIONER'S INE AUTHORIZATION NO.</th>
<th>4.IME ENTITY REGISTRATION NO. (If Applicable)</th>
<th>5. DATE OF INDEPENDENT MEDICAL EXAMINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>106697-5B</td>
<td></td>
<td>7/22/02 Death file Rev.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. DATE OF INJURY</th>
<th>7. CLAIMANT'S WCB CASE NO.</th>
<th>8. DATE OF THIS REPORT</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/8/00</td>
<td></td>
<td>1/3/03</td>
</tr>
</tbody>
</table>

Pursuant to Section 137 of the Workers' Compensation Law, if a practitioner who has performed or will be performing an independent medical examination of a workers' compensation claimant receives a request for information regarding the claimant, including taped or electronically-transmitted requests, the practitioner must submit a copy of the request for information to the Workers' Compensation Board within ten days of the receipt of the request. In addition, copies of all responses to such requests, including all materials which are provided in response to the requestor, shall be submitted by the responding practitioner to the Board within ten days of the submission of the response to the requestor.

If the request for information is limited to a request for scheduling of an Independent medical examination, you need not file this form. However, you must send a copy of Form IME-3 (Claimant's Notice of Independent Medical Examination) to the designated Workers' Compensation Board office.

**Instructions:**

- a. Complete all identifying information, items 1-9 above.
- b. To report a request for information: complete item 10 below, sign, date and mail to appropriate Workers' Compensation Board district office within ten days of receipt of request. A copy of the request must be attached.
- c. To report practitioner's response to a request for information: complete item 11 below, sign, date and mail to appropriate Workers' Compensation Board district office within ten days of submission of response to the requestor. A copy of the response and all materials sent to the requestor must be attached.
- d. If the practitioner responds to the requestor within ten days of the receipt of the request, complete, sign and date items 10 and 11 and mail to the appropriate Workers' Compensation Board district office within ten days of receipt of the request, with copies of request and responses attached. Otherwise, submit separate forms to report request and your response within the time limits given in b. and c. above.

**NOTE:** The practitioner's release of medical and/or workers' compensation records to the Board and/or to the requesting party is subject to applicable laws regarding the confidentiality of such records, including but not limited to Section 116-e of the Workers' Compensation Law, Section 18 of the Public Health Law, and other applicable state and federal laws.

10. PRACTITIONER'S REPORT OF REQUEST FOR INFORMATION REGARDING INDEPENDENT MEDICAL EXAMINATION

Date request received: 12/18/02

Attached is a copy of a request for information received in the case identified above.

**CARL B FRIEDMAN MD PC**

Practitioner's Name

Signature 12/18/02

Date

11. PRACTITIONER'S REPORT OF RESPONSE TO REQUEST FOR INFORMATION REGARDING INDEPENDENT MEDICAL EXAMINATION

Date response submitted to requestor: 1/3/03

Attached is a copy of my response to a request for information received in the case identified above, and all materials supplied to the requestor.

**CARL B FRIEDMAN MD PC**

Practitioner's Name

Signature 1/6/03

Date

IME-3 (3-01)
FOR THE FOLLOWING WCB'S

**AVAILABILITY**

JAMAICA- 1ST TUESDAY OF THE MONTH - A.M.
BROOKLYN- 2ND TUESDAY OF THE MONTH - A.M.
MANHATTAN- 4TH TUESDAY OF THE MONTH - A.M.
WHITE PLAINS- TELEPHONE DEPOSITIONS ONLY!
HEMPSTEAD- 2ND & 3RD FRIDAY OF THE MONTH - P.M.
NEWBURGH- TELEPHONE DEPOSITIONS ONLY!
YONKERS- TELEPHONE DEPOSITIONS ONLY!
HAUPPAUGE- 4TH FRIDAY ON THE MONTH- P.M.
**DR. ALSO AVAILABLE FOR TELEPHONE-**
**DEPOSITIONS--CALL FOR AVAILABILITY**

P.S. A review of the literature is available upon request.

CBF/eg
September 1, 2006

Honorable Giles Wanamaker
Workers' Compensation Board
935 James Street
Syracuse, New York 13203

CLAIMANT'S MEMORANDUM

RE:  Robert Rice (Deceased) vs. Gouverneur Talc
Geneva Rice (Widow)  
WCB #60108425  
O&A File #C95679-01-1  
D/L: 5/17/01  
CC#2640097017

Dear Judge Wanamaker:

This office represents Mrs. Geneva Rice, widow of Robert Rice, in connection with the above referenced matter. Presently in issue is whether Zurich Insurance should be permitted to recoup an overpayment made to Mrs. Rice through no fault of her own; and if so, the method an manner of such recoupment.

On behalf of Mrs. Rice I respectfully submit this Memorandum for your consideration.

FACTS

By Supplemental Notice of Decision filed 8/10/04, Zurich Insurance was directed to deposit the amount of $9,995.79 to the Aggregate Trust Fund (ATF) representing the present value of future benefits payable on the claim presuming that Zurich paid Mrs. Rice properly through 9/1/04.

As of 9/1/04, with the deposit to the ATF, Zurich's obligation for ongoing payments to Mrs. Rice was to shift to the ATF. Zurich, in fact, made the proper deposit to the ATF which, upon information and belief, commenced benefits to Mrs. Rice as of 9/1/04.
Unbeknownst to Mrs. Rice's Counsel, Zurich Insurance continued to pay weekly benefits to Mrs. Rice subsequent to their deposit with the ATF. In fact, Zurich continued weekly benefits for more than a year (to 11/16/05) after they made their deposit to the ATF.

Upon information and belief, Mrs. Rice (presently 95 years of age), relied upon Zurich Insurance and the ATF to properly pay benefits due. She was unaware that anything was amiss with the ongoing payments from Zurich as payments had previously been made by that entity.

With respect to the ongoing payments, there is no indication that Zurich advised the Board or Mrs. Rice's Counsel that they were continuing benefits to Mrs. Rice. Contrary, the final C-8 filed reveals their payment to the ATF as of 9/15/04. As such, the facts and circumstances surrounding the erroneous ongoing payments were solely within the province of Zurich Insurance to discover, which it did not for more than a year.

It is respectfully submitted that the overpayment was generated through no fault of Mrs. Rice who detrimentally relied on Zurich Insurance to properly handle the claim. Upon information and belief, Mrs. Rice is of limited means in which to repay any overpayment. Given that discovery of the ongoing payments and overpayment was solely within the province of Zurich to discover, which it did not for more than a year, recovery of the overpayment should be denied outright. In the alternative, the overpayment should be held in abeyance pending any future deposit to the ATF that may be required of Zurich.

**DISCUSSION**

Workers' Compensation Law Section 22 provides that the Board shall determine the method and manner in which a carrier may recoup an overpayment from future installments of compensation payable to the claimant. A carrier may recover any excess monies mistakenly paid if there is no showing that the claimant will suffer a detrimental, material and irrevocable change in position if restitution is granted. *General Accident Insurance Company v. Yaglowski*, 188 A.D.2d 1032 (3rd Dept. 1992).

In this matter, Zurich's request to recoup the overpayment should be denied. It was through no fault of Mrs. Rice's that the overpayment was generated, rather the overpayment was generated solely at the fault of Zurich. Mrs. Rice detrimentally relied on Zurich's handling of the matter and now is of limited means with which to repay. Repayment would surely result in a detrimental and irrevocable change in Mrs. Rice's position.

Zurich's request concerning the overpayment should be denied, additionally, because Zurich has no ongoing obligation to make benefit payments. As such, if recovery of the overpayment is granted currently from future installments of compensation payable, the burden of the overpayment and administration of same would necessarily shift to the ATF. Given the circumstances and facts of this matter, Zurich's request to recoup the overpayment from future installments of compensation should be denied.

**CONCLUSION**

Given the facts and circumstances of this matter, on behalf of Mrs. Rice, it is respectfully requested that Zurich's request to recoup the overpayment be denied. Alternatively, should Your Honor deem that recovery of the overpayment is necessary, I request that it be held in abeyance.
to be taken as a credit against any future obligation that Zurich may have to deposit into the ATF.

As a final alternative, should Your Honor deem that recover of the overpayment is necessary, I request under the facts and circumstances of this matter and given Mrs. Rice's limited means, that recovery be directed at a nominal amount.

