

DEPARTMENT OF HEALTH  
CERTIFICATE  
OF DEATH

COPY

290017

RECORDED DISTRICT  
4460  
REGISTER NUMBER  
2

RESIDENCE

1. NAME: FIRST MIDDLE LAST  
Robert Allen Rice

2. SEX: MALE FEMALE  
3A. DATE OF DEATH: MONTH DAY YEAR  
05 17 2001  
3B. HOUR: 7:05 AM

4A. PLACE OF DEATH: HOSPITAL DDA ER HOSPITAL OUTPATIENT HOSPITAL INPATIENT NURSING HOME PRIVATE RESIDENCE OTHER (Specify)  
4B. IF FACILITY, DATE ADMITTED: MONTH DAY YEAR  
4C. NAME OF FACILITY: (If not facility, give address)  
Hospice

4D. LOCALITY: (Check one and specify)  
CITY VILLAGE TOWN  
Gouverneur  
4E. COUNTY OF DEATH: St. Lawrence

4F. MEDICAL RECORD NO.  
4G. WAS DECEDENT TRANSFERRED FROM ANOTHER INSTITUTION? (If yes, specify institution name, city or town, county and state)  
NO YES

5. DATE OF BIRTH: MONTH DAY YEAR  
May 28 1914  
6A. AGE IN YEARS: 86  
6B. IF UNDER 1 YEAR ENTER: months days  
6C. IF UNDER 1 DAY, ENTER: hours minutes  
7A. CITY AND STATE OF BIRTH: (If not USA, Country and Region/Province)  
Gouverneur, NY  
7B. IF AGE UNDER 1 YEAR, NAME OF HOSPITAL OF BIRTH:

8. SERVED IN U.S. ARMED FORCES? NO YES  
9. RACE: (Check one) white  
10. HISPANIC ORIGIN? (If yes, specify) NO YES  
11. DECEDENT'S EDUCATION: (Enter only the highest year of school completed. Do not enter fringe or noncredit courses)  
Elementary/Secondary 0-12 12 College 1-4 or 5+

12. SOCIAL SECURITY NUMBER: 121-14-7716  
13. MARITAL STATUS: NEVER MARRIED MARRIED SEPARATED WIDOWED DIVORCED  
14. SURVIVING SPOUSE: (Enter name if married or separated, if surviving spouse is wife, enter maiden name)  
Geneva Blair

15A. USUAL OCCUPATION: (Do not enter retired) miner  
15B. KIND OF BUSINESS OR INDUSTRY: talc mining  
15C. NAME AND LOCALITY OF COMPANY OR FIRM: Gouverneur Talc Co., Balmat

16A. RESIDENCE: (State or Country if not USA) New York  
16B. County or Region/Province if not USA: St. Lawrence  
16C. LOCALITY: (Check one and specify) CITY VILLAGE TOWN  
Gouverneur  
16D. IF CITY OR VILLAGE IS RESIDENCE WITHIN CITY OR VILLAGE LIMITED YES OR NO, SPECIFY TOWN:

16E. STREET AND NUMBER OF RESIDENCE: U.S. Highway 11, lot 13  
16F. ZIP CODE: 13642

17. NAME OF FATHER: FIRST MI LAST  
Allen Rice  
18. MOTHER NAME: FIRST MI LAST  
Mary Bassett

18A. NAME OF INFORMANT: Geneva Rice  
18B. MAILING ADDRESS: (include zip code)  
1599 U.S. Highway 11, lot 13, Gouverneur, NY 13642

20A. BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION: (Specify) MONTH DAY YEAR  
cremation May 18 2001  
20B. PLACE OF BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION: Frederick Brothers Crematory, Theresa, NY  
20C. LOCATION: (City or town and state)

21A. NAME AND ADDRESS OF FUNERAL HOME: Green Funeral Home, Inc., 33 Park Street, Gouverneur, NY 13642  
21B. REGISTRATION NUMBER: 00767

22A. NAME OF FUNERAL DIRECTOR: Michael V. Green  
22B. SIGNATURE OF FUNERAL DIRECTOR: Michael V. Green  
22C. REGISTRATION NUMBER: 02053

23A. SIGNATURE OF REGISTRAR: Joan Hall  
23B. DATE FILED: MONTH DAY YEAR  
05 18 2001  
23C. SIGNATURE OF REMOVAL PERMIT ISSUED BY: Joan Hall  
23D. DATE ISSUED: MONTH DAY YEAR  
05 18 2001

24A. TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSES STATED.  
24B. THE PHYSICIAN ATTENDED THE DECEASED FROM MONTH DAY YEAR TO MONTH DAY YEAR  
24C. LAST SEEN ALIVE BY ATTENDANT: MONTH DAY YEAR  
24D. NAME OF ATTENDING PHYSICIAN: John M. Callahan  
24E. ATTENDING PHYSICIAN LICENSE NUMBER: NYS 208546  
24F. NAME AND ADDRESS OF CERTIFIER WHO SIGNED 24A OR 24F.