Respectfully submitted,

OCT & ASSOCIATES, PLLC

[Signature]

cc: Mrs. Geneva Rice
    Zurich Insurance
    Aggregate Trust Fund
    Leiter & Brune
### A. FATAL CASES

1. Weekly wages $289.10
2. Schedule of dependents

<table>
<thead>
<tr>
<th>RELATIONSHIP</th>
<th>DATE OF BIRTH</th>
<th>ATTACHED AGE</th>
<th>WEEKLY COMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse (Geneva)</td>
<td>11/26/1911</td>
<td>09</td>
<td>$36.58</td>
</tr>
<tr>
<td></td>
<td></td>
<td>17.20%</td>
<td>$54.20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7.45%</td>
<td></td>
</tr>
</tbody>
</table>

\[ \frac{1}{2} \times 600 = 300 \times 0.20 = 60 \times 0.05 = 30 \]

\[ 17 	imes 2.00 = 34.00 \]

\[ 7.45 \times 30 = 223.50 \]

\[ 30 + 34 + 223.50 = 287.50 \]

\[ \frac{287.50}{12} = 23.96 \]

\[ \frac{23.96}{2} = 11.98 \]

\[ 11.98 	imes 12 = 143.76 \]

\[ \frac{143.76}{2} = 72.88 \]

\[ \frac{72.88}{2} = 36.44 \]

\[ \frac{36.44}{2} = 18.22 \]

\[ \frac{18.22}{2} = 9.11 \]

\[ \frac{9.11}{2} = 4.56 \]

\[ \frac{4.56}{2} = 2.28 \]

\[ \frac{2.28}{2} = 1.14 \]

\[ \frac{1.14}{2} = 0.57 \]

\[ \frac{0.57}{2} = 0.29 \]

\[ \frac{0.29}{2} = 0.14 \]

\[ \frac{0.14}{2} = 0.07 \]

\[ \frac{0.07}{2} = 0.03 \]

\[ \frac{0.03}{2} = 0.02 \]

\[ \frac{0.02}{2} = 0.01 \]

\[ \frac{0.01}{2} = 0.00 \]

\[ \frac{0.00}{2} = 0.00 \]

### B. Non-fatal Cases

1. Decease claimant's spouse, or children under age 18?
   - Child's age on date of lump sum award:
   - Date of birth:

### C. Interest On Delayed Cases

1. Application from award date:
2. Date of payment:
3. Date Board affirmed WC Law judge's decision:
4. Date Board adopted Court decision:
5. Date appeal withdrawn:
6. Remarks:

### D. For Third Party Cases - Complete Reference

**ACTUARY'S REPLY**

July 21, 2004

The present value of the above award is $9,995.79 as of 9/1/2004 under Section 27 of the Workers' Compensation Law for payment into the Aggregate Trust Fund assuming that compensation benefits have been paid to 9/1/2004.

The above present value does not include funeral benefits.

This calculation reflects the assumption that the widow will receive survivor's insurance benefits under the Social Security Act until she dies or remarries.

If the widow ceases to receive such benefits at any time in the future, then the carrier and not the Aggregate Trust Fund will be liable for any resulting increase in compensation benefits.

\[ \text{Senior Actuary} \]

**MTC JUL 22 2004**

EXHIBIT A
New York State Insurance Fund
Workers Compensation & Disability Benefits Specialists Since 1914
193 Church Street, New York, N.Y. 10007
Aggregate Trust Fund, Unit 999, 4th Floor
(212) 312-8000

Date: 11/29/04

To: Zurich American Insurance
Address: PO Box 22,
Jamaica, NY 11430

Employer: Dav-ed Operating Corp.
Ins. Carrier: #264097017

Claimant: Robert Rice
A.T.F. No. Unassigned
W.C.B. No.: 6010.8425

Date of Accident: 5/17/01

Dear Sir/Madam:

☑ We acknowledge receipt of a check in the amount $9,995.79 payable to the Aggregate Trust Fund in the above-captioned case. This check has been deposited in the account of the Aggregate Trust Fund, and payments to the claimant will be made in accordance with the award dated 8/10/04.

☐ Interest is due the Aggregate Trust Fund on your latest deposit, in the amount of

Kindly note the attached C-97 dated __________.

☑ Kindly forward a copy of your C-8.6 indicating all payments made in the above-captioned case.

Very truly yours,

Case Manager, Aggregate Trust Fund

cc: Workers Compensation Board

C-601 (4/09)
NOTICE THAT PAYMENT OF COMPENSATION HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE: ![X] WORKERS' COMPENSATION  VOLUNTEER FIREFIGHTER  VOLUNTEER AMBULANCE WORKER

ANSWER ALL QUESTIONS FULLY - TYPEWRITER OR COMPUTER PREPARATION IS REQUIRED

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6010.8425</td>
<td>2640057017</td>
<td>9228001</td>
<td>12/08/00</td>
<td>121147716</td>
</tr>
</tbody>
</table>

Name: Address to which notice should be sent

6. Claimant/Name of Deceased: Robert Rice
   Gouverneur
   NY 13442-1348

7. Employer: Gouverneur Talc Co
   Gouverneur
   NY 13442

8. Carrier: Zurich American Insurance Company
   P.O. Box 665946
   Chicago IL 60680-0946

* In VP and VAWB benefit cases, the title or position of the employee shall be the "INSURER".

9. County Where Injury Occurred: 10. Date Disability began or Date of Death: 11. Average Weekly Wage: 12. Date First Payment Made: 13. Date Last Recorded Payment Made:

<table>
<thead>
<tr>
<th>14. Description (Diagnosis) of injury/linked condition:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>15. SUMMARY OF BENEFIT PAYMENTS</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Indicate Type of Disability</th>
<th>Period of Payment</th>
<th>Days Worked</th>
<th>Number of Weeks</th>
<th>Weekly Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL/PARTIAL</td>
<td>PERIOD/TIME</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>PERMANENT</td>
<td></td>
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<td>DISABILITY</td>
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<tr>
<td>DEATH BENEFITS</td>
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<td>PERMANENT DEATH BENEFITS</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Period to Be For</th>
<th>From</th>
<th>To</th>
<th>Period to Be For</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/17/01</td>
<td>09/33/04</td>
<td>Geneva Rice</td>
<td>08/10/04</td>
<td>NY State Insurance</td>
<td>28,086.21</td>
</tr>
</tbody>
</table>

DEATH BENEFITS

<table>
<thead>
<tr>
<th>Lump Sum Death Benefit (YFB and VAWB only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penetration Expenses</td>
</tr>
<tr>
<td>State Treasurer (Sections 156, 25c, or 25g)</td>
</tr>
<tr>
<td>Payment made into Aggregated Trust Fund - Date</td>
</tr>
</tbody>
</table>

TOTAL AWARD | 15,000.00 |

PENALTY PAYMENT TO CLAIMANT

<table>
<thead>
<tr>
<th>Lines:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Fees to representative:</td>
</tr>
<tr>
<td>b. Reimbursement to:</td>
</tr>
<tr>
<td>c. Other (Specify):</td>
</tr>
<tr>
<td>TOTAL DEDUCTIONS (2a+b+c)</td>
</tr>
</tbody>
</table>

BALANCE TO CLAIMANT | 14,500.00 |

18. Have benefits been paid in full in accordance with an award of the WCAB? Yes No If "No," check and complete items a-c, as appropriate: Yes

| a. Claimant returned to work. Data of return: |
| b. At pre-injury wages. |
| c. At reduced wages |
| d. Payments stopped or modified for other reasons. (Specify below and/or attach explanation/documentation): |

17. ![ ] NOTICE OF TERMINATION OF TEMPORARY PAYMENTS OF COMPENSATION (Sec. 23b of WCB) Employer or carrier is ceasing payment of temporary compensation. See special information box on reverse. Last payment made on . Reason for termination of payment: |

Prepared by: Dawn Robbik

Date of Admission: 10/15/004

See important information to claimant and carrier on reverse.
LEITER & BRUNE, LLP
ATTORNEYS AT LAW
1300 STATE TOWER BUILDING
109 SOUTH WARREN ST.
SYRACUSE, NEW YORK 13202
info@lonyn.com

(315) 422-1177
Fax (315) 476-9441

August 29, 2006

Hon. Giles Wanamaker
Workers’ Compensation Board
935 James Street
Syracuse, New York 13203

MEMORANDUM
OF LAW

Reference: WCB 60108425
Robert Rice vs.
Gouverneur Talc
Carrier No. 264 0097017

Dear Judge Wanamaker:

Please be advised that our office represents the interests of the employer/carrier regarding the above referenced case. Please accept the following as employer’s/carrier’s Memorandum of Law.

REQUESTED FINDINGS

1. Direct claimant’s widow, Geneva Rice, to reimburse the carrier $6,913.41 the amount of carrier’s overpayment in this case.

ALTERNATIVE REQUESTED FINDINGS

1. Direct claimant’s widow, Geneva Rice, to reimburse the carrier at $96.58 per week, the amount it is believed the claimant’s widow is currently receiving from the Aggregate Trust Fund (ATF) as continued payments in this case.

2. Direct claimant’s widow, Geneva Rice, to reimburse the carrier $50.00 per week (or any other amount as determined by your Honor to be a fair and equitable amount) until carrier’s overpayment of $6,913.41 is recouped.

FACTS OF THE CASE

This case was previously established ANCR death with an AWW of $259.10.

The claimant has been receiving $96.58 per week in compensation since the date of death and this rate reflects the Social Security offset as it was determined that the claimant was receiving $76.15 in Social Security Survivor’s benefits.

MEMO-OF-LAW

SERVICE BY E-MAIL OR FAX NOT ACCEPTED
By Decision filed on 8/10/04 an actuarial computation determined that the present value of the award was $9,995.79 and directed the carrier to pay said amount into the ATF. The Decision filed on 8/10/04 indicated that Zurich was liable for payments until 9/1/04 and that the ATF was liable for payments after 9/1/04.

The carrier paid the $9,995.79 as directed into the ATF, but also due to a mistake of fact, continued payments to the claimant in the amount of $96.58 per week through 11/16/05, thus creating an overpayment as reflected on the carrier’s C-8 dated 6/21/06 in the amount of $6,913.41.

ARGUMENT POINT ONE
THE CLAIMANT HAS BEEN UNJUSTLY ENRICHED

Under information and belief, for the period of 9/2/04 through 11/16/05 the claimant’s widow, Geneva Rice, was receiving duplicate benefits from the Aggregate Trust Fund and also from Zurich Insurance Company in the amount of $96.58 per week. The carrier, Zurich Insurance Company, is entitled to reimbursement from their overpayment.

"Reimbursement of payments made under a mistake of fact resulting in the unjust enrichment of a party from whom reimbursement is claimed may be claimed under well settled equitable principles, and such claim may be heard and determined by the Workers' Compensation Board". See Bloomingdale's 2004 NY Wrk. Comp. 9304795; citing McDonnel vs. New York, 253 A.D. 559, 3 NYS 2d 658 (1938); Handler vs. Taterka, 22 A.D. 2d 741, 253 NYS 2d 321 (Third Dept. 1964).

Pursuant to WCL Section 22, the Board determines the method and manner in which the carrier is to recoup the amount of an overpayment from the future benefits being paid to the claimant. See Bloomingdale's, citing Soper vs. Gouverneur Talc Company, 243 A.D. 2d 1001, 663 NYS 2d 696 (Third Dept. 1997); Dovi vs. Grand Union Company, 64 A.D. 2d 343, 410 NYS 2d 139 (Third Dept. 1978). “Thus, an overpayment by the carrier can only be remedied upon direction from the Board, as the Board has exclusive jurisdiction to determine recoupment.” See Bloomingdale's, citing Kollier vs. Simmonds Precision Inc., 122 A.D. 2d 399, 504 NYS 2d 803 (Third Dept. 1986).

WCL Section 22 entitled “Modification of awards, Decisions and Orders” as pertinent hereto states: “...and any payments made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such methods as may be determined by the Board”. See WCL Section 22. Also see Dovi vs. Grand Union Company, 64 A.D. 2d 343, 410 NYS 2d 139 (Third Dept. 1978).

The carrier is entitled to reimbursement for monies paid to the claimant by reason of a mistake of fact under the theory of equity and unjust enrichment. In the case of Matter of Liberty Mutual Insurance Company vs. Newman, 92 A.D. 2d 613, 459 NYS 2d 806 (Second Dept. 1983), it was stated that “it has been consistently held that when an insurer or payor pays out money by reason of a mistake of fact, it may recover its erroneous

The facts of Matter of Liberty Mutual Insurance Company, are as follows: the Board awarded the defendant the sum of $48.00 per week. Of that $48.00 per week, $24.00 per week was to be paid directly by the plaintiff to defendant. Pursuant to a further Decision of the Board the plaintiff was directed to make payment of $9,805.66 into the Aggregate Trust Fund of the State Insurance Fund pursuant to Section 27 of the WCL, which was to be used to pay the remaining $24.00 per week to defendant. Due to inadvertence, plaintiff, Liberty Mutual Insurance Company, instead forwarded a check in the amount of $9,805.66 to the claimant. Liberty Mutual Insurance Company also forwarded a second check in the amount of $9,805.66 to the Aggregate Trust Fund. The claimant, thereafter refused Liberty Mutual’s repeated requests to return any of the money sent to the claimant to her by mistake. The special term in the case of Matter of Liberty Mutual Insurance Company granted Liberty Mutual Insurance Company the amount of $9,805.66, with interest of $4,103.80, plus $25.00 for costs for a total of $13,934.46. The claimant in Matter of Liberty Mutual Insurance Company appealed the Decision and the court remitted the case back to the special term for an entry of a new judgment against the claimant as the court held that any judgment to be entered against the claimant should not include interest or costs since the error which necessitated the litigation was the insurance company’s and it would be unfair to charge the claimant for same.

The case of Matter of Liberty Mutual Insurance Company confirms the fact that workers’ compensation payments awarded to a claimant under a mistake of fact are reimbursable and recoverable in an action in equity. The court in Matter of Liberty Mutual Insurance Company goes on to state that “the essential inquiry in any action for restitution is whether it is against equity and good conscience to permit the defendant to retain what is sought to be recovered”. (citing Paramount Film Distr. Corp. vs. State of New York, 30 NY 2d 415, Restatement, Restitution Section 1; 50 NY Jur. Restitution, Section 1, 3). The court in Matter of Liberty Mutual Insurance Company goes on to state that “among the broad considerations of equity and justice considered by the courts in suits of this nature is whether the defendant will suffer a detrimental, material and irrevocable change of position if restitution is ordered.” (Matter of Liberty Mutual Insurance Company citing 44 NY Jur., payment, Section 106; ANN., Restitution – – Payment under mistake, 40 Alr 2d 997).

The claimant does not have “clean hands” in this case. Under information and belief, the claimant received double indemnity benefits in the amount of $96.58 from both the Aggregate Trust Fund and Zurich Insurance Company from 9/2/04 through 11/16/05. Under information and belief, neither claimant’s widow, Geneva Rice, the beneficiary of
such awards, nor claimant's attorney, informed Zurich Insurance Company that the claimant was receiving duplicative benefits.

As the Board sits as a court of law and a court of equity, the carrier, Zurich Insurance Company, should be entitled to reimbursement from claimant's widow, Geneva Rice. If there is no reimbursement ordered in this case, claimant's widow, Geneva Rice, will have received duplicate awards and will have been unjustly enriched.

CONCLUSION

Based on the foregoing, it is respectfully requested that findings be made consistent with those requested herein.

Respectfully submitted,

LEITER & BRUNE, LLP

Dean C. LaClair

DCL/cg

cc: Geneva Rice
Oot & Associates
Aggregate Trust Fund
August 15, 2006

BY FAXSIMILE 1-315-423-1262

New York State Workers Compensation Board
935 James Street
Syracuse, NY 13203

Attn.: Laurie Clark

Re:  Robert Rice

WCB# 6010 8425

Dear Ms. Clark:

It was a pleasure speaking to you. As discussed, we need copies of the above-referenced Workers' Compensation Board cases as soon as possible. Transmitted herewith are copies of the previously provided retainers signed by the Employer.

As we have been attempting to get these files since April of this year, anything you can do expedite this matter would be greatly appreciated.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

[Signature]

Bernice E. Margolis

Encls.

1236651.1

SCAN

RECEIVED

AUG 17 2006

WORKERS' COMPENSATION BOARD
SYRACUSE, NEW YORK
NOTICE THAT PAYMENT OF COMPENSATION HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE: [ ] WORKER'S COMPENSATION [ ] VOLUNTEER FIREfighter [ ] VOLUNTEER AMBULANCE WORKER

ANSWER ALL QUESTIONS FULLY - TYPEWRITER OR COMPUTER PREPARATION IS REQUIRED

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6010 86425</td>
<td>2640097017</td>
<td>M229001</td>
<td>05/17/01</td>
<td>121147716</td>
</tr>
</tbody>
</table>

6. Claimant/Name of Deceased: Geneva Rice

7. Employer: Gouverneur Talc Co

8. Carrier: Zurich American Insurance Company

12. Date First Payment Made: 12/06/00

13. Date Last Payment Made: 01/16/01

15. SUMMARY OF BENEFIT PAYMENTS

<table>
<thead>
<tr>
<th>Indicate Type of Disability</th>
<th>Partial/Pension From</th>
<th>To</th>
<th>Days Worked</th>
<th>Number of Weeks</th>
<th>Weekly Rate</th>
<th>Amount</th>
</tr>
</thead>
</table>

LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award):

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Paid Or For</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/17/01</td>
<td>09/01/01</td>
<td>171.8 0 96.58</td>
</tr>
</tbody>
</table>

DEATH BENEFITS

Lump Sum Death Benefit (WCB and VAWB only):

Funded Expenses:

State Treasurer (Sections 156-29-a or 26-a):

Payment made into Aggregate Trust Fund:

TOTAL AWARD: $ 26588.23

LESS: a. Fees to representee:

b. Reimbursement:

c. Other (Specify): Previously paid on the claim $ 133501.64

TOTAL DEDUCTIONS (a+b+c) $ 133501.64

BALANCE TO CLAIMANT: $ -6913.41

16. Have benefits been paid in full in accordance with an award of the WCB? [ ] Yes [ ] No If "No," check and complete Items a-c, as appropriate:

a. Claimant returned to work. Date of return:

b. There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)

c. Payments stopped or modified for other reason. (Explain below and attach support documentation.)

Carrier has overpayment of $6,913.41, seeks reimbursement.

17. NOTICE OF TERMINATION OF TEMPORARY PAYMENTS OF COMPENSATION (Rev. 21-8 WCL): Employer or carrier is ceasing payment of temporary compensation. See special information box on reverse. Last payment was made on ________________, Reason for termination of payments: ________________

C. Murphy, Specialist

SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE.
State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION
(Death Claim)
keep for your records

At the Workers' Compensation hearing held on 06/06/2006 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wannemaker made the following decision, findings and directions:

AWARD - THE EMPLOYER OR INSURANCE CARRIER ARE DIRECTED TO PAY AT ONCE AS FOLLOWS:

Continuing award.

The period from 6/9/2004 to 6/7/2006 for 104.0 weeks totaling $10,044.32 is awarded as follows:

<table>
<thead>
<tr>
<th>Award to:</th>
<th>Relation</th>
<th>DOB</th>
<th>Pct</th>
<th>Rate / week</th>
<th>Total</th>
<th>Pay to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geneva Rice</td>
<td>Spouse</td>
<td>12/26/1911</td>
<td>66.67%</td>
<td><strong>$96.58</strong></td>
<td>$10,044.32</td>
<td>Geneva Rice</td>
</tr>
</tbody>
</table>

*Rate due to Social Security Offset of $76.15

Any money previously paid for the above period(s) will be deducted from the total amount.