25. ON THE BASIS OF INVESTIGATION AND SUCH EXAMINATIONS, AS I FELT NECESSARY, IN MY OPINION, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSES STATED.  
25A. AUTOPTSY? NO YES  
25B. IF YES, WERE FINDINGS USED TO DETERMINE CAUSE OF DEATH? NO YES  
25C. SIGNATURE OF CORONER OR CORONER'S PHYSICIAN, IF OTHER THAN CERTIFIER:  
25D. MEDICAL EXAMINER LICENSE NUMBER

26. MANNER OF DEATH: NATURAL CAUSE ACCIDENT HOMICIDE SUICIDE UNDETERMINED CIRCUMSTANCES PENDING INVESTIGATION  
27. WAS CASE REFERRED TO CORONER OR MEDICAL EXAMINER? NO YES  
28. IF YES, WERE FINDINGS USED TO DETERMINE CAUSE OF DEATH? NO YES

29. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR (A), (B), AND (C))  
PART I IMMEDIATE CAUSE:  
(A) Respiratory Failure 2° Pleural Effusion  
(B) Pleural Tumor  
PART II OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I (A):  
Talcum Exposure

30. APPROXIMATE INTERVAL BETWEEN ONSET AND DEATH: months year

31A. IF INJURY, DATE: MONTH DAY YEAR  
31B. INJURY LOCALITY: (City or town and county and state)  
31C. DESCRIBE HOW INJURY OCCURRED:

32. PLACE OF INJURY:  
32A. INJURY AT WORK? NO YES  
32B. WAS DECEDENT HOSPITALIZED IN LAST 2 MONTHS? NO YES  
32C. IF FEMALE, WAS DECEDENT PREGNANT IN LAST 9 MONTHS? NO YES  
32D. DATE OF DELIVERY: MONTH DAY YEAR

33. NAME OF DECEDENT: Robert Allen Rice  
34. DATE OF DEATH: 05 17 2001  
35. HOUR: 7:05 AM

36. SIGNATURE OF PHYSICIAN: [Signature]  
37. SIGNATURE OF CORONER OR MEDICAL EXAMINER: [Signature]

38. NAME AND ADDRESS OF CERTIFIER WHO SIGNED 24A OR 24F: [Signature]

39. NAME AND ADDRESS OF REGISTRAR: Joan Hall

40. NAME AND ADDRESS OF FUNERAL HOME: Green Funeral Home, Inc., 33 Park Street, Gouverneur, NY 13642

41. NAME AND ADDRESS OF INFORMANT: Geneva Rice

42. NAME AND ADDRESS OF MAILING ADDRESS: 1599 U.S. Highway 11, lot 13, Gouverneur, NY 13642

NAME OF DECEDENT: Robert Allen Rice  
DATE OF DEATH: 05 17 2001  
TIME OF DEATH: 7:05 AM

DOH-1961 (02-2000)

## X-RAY REPORT

Family Name <b>Rice, Robert</b>	First Name	Middle Name	Room No. <b>OPD</b>	Hosp. No.
<input type="checkbox"/> Treatment <input type="checkbox"/> Examination of	Name-Part <b>Chest PA (Gouv Talc)</b>		Sex <b>M . F</b>	Age-Years <b>60</b>
X-ray No. <b>278</b>			O. P. D. No.	
Attending Physician <b>Dr. Dodds</b>			Date <b>12/3/74</b>	

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.