DECISION: The record is now closed. Parties are directed to submit Memorandum of Law by 9/1/06 on issue of overpayment made by Zurich Insurance Company.

Award from 9/1/04 to date has been paid by the Aggregate Trust Fund.

Claimed overpayment is held in abeyance.

. Case is continued.

Claimant - Robert Rice (deceased)
Social Security No. - WCB Case No. - 6010 8425
Date of Accident - 05/17/2001
District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No. - 2640097017
Date of Filing of this Decision - 06/12/2006

ATENCION:
Puede llamar a la oficina de la Junta de Compensacion Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

EC-23 (4/98)
FILE COPY
Please see below for Recipients.

Robert Rice (deceased)
Geneva Rice (widow)
PO Box 164
Richville, NY  13681

Gouverneur Talc
Gouverneur, NY  13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY  11430

Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY  13202-1917

Aggregate Trust Fund
c/o State Insurance Fund
199 Church Street, Main Floor
New York, NY  10007-1173

Wilson, Elser, Moskowitz,
Edelman & Dicker, LLP
3 Gannett Drive
White Plains, NY  10604

Empire Blue Cross and
Blue Shield
Workers' Comp Recovery Unit
PO Box 3597
New York, NY  10008-3597

Vytra Health Plans
395 North Service RD
Melville, NY  11747

Geneva Rice
P. O. Box 164
Richville, NY  13681

EC-23 (4/98)
FILE COPY

OVER
NOTICE OF WORKERS COMPENSATION HEARING

Place of Hearing  Part  Date of Hearing  Time  District Office
Canton, NY  1  06/06/2006  10:00 AM 10 Min  Syracuse

WCB Case No.  Carrier ID No.  Carrier Case No.  Date of Accident  WCB Home Page
60106425  W228001  2640097017  05/17/2001  www.wcb.state.ny.us

Robert Rice (deceased)  POIs not sent a notice
Geneva Rice (widow)  PE Gouverneur Talc
PO Box 164
Richville, NY  13681

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY  11430

*A1  Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY  13202-1917

*C0  Aggregate Trust Fund
C/o State Insurance Fund
199 Church Street, Main Floor
New York, NY  10007-1173

*B1  Empire Blue Cross and
Blue Shield
Workers' Comp Recovery Unit
PO Box 3597
New York, NY  10008-3597

*H1  Vytra Health Plans
C/o HCSG
PO Box 3204
Westport, CT  06880

BE  Geneva Rice
P. O. Box 164
Richville, NY  13681

PURPOSE OF HEARING:

Question of overpayment made by Zurich Insurance and remedy

IMPORTANT INFORMATION FOR THE CLAIMANT:

In a compensable workers' compensation case, bills for related medical treatment are the responsibility of your own employer or its workers' compensation insurance carrier. If you have used a private health insurance policy (Blue Cross, Blue Shield, G.H.I., H.I.P., or other) for payment of any bills in your workers' compensation case, please advise the private health insurer immediately.

In order to be reimbursed for any payments or co-payments you may have made for treatment or services which are the responsibility of the workers' compensation insurance carrier, you must tell the judge at this hearing about this payment.

Dated: 06/12/2006
WCB #: 60108425  CLAIMANT NAME: Rice (deceased), Robert  DOA: 05/17/2001
Date and Place of Hearing: CAN 1 06/06/2006 10:00 AM
W.C. Law Judge: Wamaker, Giles
Hearing Reporter: Currier, Nila

ATTENDEES

CLAIMANT  CLAIMANT ATTORNEY
LEAH OOT

CARRIER REP
DEAN LACLAIR
JOHN SNYDER

FOR WHOM
Zurich American Insurance Co.
Aggregate Trust Fund

ELSE:
MOL
due 9/1/06

FINDINGS:
Award reflect SS offset paid by ATF
Claimed overpy HIA
MOLs on overpy issue

NON-SCHEDULED AWARDS:
CODE FROM TO WEEKS RATE ABBREVIATION
T 06/09/04 06/07/06 104.00000 96.58

OUTCOME: RESERVED DECISION
TO CHAIR

State of New York

WORKERS' COMPENSATION BOARD

NOTICE OF RETAINER AND APPEARANCE
ON BEHALF OF EMPLOYER

Robert Rice
Claimant

vs.

Guerehne Tak

*Employer

Date of Accident: 5/17/01

WCB Case No. 6010 8425

Discrimination Case No.

Disability Case No.

No-Insurance Case

Double Indemnity Case

Please take notice that the employer named above hereby appears in the above matter, and that the undersigned attorney has been retained to represent said employer in regards to the above matter. All notices, decisions and other documents in the above case are to be sent to the undersigned attorney at the address indicated below.

Date 4/19/06

Benitez, Margolis

Signature of Attorney

Printed Name of Attorney

Wills, Ellen, Mackworth, Federman & Dickinson LLP

Office Address

3 Gannett Drive

White Plains, New York 10604

Office Telephone Number

914 322 7000

Please take notice that I have retained the above named attorney to represent and appear by and on behalf of the employer in all proceedings in regards to the above matter.

Date April 18, 2006

Signature of Person Authorized to Sign on Behalf of Employer

Paul Vanderbilt

Printed Name of Person Authorized to Sign on Behalf of Employer

Vice President/Secretary

Title of Person Authorized to Sign on Behalf of Employer

This form is for use by employers and their attorneys ONLY. An attorney retained by an employer's insurance carrier is not permitted to use this form. Both the attorney and the employer must sign this form.

* In a No-Insurance Case the "Alleged Employer."

OC-408 (12-03)
Carrier/Employer:
In your Request for Further Action form of 12/05/2005 you indicated that you have overpaid the claimant and are requesting a hearing to resolve the overpayment issue.

In response to your request the Board is scheduling the case for a hearing; you will receive a notice of hearing giving a date, time, and location in the near future.

Workers' Compensation Board
Lynnette Peters
(866)802-3730

---

**Case Information**

<table>
<thead>
<tr>
<th>Claimant:</th>
<th>Robert Rice (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>WCB Case No.:</td>
<td>60108425</td>
</tr>
<tr>
<td>Date of Accident:</td>
<td>05/17/2001</td>
</tr>
<tr>
<td>Employer:</td>
<td>Gouverneur Talc</td>
</tr>
<tr>
<td>Social Security No.:</td>
<td></td>
</tr>
<tr>
<td>Carrier ID No.:</td>
<td>W228001</td>
</tr>
<tr>
<td>Carrier Case No.:</td>
<td>2640097017</td>
</tr>
<tr>
<td>Insurance Carrier:</td>
<td>Zurich American Insurance Co.</td>
</tr>
</tbody>
</table>
Carriër/Employer:
In your Request for Further Action form of 12/05/2005 you indicated that you have overpaid the claimant and are requesting a hearing to resolve the overpayment issue.

In response to your request the Board is scheduling the case for a hearing; you will receive a notice of hearing giving a date, time, and location in the near future.

Workers’ Compensation Board
Lynnette Peters
(866)802-3730

Claimant: Robert Rice (deceased)
WCB Case No.: 60106425
Date of Accident: 05/17/2001
Employer: Gouverneur Talc

Social Security No.:
Carrier ID No.: W228001
Carrier Case No.: 2640097017
Insurance Carrier: Zurich American Insurance Co.
PARTIES OF INTEREST

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

Oct & Associates
Thaddeus B. Oak
503 E Washington St
Syracuse, NY 13202-1917

Aggregate Trust Fund
c/o State Insurance Fund
199 Church Street, Main Floor
New York, NY 10007-1173

Geneva Rice
68 W Main St
Apt 3B1
Gouverneur, NY 13642-1348
State of New York
WORKERS' COMPENSATION BOARD
CARRIER'S/EMPLOYER'S REQUEST FOR FURTHER ACTION

INSTRUCTIONS: To request Board action on a case, submit this form to the local WCID district office. See mailing addresses on the reverse side. ATTACH ALL APPLICABLE EVIDENCE FOR CONSIDERATION BY THE BOARD. A copy of this form must also be sent to the claimant, and his/her representative, if any. If Item 11a is checked, a copy must also be filed with claimant's attending health care provider. This form is NOT to be used to APPEAL a decision.

<table>
<thead>
<tr>
<th>1. WORK CASE NO.</th>
<th>2. CARRIER/CASE NO.</th>
<th>3. DATE OF INJURY</th>
<th>4. SOCIAL SECURITY NO.</th>
<th>5. DISTRICT OFFICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>601084252640097017</td>
<td>W2B0011208200112414</td>
<td>66 West Main Street Gouverneur NY 13642-3348</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7. CLAIMANT: Robert Rice
8. EMPLOYER: Gouverneur Tele Co
9. CARRIER: Zurich American Insurance Company

<table>
<thead>
<tr>
<th>10. ATTORNEY OR LICENSED REP.</th>
</tr>
</thead>
<tbody>
<tr>
<td>R</td>
</tr>
</tbody>
</table>

REASON FOR THIS REQUEST

(Check all that apply - use Item 11 for explanation or additional information)

11. CARRIER/EMPLOYER

☐ a. contends that continuing payments should be:
   ☐ Suspended ☐ Reduced to $_____ per week
   ☐ evidence of change in medical condition pursuant to Rule 300.22(b).
   ☐ payroll evidence warranting a rate modification under Rule 300.25(c).

☐ b. In response to a request to reopen, contends under Rule 300.22(a) that:
   ☐ payments have resumed from $_____ to $_____ at a weekly rate of $_____.
   ☐ payments have resumed as indicated above without prejudice and without admitting liability (WCL 21-a).
   ☐ the right to compensation is not disputed, but:
     ☐ no payments are due. Necessary medical treatment is authorized.
     ☐ payments have not begun (explain below).

☐ c. has evidence of voluntary removal from the labor market.

☐ d. requests referral to conciliation (WCL 25(2-b) and Rule 313) on the issue of

☐ e. requests resolution by administrative determination (Rule 313)

☐ f. has evidence relating to disqualification under WCL 114-a.

☐ g. requests relief under WCL 15(8), 25(6) or 14(6) which was
denied by Special Funds.

☐ h. has new or requested evidence.

☐ i. has payroll evidence relating to regarded earnings.

☐ j. has evidence of the settlement of a third party action.

☐ k. requests a resolution regarding schedule loss of use
   ☐ l. other (please specify in the space provided below.)

Payments taken over by Aggregate Trust Fund 9/1/04 per NOD dated 08/10/04. Indemnity payments from Zurich continued through 11/16/05.

ATTACH ALL APPLICABLE EVIDENCE FOR CONSIDERATION BY THE BOARD. IF MEDICAL EVIDENCE WAS PREVIOUSLY SUBMITTED, IDENTIFY IT BY DATE, DOCTOR'S NAME AND FORM IS P.I.A.

12. Have the above issues been resolved by agreement? ☐ Yes ☒ No ☐ If Yes, please attach documentation.

If No, have you attempted to resolve the issue(s) checked above with the other parties? ☐ Yes ☒ No

I hereby certify that a copy of this form with attachment(s) was submitted to the other party(ies) in this case in accordance with the Instructions above.

PREPARED BY (Print Name) ☒ carrier ☒ self-insurer
Terry Beckford

This form is submitted by ☒ carrier ☒ self-insurer

RFA-2 (8-03)

SEE IMPORTANT INFORMATION ON REVERSE - VEA INFORMACION IMPORTANTE AL ATRAS
NOTICE THAT PAYMENT OF COMPENSATION HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE: [X] WORKER'S COMPENSATION [ ] VOLUNTEER FIREFIGHTER [ ] VOLUNTEER AMBULANCE WORKER

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS

1. W.C.B Case Number: 6010-8425
2. Carrier Code: 26560193017
3. Claimant Code: M228001
4. Date of Injury: 12/08/00
5. Social Security Number: 121147716

Name: Geneva Rice
Address to which notices should be sent: 68 West Main Street
Gouverneur NY 13642-1348

Employer: Gouverneur Talo Co
Address: Gouverneur
City: NY
State: 13642

Carrier: Zurich American Insurance Company
Address: P.O. Box 66946
City: Chicago
State: IL
ZIP: 60666-0946

14. Description (Diagnosis) of Injury/Disability: Lumbar strain

15. SUMMARY OF BENEFIT PAYMENTS

<table>
<thead>
<tr>
<th>Period of Payment</th>
<th>From</th>
<th>To</th>
<th>Days Lost</th>
<th>Weekly Wage</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/02/2003 to 11/15/2005</td>
<td>62.6</td>
<td>96.58</td>
<td>6070.70</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16. Have benefits been paid in full in accordance with an award of the WCAB? [ ] Yes [ ] No
   a. [ ] In full
   b. [ ] In part

DEATH BENEFITS

Lump Sum Death Benefit (WFBBL and WAFBBL only)

Pension Expenditures

State Treasurer(s) 15-A, 25-A, 26-A

Payment made into Aggreate Trust Fund - Date:

TOTAL AWARD: $ 6070.70

BALANCE TO CLAIMANT: $ 6070.70

17. NOTICE OF TERMINATION OF TEMPORARY PAYMENTS OF COMPENSATION (Sec. 214 WCL) Employer or carrier is ceasing payment of temporary compensation. See special information box on reverse. Last payment was made on _______________. Reason for termination of payments: ________

Prepared by: Judy Rankford
Official Title: Claims Case Manager
Prepared on behalf of: B&A New York
Date: 12/05/2005

C-9/8.8 (10-03) SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE
State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION
(Death Claim)

Keep for your records

At the Workers' Compensation hearing held on 06/08/2004 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Susan Finkeltzdorf made the following decision, findings and directions:

DECISION: ***Supplemental Decision***

The present value of the award is $39,595.79 as of 9/1/04 under Section 27 of the Workers' Compensation Law for payment into the Aggregate Trust Fund assuming that compensation benefits have been paid to 9/1/04.

The above present value does not include funeral benefits.

This calculation reflects the assumption that the widow will receive survivor's insurance benefits under the Social Security Act until she dies or remarries.

If the widow ceases to receive such benefits at any time in the future, then the carrier and not the Aggregate Trust Fund will be liable for any resulting increase in compensation benefits.


Claimant - Robert Rice (deceased)  
Employer - Gouverneur Tale  
Social Security No. -  
WCB Case No. - 6010 8425  
Date of Accident - 05/17/2001  
District Office - Syracuse  
Carrier - Zurich American Insurance Co.  
Carrier ID No. - W228001  
Carrier Case No. - 2640097017  
Date of Filing of this Decision - 08/10/2004

ATENCION:

Puede llenar a la oficina de la Junta de Compensación Obrera, en su área correspondiente, cuyo número de teléfono aparece al principio de la página y pida información acerca de su reclamación(caso).

EC-23 (4/98)
THE STATE INSURANCE FUND

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS

60108425 ATF 22322-999 W 995005 5/17/2001 000-00-0001
6. Name and Address to which notices should be sent (Give Number and Street, City, State, Zip Code and Apt. No.)
RICE GENEVA PO BOX 164 RICHVILLE NY 13681
7. Employer
6. Name of Deceased RICE ROBERT
8. Carrier
THE STATE INSURANCE FUND Address
ATF, 199 CHURCH ST 4TH FL, NYC, NY 10007

NOTICE THAT THE PAYMENT OF DEATH BENEFITS HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE: [ ] WORKERS' COMPENSATION [ ] VOLUNTEER FIREFIGHTER [ ] VOLUNTEER AMBULANCE WORKER

10. County Where Injury Occurred
15. Description (Diagnosis) of Injury

16. SUMMARY OF DEATH BENEFITS PAID

<table>
<thead>
<tr>
<th>Name</th>
<th>Start Date</th>
<th>End Date</th>
<th>Weeks</th>
<th>Rate</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>SPOUSE GENEVA</td>
<td>9/01/2004</td>
<td>12/06/2004</td>
<td>13.73</td>
<td>172.73</td>
<td>$2,368.85</td>
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<tr>
<td>Name</td>
<td>9/01/2004</td>
<td>12/06/2004</td>
<td>13.73</td>
<td>76.15</td>
<td>$1,044.33</td>
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<tr>
<td>Name</td>
<td></td>
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<tr>
<td>Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lump Sum Death Benefit (W20L and VAW2L only)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Treasurer (Section 15-9, 25-a or 26-a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If payment was made into Aggregate Trust Fund, state date of payment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL AWARD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$1,324.52</td>
</tr>
<tr>
<td>Less: a. Fees to representative</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>b. Reimbursement</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>c. Other (specify)</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>TOTAL DEDUCTIONS</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>BALANCE TO CLAIMANT</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

17. Have death benefits been paid in full in accordance with an award of the WCB?
[ ] Yes [ ] No

a. If not paid in full, give reasons in space below why payments have been stopped or modified.

11/22/2004 For record purposes per award.
11/22/2004 For record purposes. Carrier to continue payments.

Dated 12/09/2004
Prepared By
(212) 312-9805

SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE.
THE STATE INSURANCE FUND

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS
69108425 ATF 223222-999 W 995005 5/17/2001 000-00-0001

Name and Address to which notices should be sent (Give Number and Street, City, State, Zip Code and Apt. No.)

6. Beneficiary
RICE GENEVA
PO BOX 164
RICHVILLE NY 13681

7. Employer
GOVERNMENT
GOVERNMENT, NY 13681

8. Name of Deceased
RICE ROBERT

THE STATE INSURANCE FUND
Address
ATF, 199 CHURCH ST 4TH FL, NYC, NY 10007

NOTICE THAT THE PAYMENT OF DEATH BENEFITS HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE: 1. WORKERS' COMPENSATION 2. VOLUNTEER FIREFIGHTER 3. VOLUNTEER AMBULANCE WORKER


15. Description (Diagnosis) of Injury

16. SUMMARY OF DEATH BENEFITS PAID

<table>
<thead>
<tr>
<th>Paid To Or For</th>
<th>Start Date</th>
<th>End Date</th>
<th>Weeks</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name BRUCE GENEVA</td>
<td>9/01/2004</td>
<td>11/22/2004</td>
<td>11.71</td>
<td>172.73</td>
<td>$2023.39</td>
</tr>
<tr>
<td>Name ARO</td>
<td>9/01/2004</td>
<td>11/22/2004</td>
<td>11.71</td>
<td>76.15</td>
<td>$892.03</td>
</tr>
<tr>
<td>Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name</td>
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<td>Name</td>
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<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Lump Sum Death Benefit (WCB and VAWB only)
Funeral Expenses
State Treasurer (Section 15-9, 25-a or 26-a)

(If payment was made into Aggregate Trust Fund, state date of payment)

TOTAL AWARD $1131.36

Less:
 a. Fees to representative $ |
 b. Reimbursement $ |
 c. Other (specify) $ |

TOTAL DEDUCTIONS $1131.36

BALANCE TO CLAIMANT $0

17. Have death benefits been paid in full in accordance with an award of the WCDB?

Yes [ ] No [x]

11/22/2004 For record purposes per award.
11/22/2004 For record purposes. Carrier to continue payments.