*M*

**G. Rivellini, M.D./mb**

Signature of Roentgenologist



APPLICATION FOR EMPLOYMENT

Name in Full Robert William Rice Age 41 Phone Richville 2-142  
 City Richville State N.Y.  
 Salary Expected \$ usual per year  
 Height 5-7 Married or Single Married No. Dependents 5  
 Date of Birth 5-28-14 Social Security No. 121-14-7716 Physical Condition Excellent  
 Military Service None Reserve Status None  
 Why did you leave last position? None

Referred by Charles Rice

NAME OF SCHOOL OR COLLEGE	LOCATION	YEARS ATTENDED	COURSE
<u>Richmond High</u>	<u>Richmond</u>	<u>2 years</u>	<u>General</u>

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

Employment Dates Mo. & Year	Employer's Name & Address	Position Held	Reason for Leaving
<u>12/1</u> <u>12/1</u>	<u>Lewis Industrial</u>	<u>Miner</u>	<u>Went back to school</u>
<u>5/1942-10/1945</u>	<u>St Joseph Lead</u>	<u>Miner</u>	<u>To be with family</u>
<u>1945</u> <u>1946</u>	<u>None Lead</u>	<u>Miner</u>	<u>End of lease requirement</u>
<u>1946</u> <u>1948</u>	<u>St Joseph Lead</u>	<u>Development</u>	<u>Went to school</u>

EMPLOYERS OTHER THAN PREVIOUS EMPLOYERS

NAME	ADDRESS	OCCUPATION
<u>White Plains</u>	<u>White Plains</u>	<u>Miner</u>

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

Robert William Rice  
Signature in Full

20 years Vanderbilt  
1 Year New York  
8 Years Other Mines

NAME: [REDACTED] M.R.#: M0360395 SMC01-05  
DOB: 05/28/14 AGE: 86 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  
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.



*Shahandeh Haghir, MD*  
Shahandeh Haghir, MD  
Pathologist

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

SMC01-05

Page 2

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 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 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 auricles 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 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 medial and upper lung medially. The lung parenchyma is dark red, emphysematous and exudes gray brown fluid on pressure.

PQ



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.

MCDONOUGH, LEITER & BRUNE, LLP

ATTORNEYS AT LAW  
SUITE 200  
245 EAST WATER STREET  
SYRACUSE, NEW YORK 13202-1121  
mlb@twyny.rr.com

JAMES A. LEITER  
JOHN F. McDONOUGH, JR.  
TRACY A. BRUNE  
MARY E. GASPARINI

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

May 21, 2002

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

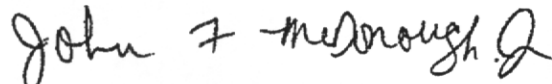
Reference: WCB 60108425  
Robert Rice (Dec'd) vs.  
Gouverneur Talc  
D/A 5/17/01

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

MCDONOUGH, LEITER & BRUNE, LLP

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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:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



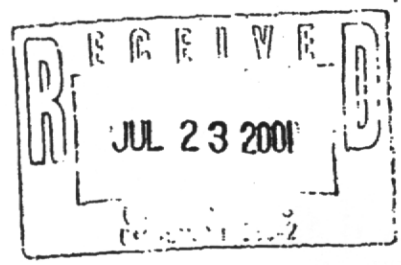


**A MARITAN**  
Medical Center

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 Haghiri, MD ATTENDING PHYSICIAN: Frank Rhode, MD

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



*Shahandeh Haghiri, MD*  
 Shahandeh Haghiri, MD  
 Pathologist

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

Rice, Robert  
SMC01-05  
Page 2

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Rice, Robert  
SMC01-05  
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Robert R. Snashall  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES STREET  
SYRACUSE, NY 13203  
*www.wcb.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**

*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)	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-	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).