Dated 11/30/2004

Prepared By [Signature]

Official Title [Designation]

Prescribed by Chair
Workers' Compensation Board
State of New York

SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE.
Date: 11/29/04

To: Zurich American Insurance
Address: PO Box ZZ
Jamaica, NY 11430

Employer: Dav-ed Operating Corp.

Ins. Carrier#:2640097017

Claimant: Robert Rice
A.T.F. No. Unassigned
W.C.B. No.: 60108425

Date of Accident: 5/17/01

Dear Sir/Madam:

☒ We acknowledge receipt of a check in the amount $9,995.79 payable to the Aggregate Trust Fund in the above-captioned case. This check has been deposited in the account of the Aggregate Trust Fund, and payments to the claimant will be made in accordance with the award dated 8/10/04.

☐ Interest is due the Aggregate Trust Fund on your latest deposit, in the amount of . Kindly note the attached C-97 dated .

☒ Kindly forward a copy of your C-8.6 indicating all payments made in the above-captioned case.

Very truly yours,

Case Manager, Aggregate Trust Fund

cc: Workers' Compensation Board

C-601 (4/90)
NOTICE THAT PAYMENT OF COMPENSATION HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE: [ ] WORKERS' COMPENSATION [ ] VOLUNTEER FIREFIGHTER [ ] VOLUNTEER AMBULANCE WORKER

ANSWER ALL QUESTIONS FULLY - TYPEWRITER OR COMPUTER PREPARATION IS REQUIRED

<table>
<thead>
<tr>
<th>ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS</th>
<th>1. WCB Case Number</th>
<th>2. Carrier Case Number</th>
<th>3. Carrier Code</th>
<th>4. Date of Injury</th>
<th>5. Social Security Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6018</td>
<td>2640097027</td>
<td>W228001</td>
<td>12/08/00</td>
<td>121147716</td>
</tr>
</tbody>
</table>

6. Claimant/Name of Deceased: Robert Rice
Employer: Gouverneur Talc Co
Address: 68 West Main Street, Gouverneur, NY 13642

7. Employer: Gouverneur Talc Co
Address: 68 West Main Street, Gouverneur, NY 13642

8. Carrier: Zurich American Insurance Company
Address: P.O. Box 66946, Chicago, IL 60666-0946

9. County Where Injury Occurred: [ ]
Date Disability Began or Date of Death: [ ]
Average Weekly Wage: [ ]
Date First Payment Mailed: [ ]
Date First Payment Received: [ ]

14. Description (Diagnosis) of Injury or Condition:

15. SUMMARY OF BENEFIT PAYMENTS

<table>
<thead>
<tr>
<th>Indicate Type of Disability</th>
<th>Period(s) of Payment</th>
<th>Loss Days Worked</th>
<th>Number of Weeks</th>
<th>Weekly Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL/PERMANENT</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>PERMANENT/TEMPORARY</td>
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<td></td>
</tr>
</tbody>
</table>

16. DISFIGUREMENT

17. LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Paid To Or For</th>
<th>Weekly Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/17/01</td>
<td>9/23/04</td>
<td>Geneva Rice</td>
<td>28,026.21</td>
<td></td>
</tr>
<tr>
<td>Per NOD</td>
<td>08/10/04</td>
<td>NY State Insurance</td>
<td>28,026.21</td>
<td></td>
</tr>
</tbody>
</table>

18. DEATH BENEFITS

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Paid To Or For</th>
<th>Weekly Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>28,026.21</td>
<td></td>
</tr>
</tbody>
</table>

19. Lump Sum Death Benefit (VFBL and VAWBL only):

Funeral Expenses:

State Treasurer (Sections 15-a, 25-a or 26-a):

Payment made into Aggregate Trust Fund - Date: 9/15/07

20. TOTAL AWARD: 399,679

21. PENALTY PAYMENT TO CLAIMANT:

<table>
<thead>
<tr>
<th>LESS:</th>
<th>Fees to representative:</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Reimbursement to:</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>Other (specify):</td>
<td>$</td>
</tr>
</tbody>
</table>

TOTAL DEDUCTIONS (abc): $ 0.00

BALANCE TO CLAIMANT: $ 399,679

18. Have benefits been paid in full in accordance with an award of the WCB? [ ] Yes [ ] No

If "No," check and complete items e-c, as appropriate:

a. Claimant returned to work. Date of return: [ ]

b. The amount is paid in accordance with the weekly wage at pre-injury wages [ ]

c. Payments stopped or modified for other reason. (Explain below and attach supporting documentation.) [ ]

17. [ ] NOTICE OF TERMINATION OF TEMPORARY PAYMENTS OF COMPENSATION (Sec. 21-a WCL) Employer or carrier is ceasing payment of temporary compensation. See special information box on reverse. Last payment was made on [ ]

Reason for termination of payments:

Prepared by: Dawn Robeck

Official Title: CLAIMS CASE MANAGER

Dated: 10/18/2004

SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE.
DATE OF MAILING | CLAIMANT'S S.S. NO.  
---|---
10/15/2004 |  
WCB CASE NO. | DATE OF ACCIDENT  
60408517 | 12/08/2000  
CARRIER CASE NO. | CARRIER I.D. NO.  
2640097017 | W228001

CLAIMANT'S NAME | EMPLOYER'S NAME | CARRIER'S NAME  
---|---|---

NOTICE OF CANCELLATION OF CASE NUMBER

The case identified above was a duplicate file and has been cancelled. All records pertaining to this case have been combined with WCB case number 60108425 Use only this number in all future communications regarding this case.

Please note your records accordingly.

By J. DeVaul  
Unit 3

Telephone No. (866)802-3730

BC942 (6/21/95)
PARTIES OF INTEREST

Geneva Rice
PO Box 164
Richville, NY 13881

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430
REQUEST TO CARRIER/SELF-INSURER REQUESTING FORM C-8/8.6

TO THE CARRIER:

An award was made on a decision duly filed on August 10, 2004. We have not yet received a final report from you showing that the award has been paid (Form C-8/8.6).

If all payments have been made, please send us the appropriate report showing total payments. If your records indicate that such report has already been filed, please send the Board a duplicate copy immediately.

If we do not receive Form C-8/8.6, indicating that the award has been paid, you will be subject to a penalty of $50 under Section 25.3 (e), for failure to file a notice or report requested or required by the Board.

Please note that WCL Section 25.1(c) requires the filing of Form C-8/8.6 within 16 days after payments of compensation cease. If Form C-8/8.6 is not timely filed with the Board, the Board may impose a penalty of $300.00 payable to the claimant.

If the award was not timely paid, you will also be subject to a penalty under Section 25.3(f) for late payment of the award. If you have filed a request for review of the above decision, please send a duplicate copy of the request to the Board at the above address.

Your prompt attention will be appreciated.

By Matthew Cook,
Examiner

Telephone (665) 802-3730

Case Information

Claimant: Robert Rice (deceased)
WCB Case No.: 60108425
Date of Accident: 05/17/2001
Employer: Gouverneur Talc

Social Security No.: W228001
Carrier ID No.: 2540097017
Insurance Carrier: Zurich American Insurance Co.
PARTIES OF INTEREST

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
935 James Street
Syracuse, NY 13203
(866) 802-3730

DATE FORM EC-84 SENT: 08/17/04
STATUS: Newly Indexed
INJURY - Lungs

<table>
<thead>
<tr>
<th>WCB CASE NO.</th>
<th>CARRIER ID NO.</th>
<th>CARRIER CASE NO.</th>
<th>DATE OF ACCIDENT</th>
<th>SOCIAL SECURITY NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>60408517</td>
<td>W228001</td>
<td>2540097017</td>
<td>12/08/00</td>
<td>121-14-7716</td>
</tr>
</tbody>
</table>

Zurich American Insurance Co.
PO Box 2Z
Jamaica, NY 11430

A file has been prepared, numbered as above, in which you are indicated as the carrier. If this case is not properly charged to you, please return this form immediately, stating in space provided below the reason you are not on the risk.

☐ Improperly Charged (Explain)__________________________

(If you receive more than one notice of indexing in connection with the same injury, please notify us of the duplication, specifying both WCB Case Numbers.)

If properly charged, kindly send this office the forms listed below which are required to complete the file.

C-2; C-668; Medical Report;

Your attention is directed to Section 25 of the Workers' Compensation Law, as amended, which provides that a penalty of $150 may be imposed for failure either to file the prescribed notice of controversy or to begin payment of compensation within the required period. Section 25 (W.C.L.) is applicable to volunteer firefighters and volunteer ambulance workers' benefit cases pursuant to Section 49 (V.F.B.L. and V.A.W.B.L.).