CNA

**NOTICE THAT RIGHT TO COMPENSATION IS CONTROVERTED**

CHECK TYPE OF CASE:  WORKERS COMPENSATION  VOLUNTEER FIREFIGHTER  VOLUNTEER AMBULANCE WORKER

ANSWER ALL QUESTIONS FULLY

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS		3. Carrier Code	4. Date of Injury	5. Social Security Number
1. W.C.B. Case Number	2. Carrier Case Number			
6010 8425	.40530958 V7	W063002	5/17/01	121-14-7716
Name		Address to which notices should be sent (Give Number and Street, City, State, and Zip Code)		
6. Injured Person	ROBERT RICE	68 W MAIN ST APT 3B1 GOUVERNEUR, NY 13642		Apt. No.
7. Employer	GOUVERNEUR TALC	PO BOX 89 GOUVERNEUR, NY 13642		
8. Carrier	CONTINENTAL CASUALTY CO	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 liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWEL) is deemed to be the "EMPLOYER".				
11. Description (Diagnosis) of Alleged Injury <u>FATALITY</u>				
12. Place where alleged injury occurred <u>UNKNOWN, NY</u> (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 FRIVOLOUS 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.....			<u>5/17/01</u>	
15. Date employer or carrier first had knowledge of alleged injury, whichever is earlier.....			<u>2/14/02</u>	
16. Date of receipt by carrier of employer's report of injury (C-2, VF-2 or VAW-2) (if None, So State).....			<u>5/31/02</u>	
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?: <input type="checkbox"/> YES Enter name and address to whom sent, in the space provided below, and answer "B" below. <input checked="" type="checkbox"/> NO Indicate below, reasons for failure to comply with 12 NYCRR 363.12. 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 its DB carrier. (In VF/VAW cases, send to Regular Employer, if any, and enter name and address below.)				
(Name and address of DB carrier or Employer- Please endeavor to identify the DB carrier in every instance)				
B. Have you also sent copies of medical reports in your possession to the DB Carrier or Self-Insured Employee? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				

Dated 07/16/2002  
Tel. No. & Ext. 800-262-6344 6873

Prepared By Toni M. Brazell  
Official Title Claim Specialist

C-7 (1-02) Prescribed 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



Robert R. Snashall  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES STREET  
SYRACUSE, NY 13203  
[www.wcb.state.ny.us](http://www.wcb.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 Wanamaker 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:

Award to:	Relation	DOB	Pct	Rate / week	Total	Pay to:
Geneva Rice	Spouse	10/26/1911	66.67%	*\$96.58	\$5,968.64	Geneva Rice

\*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)	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 -	08/02/2002

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).





Robert R. Snashall  
Chairman

LEGAL APPEALS UNIT  
WORKERS' COMPENSATION BOARD  
20 PARK ST  
ALBANY, NY 12207  
[www.wcb.state.ny.us](http://www.wcb.state.ny.us)

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 Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).


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.

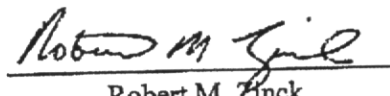
The Board Panel finds, based on a review of the entire record, that the WCLJ's decision finding causally related death is supported by the medical opinion contained in the C-64, that the date of disablement in this claim is May 17, 2001, and Zurich provided coverage on the date of disablement. As such, 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)	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 Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

Reference: WCB 60108425  
Robert Rice vs.  
Gouverneur Talc  
Carrier No. 2640097017-001  
Page 2

"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 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 (3<sup>rd</sup> 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.

Reference: WCB 60108425  
Robert Rice vs.  
Gouverneur Talc  
Carrier No. 2640097017-001  
Page 3

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

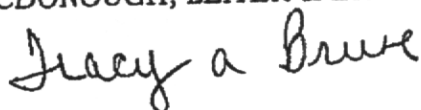
There appears to be no question that the Workers' Compensation Law Judge already ruled that the claimant was last exposed to asbestos in October 1976 and the CNA is the proper carrier. (See Notices of Decision dated 2/12/02 and 5/13/02). Based upon Section 44-a and the applicable case law, we believe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

MCDONOUGH, LEITER & BRUNE, LLP

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MARY E. GASPARINI

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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

**APPLICATION FOR**  
**FULL BOARD REVIEW**

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.

Reference: WCB 60108425  
Robert Rice vs.  
Gouverneur Talc Co.  
Page 2

**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*

Tracy A. Brune

TAB/jk

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

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

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December 4, 2002

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Zurich-American Insurance Group  
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Jamaica, New York 11430-0022

30 ROUTE 171  
SUITE 102  
SMITHTOWN, NY 11787  
(616) 374-1816

LEONARD PROFESSIONAL CENTER  
135 EAST 73RD STREET  
NEW YORK, NY 10021  
(212) 461-1733

RE: Claimant: Robert Rice  
U.S. Highway 11  
Lot 13  
Gouverneur, NY 13642  
2640097017-001  
D/A: 12/08/2000  
D/D: 05/17/01  
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 thersolite. 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. ).