If no forms are listed, none is now requested and this letter will serve as notice of the Workers' Compensation Board case number. To facilitate claims examining kindly refer to this number on all reports and in correspondence.

If forms requested have already been filed, additional filing is not required.

In cases where wages are paid by the employer as an advance payment of compensation, and where reimbursement is or will be sought, you are hereby directed to file with the Board before award of compensation is made, proof of claim of reimbursement consisting of receipts of advance payments of compensation signed by the claimant and written request for reimbursement signed by the employer showing the amount of advance payments made, the period of disability for which payments were made, the dates of such payments and the amount requested as reimbursement.

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION

EC-84 (5-96) 20
<table>
<thead>
<tr>
<th>Parties of Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gouverneur Talc Co.</strong></td>
</tr>
<tr>
<td>P.O. Box 89</td>
</tr>
<tr>
<td>Gouverneur, NY 13642</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td><strong>Geneva Rice</strong></td>
</tr>
<tr>
<td>68 West Main Street</td>
</tr>
<tr>
<td>Gouverneur, NY 13642</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
935 IAMES STREET
SYRACUSE, NY 13203
www.wcb.state.ny.us
(866) 802-3730

State of New York - Workers' Compensation Board

In regard to Robert Rice (deceased), WCB Case #6010 8425

NOTICE OF DECISION
(Death Claim)

keep for your records

At the Workers' Compensation hearing held on 06/08/2004 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Susan Finkelstein made the following decision, findings and directions:

DECISION: ***Supplemental Decision***

The present value of the award is $9,995.79 as of 9/1/04 under Section 27 of the Workers' Compensation Law for payment into the Aggregate Trust Fund assuming that compensation benefits have been paid to 9/1/04.

The above present value does not include funeral benefits.

This calculation reflects the assumption that the widow will receive survivor's insurance benefits under the Social Security Act until she dies or remarries.

If the widow ceases to receive such benefits at any time in the future, then the carrier and not the Aggregate Trust Fund will be liable for any resulting increase in compensation benefits.

Zurich American Insurance Company is liable for payments to 9/1/04, and Aggregate Trust Fund is liable for payments after 9/1/04. No further action is planned by the Board at this time.

Claimant - Robert Rice (deceased)
Social Security No. - 6010 8425
WCB Case No. - 05/17/2001
Date of Accident - District Office - Syracuse

Employer - Gouverneur Talc
Carrier - Zurich American Insurance Co.
Carrier ID No. - W228001
Carrier Case No. - 2640097017
Date of Filing of this Decision- 08/10/2004

ATENCION:
Puede llamar a la oficina de la Junta de Compensacion Obras, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

EC-23 (4/98)
FILE COPY
Robert Rice (deceased)
Geneva Rice (widow)
PO Box 164
Richville, NY 13681

Gouverneur Talc
Gouverneur, NY 13642

Zurich American Insurance Co.
PO Box ZZ
Jamaica, NY 11430

Oot & Associates
Thaddeus B. Oot
503 E Washington St
Syracuse, NY 13202-1917

Special Funds Sec 15-8
5789 Widewaters Plw.
Syracuse, NY 13214-1855

Aggregate Trust Fund
% The State Insurance Fund
199 Church Street
Main Floor
New York, NY 10007-1173

Continental Casualty Company
c/o CNA
PO Box 4855
Syracuse, NY 13221-9944

Empire Blue Cross and
Blue Shield
Workers' Comp Recovery Unit
PO Box 3597
New York, NY 10008-3597

Vytra Health Plans
c/o HCSG
728 Post Road East, Suite 203
Westport, CT 06880

Copies To:
Robert Rice (deceased)
Zurich American Insurance Co.
Gouverneur Talc
Oot & Associates
Special Funds Sec 15-8
Aggregate Trust Fund
Continental Casualty Company
Empire Blue Cross and
Vytra Health Plans
Geneva Rice

Geneva Rice
68 W Main St
Apt 3B1
Gouverneur, NY 13642-1348

EC-23 (498)
FILE COPY

OVER
NOTICE THAT PAYMENT OF COMPENSATION HAS BEEN STOPPED OR MODIFIED

CHECK TYPE OF CASE:  
- WORKERS' COMPENSATION  
- VOLUNTEER FIREFIGHTER  
- VOLUNTEER AMBULANCE WORKER

ANSWER ALL QUESTIONS FULLY - TYPEWRITER OR COMPUTER PREPARATION IS REQUIRED.

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS

1. WC Case Number 2. Carrier Case Number 3. Carrier Code 4. Date of Injury 5. Social Security Number

| 2640097017 | 12/08/00 | 121147716 |

Name

Address to which notices should be sent

6. Claimant/Name of Deceased Geneva Rice

68 West Main Street

Gouverneur, NY 13642-1348

7. Employer

Gouverneur Talc Co

Gouverneur, NY 13642

8. Carrier

Burlington American Insurance Company

P.O. Box 66945

Chicago, IL 60696-0945

* In VFL and VAVB benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 39 VAVB) is deemed to be this "EMPLOYER".

B. County Where Injury Occurred

10. Data Disability Began or Date of Death

11. Average Weekly Wage

12. Date First Payment Mailed

13. Date Most Recent Payment Mailed

14. Description (Diagnosis) of Injury lung condition

15. SUMMARY OF BENEFIT PAYMENTS

<table>
<thead>
<tr>
<th>Indicate Type of Disability</th>
<th>Period(s) of Payment</th>
<th>Total Days Worked</th>
<th>Number of Weeks</th>
<th>Weekly Rate</th>
<th>Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL/PARTIAL</td>
<td>PERM/TEMP.</td>
<td>From</td>
<td>To</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

DISFIGUREMENT

LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Amount of interest due</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/02/2002</td>
<td>12/20/2002</td>
<td>0.00</td>
</tr>
</tbody>
</table>

DEATH BENEFITS

Lump Sum Death Benefit (VFBL and VAVB only)

Funeral Expenses

State Treasurer (Sections 15-9, 25-a or 29-a)

Payment made into Aggregate Trust Fund - Date:

TOTAL AWARD $216,23

LESS: a. Fees to representative:

b. Reimbursement to:

c. Other (specify):

TOTAL DEDUCTIONS (a+b+c) $216,23

BALANCE TO CLAIMANT $0.00

16. Have benefits been paid in full in accordance with an award of the WCBA?  
- Yes  
- No  

If "No," check and complete Items a-c, as appropriate:

a. Claimant returned to work. Date of return:

b. There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)

c. Payments stopped or modified for other reason. (Explain below and/or attach explanation/documentation.)

17. ☐ NOTICE OF TERMINATION OF TEMPORARY PAYMENTS OF COMPENSATION (Sec. 21-a WCL) Employer or carrier is ceasing payment of temporary compensation. See special information box on reverse. Last payment was made on. Reason for termination of payment:

Prepared by Gary Reegan

Official Title: CLAIM CASE MANAGER

Telephone No. & Extension 647 505-6057

Date 08/03/2004

SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE.
New York State Insurance Fund
Workers Compensation & Disability Benefits Specialists Since 1914
199 Church Street, New York, N.Y. 10007
Aggregate Trust Fund, Unit 959, 4th Floor

July 21, 2004

Workers' Compensation Board
935 James Street
Syracuse, NY 13203

RE: Robert Rice
ATF#: Unassigned
WCB#: 6010 8425
D/A 5/17/01

Dear Sir/Madam,

① Please forward Actuarial Computation form C-40 pertaining to form EC-23, date.

② We have on record your “Request for Actuarial Computation,” form C-40 dated 7/2/04 and our Actuarial Department on 7/21/04. If this case has been commuted into the Aggregate Trust Fund, please send us a copy of the Award Notice, form EC23.

③ If this case has not been commuted into the Aggregate Trust Fund, please advise us of the reason.

④ Please forward Actuarial Computation Form C-40 pertaining to interest due based upon carrier’s late deposit.

⑤ We are in receipt of Form C-40 and are still awaiting EC-97 directing interest.

⑥ Please verify the Aggregate Trust Fund is noted as a Party of Interest on E Case to order that we may review the file when necessary.

*Case Manager
Aggregate Trust Fund
212-312-9805

C-769 (4/90)
State of New York
WORKERS' COMPENSATION BOARD
REQUEST FOR ACTUARIAL COMPUTATION

Under Sec. 27 of the Workers' Compensation Law (N.Y.S. Workers' Compensation Law) 42 N.Y.S.2d 326, 327

Worker: 
Name: Rice, Robert
Date of Accident: 5/17/2001
Date of Death: 10/24/2001
Employer: Zurich American Insurance Co.

Amount of Compensation/Total Benefits Paid = $193.16 (6/9/04 to 8/4/04) = $772.64

9,464.84 per 98 weeks, from 7/24/2002 to 5/9/2004

A. FATAL CASES
1. Weekly wages: $259.10
2. Schedule of dependents:
   
<table>
<thead>
<tr>
<th>RELATIONSHIP</th>
<th>DATE OF BIRTH</th>
<th>ATTACH. AGE*</th>
<th>WEEKLY COMP.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse (Geneva)</td>
<td>12/26/1911</td>
<td>89</td>
<td>$96.58</td>
</tr>
<tr>
<td>1/6 x 660/12 = 52</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Attached age means nearest age at date of lump sum award.

B. NON-FATAL CASES
1. Does claimant have spouse or children under 18? __________
   Claimant's attached age at date of lump sum award __________
2. Date of birth: __________
   Award $ __________ weekly for __________ weeks.
3. Nature of disability: __________
4. Amount of lump sum award: __________
   Lump sum award dated __________
   For: __________ (check one)
   ( ) for all future payments ( ) payments suspended
   ( ) future compensation rate reduced ( ) deducted from end of award
   ( ) other (specify)

C. INTEREST ON APPEALED CASES
1. Appeal taken from award date __________
2. Date of payment __________
3. Date Board affirmed WC Law Judge's decision __________
4. Date Board adopted court decision __________
5. Date appeal withdrawn __________
6. Remarks __________

D. TERMS OF LUMP SUM AWARD

ACTUARY'S REPLY

July 21, 2004

The present value of the above award is $9,995.79 as of 9/1/2004 under Section 27 of the Workers' Compensation Law for payment into the Aggregate Trust Fund assuming that compensation benefits have been paid to 9/1/2004.

The above present value does not include funeral benefits.

This calculation reflects the assumption that the widow will receive survivor's insurance benefits under the Social Security Act until she dies or remarries.

If the widow ceases to receive such benefits at any time in the future, then the carrier and not the Aggregate Trust Fund will be liable for any resulting increase in compensation benefits.

Philomena Simms
Senior Actuary

PS/ji
E. THIRD PARTY CASES

1. Gross recovery

2. Amount reimbursed to carrier for:
   a. Benefits paid (from ______ to ______)
   b. Medical expenses
   c. Funeral expenses
   d. Total reimbursed to carrier

3. Attorney fees

4. Other expenses (specify)

5. Total (items 2d + 3 + 4)

6. Total net recovery (item 1 minus 5)

7. Dependent's share of net recovery in death cases.
   (List each dependent and amount received)
   
<table>
<thead>
<tr>
<th>Dependent</th>
<th>Share of Net Recovery</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

Total $ (must equal item 6 above)
ACTUARY'S REPLY

July 21, 2004

The present value of the above award is $9,995.79 as of 9/1/2004 under Section 27 of the Workers' Compensation Law for payment into the Aggregate Trust Fund assuming that compensation benefits have been paid to 9/1/2004.

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If the widow ceases to receive such benefits at any time in the future, then the carrier and not the Aggregate Trust Fund will be liable for any resulting increase in compensation benefits.

[Signature]
Senior Actuary

PS/1

MTC JUL 22 2004
Please see enclosed C-40. Please calculate deposit into Aggregate Trust Fund, if any.

By: Matthew Cook
Telephone: (651) 382-3730

Your "W.C.B. Case No." is important. In the future, please refer to the "W.C.B. Case No." below so that we could expedite the processing of the correspondence you send us.

Su número de caso "W.C.B. Case No." es importante. En el futuro, indíque el número de su caso "W.C.B. Case No." que aparece abajo para poder procesar la correspondencia que usted nos mande más rápidamente.

**Case Information**

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Social Security No.:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Rice (deceased)</td>
<td>W228001</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WCB Case No.:</th>
<th>Carrier ID No.:</th>
</tr>
</thead>
<tbody>
<tr>
<td>60108425</td>
<td>W228001</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Accident:</th>
<th>Carrier Case No.:</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/17/2001</td>
<td>2640097017</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employer</th>
<th>Insurance Carrier:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gouverneur Talc</td>
<td>Zurich American Insurance Co.</td>
</tr>
</tbody>
</table>
## PARTIES OF INTEREST

<table>
<thead>
<tr>
<th>Aggregate Trust Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>% The State Insurance Fund</td>
</tr>
<tr>
<td>199 Church Street</td>
</tr>
<tr>
<td>Main Floor</td>
</tr>
<tr>
<td>New York, NY 10007-1173</td>
</tr>
</tbody>
</table>
## NOTICE OF INTEREST DUE

YOU ARE HEREBY NOTIFIED that in accordance with the provisions of the Workers' Compensation Law, 'Zurich American Insurance Co.' IS DIRECTED TO PAY AT ONCE the amounts of interest due, as follows:

<table>
<thead>
<tr>
<th>Pay To</th>
<th>As Interest On Specific Award or Other Payment On Which Interest is Due</th>
<th>Date of Award</th>
<th>Interest Computed To</th>
<th>Amounts of Interest Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geneva Rice</td>
<td>5/17/01 - 7/24/02 and continuing</td>
<td>08/02/2002</td>
<td>12/20/2002</td>
<td>$196.91</td>
</tr>
</tbody>
</table>

Notice of payment of interest charges (on Form C-8/8.6) shall be filed immediately with the Workers' Compensation Board at the above address.

By Matthew T. Cook
Unit 1
Telephone No. (866) 802-3730
NAME: RICE, ROBERT
M.R.I.: 0360399

DOB: 05/28/1431
AGE: 86
SEX: Male
RACE: Caucasian
S.S.#: 121-14-7716

DATE/TIME OF DEATH: 03/17/01 10:05 PM
DATE/TIME OF AUTOPSY: 05/17/01 4:00 PM

PROSIONOR: Shahandez Haghir, MD
ATTENDING PHYSICIAN: Frank Rhode, MD

FINAL ANATOMICAL DIAGNOSIS

- Asbestosis
- Malignant mesothelioma, peritoneal
- Pneumoniosis (mixed dust deposition)
- Atherosclerotic and ischemic heart disease S/P bypass graft

Autopsy report completed: 5/30/01 (SHivlj)

Shahandez Haghir, MD
Pathologist

PQ Exhibit A
GROSS DESCRIPTION:
The autopsy is performed 9 hours after death. Permission is by the wife of the deceased. Authorization states chest only.

EXTERNAL APPEARANCE:
The subject is an 86 year old white male. The body is consistent with the stated age. The weight is approximately 130 pounds. The height is 64 inches. There is mild rigor mortis and dependent lividity. The skin is clear. The head is not deformed. The hair is two to three inches and white. The eyes show a small amount of discharge. No jaundice is noted. The nose and external ears are unremarkable and their passages are clear. The lips and gums show no lesion. Teeth are absent. Neck structures are symmetrical. There are no unusual masses. The thorax has the normal contour and symmetry. The male breasts are unremarkable. There is a mid line thoracic scar, healed, starting from suprasternal notch and extending to the xyphoid process. The abdomen is soft. No abnormal masses or fluid waves are externally visible. There are no abdominal scars. The external genitalia are that of a male, uncircumcised. The extremities show anterior scars on both knees.

INTERNAL EXAMINATION:
The examination is restricted to the chest. A U-shaped incision is employed. The pannus or adipose measures 1.5 cm. in thickness over the chest. The skeletal muscles are red brown. The rib cage shows metallic sutures in midline sternum. There is no subcutaneous emphysema or sign of pneumothorax. The left pleural cavity contains a minimal amount of clear fluid. The right pleural cavity is adhesed secondary to talc pleurodesis. The pericardial cavity contains minimal amount of clear fluid. The serosal surfaces of the left side are smooth. The anterior serosal surfaces over the pericardium show extensive adhesions.

Cardiovascular System:
The heart weighs 430 grams. The ventricular wall thicknesses are 1.4 on the left and 0.2 cm. on the right. The muscular wall shows mild hypertrophic changes on the left side. The cardiac chambers are not dilated. The auricles and appendages are unremarkable. The valve rings, especially the aortic valve, show marked calcification. The epicardium shows chronic adhesions and is foially adhesed to the right lung on the right atrial area. The coronary arteries arise in normal position. The vessel walls are thick with marked calcification. The lumens are moderately to markedly compromised. A patent bypass graft is noted. The aortic and pulmonary arteries arise in normal anatomic relation. The aortic wall shows marked calcification with complete loss of elasticity.

Respiratory System:
The larynx and trachea are intact. The mucosa is smooth. The lung weights are left side 790 grams, the right side 1,980 grams. The left lung shows the normal shape and lobar division. The pleura is thin and shows anthracotic pigmentation. The bronchial tract is intact and free of mass, dilatation or mucosal changes. The pulmonary artery does not show any major thrombi. The right lung shows extensive dense adhesion to the chest wall. The lower lobe and medial aspect of the lung is encased by a large at least 12 cm. firm white nodular mass, adherent to the diaphragm. The mass extends along the medial aspect of the lung into the mediastinum and bulky masses are noted over the mediastinum and upper lung medially. The lung parenchyma is dark red, emphysematous and exudes gray brown fluid on pressure.
Internal Examination (Cont'd)

Respiratory System (Cont'd)

Several mediastinal lymph nodes, varying from 0.5 to 2 cm, are noted which are anechoic in nature. Multiple representative sections from the heart and bilateral lung and tumor mass are submitted for microscopic examination.

Microscopic Description:

Sections from the heart show patchy old fibrosis. Sections from the mediastinal lymph nodes show benign lymph nodes with many bright polarizable crystals, consistent with talc. Sections from bilateral lung parenchyma show many ferruginous bodies, with translucent cores, consistent with asbestos bodies. In some foci four or five asbestos bodies are noted per high power field (40x). Foci of mixed dust deposition and patchy fibrosis in the lung parenchyma are also noted. Sections from the tumor involving the right pleura and along show a diffuse proliferation of atypical pleomorphic cells with vacuolated and stellate patterns. Tumor necrosis is noted. These findings are consistent with diffuse malignant mesothelioma.