EXHIBIT A

PQ

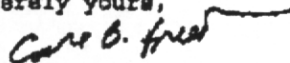
Page Two  
12/4/02

Robert Rice  
2640097017-001

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,



Date: 12/4/03  
WCB Rating Coding: CIM

CARL B. FRIEDMAN, M.D., P.C.  
W.C. Authorization #106697-6B

FOR THE FOLLOWING WCB'S

**AVAILABILITY**

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

CBF/sn

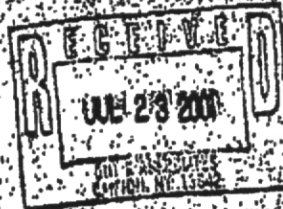
PQ



NAME: Alice, Robert M. Rife, MD360398 8MCO1-05  
 DOB: 05/28/1937 AGE: 68 SEX: Male RACE: Caucasian S.S.#: 121-14-7716  
 DATE/TIME OF DEATH: 05/17/01 1:08 PM DATE/TIME OF AUTOPSY: 05/17/01 4:00 PM  
 PROSECTOR: Shahandeh Raghiz, MD Assistant 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 (SHW:j)

*Shahandeh Raghiz, MD*  
 Shahandeh Raghiz, MD  
 Pathologist

830 Washington Street, White Plains, New York 10601 Tel. 315.785.1000

Exhibit A

PQ

EXHIBIT B



Name: Robert  
 M001-03  
 Page: 2

#### 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 a 38-year-old white male. The body is consistent with the stated age. The weight is approximately 150 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 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 auricles 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 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 1,380 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 medial and upper lung medially. The lung parenchyma is dark red, emphysematous and exudes gray brown fluid on pressure.

Name: Robert  
 SMC-1-05  
 Page 3

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.

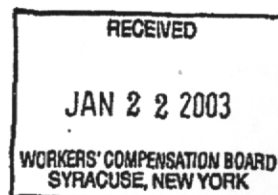
MICROSCOPIC DESCRIPTION:

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 shows a diffuse proliferation of atypical pleomorphic cells with sarcomatous and epithelioid patterns. Tumor necrosis is noted. These findings are consistent with diffuse malignant mesothelioma.



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(315) 422-1177  
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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*

Tracy A. Brune

TAB/jk

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

ALL

PQ

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

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January 3, 2003

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(516) 374-1616

Zurich-American Insurance Groups  
P.O. Box 22  
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80 ROUTE 111  
SUITE 102  
SHARPTOWN, NY 11787  
(516) 374-1616

Att: Ms. Hoffman

LEXINGTON PROFESSIONAL CENTER  
133 EAST 73RD STREET  
NEW YORK, NY 10021  
(212) 481-1753

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 comorbidities 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 amphibole 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 40-50%. 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,

*Carl B. Friedman*

Date: 01/03/2003  
WCB Rating Coding: CIM

CARL B. FRIEDMAN, M.D., P.C.  
W.C. Authorization #105697-6B

# WOOD & RICHMOND, LLP

ATTORNEYS AT LAW

CHRISTOPHER RICHMOND

ANNE M. WOOD

DANIEL J. FALGE

TRACEY A. McLEAN

AMY M. BITTNER

JOHN L. HVOZDA

NANCY J. CHRISTY  
OF COUNSEL

CHARLES M. CONNELLY  
1998-1999

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.

Robert Rice (Dec'd) vs. Gouverneur Talc  
Rebuttal of Application for FULL Board Review  
WCB#: 60103382 (CNA INSURANCE)  
Page 2 of 3

### 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

DAVID J. PHILIPPONE \*  
JAMES P. MCGEVNA †  
JOSEPH P. BREDI  
NEAL P. MCCURN, JR.  
LEAH A. OOT  
MEMBERS

\* ALSO ADMITTED IN NJ  
† ALSO ADMITTED IN CT

CHRISTIAN J. OOT  
WORKERS' COMPENSATION  
LICENSED REPRESENTATIVE #778

**OOT & ASSOCIATES, PLLC**  
**Attorneys and Counselors at Law**

503 EAST WASHINGTON STREET  
SYRACUSE, NEW YORK 13202  
(315) 471-6687 • FACSIMILE (315) 476-7603

63 MAIN STREET  
CANTON, NEW YORK 13617  
(315) 379-1466 • FACSIMILE (315) 379-1433

125 STATE STREET, SUITE 300  
ROCHESTER, NEW YORK 14614  
(800) 435-8457

THADDEUS B. OOT  
OF COUNSEL

TERRY L. OOT  
LAW OFFICE MANAGER

MARIE L. PODKOWINSKI  
ROBERT M. MARSMAN  
PARALEGALS

REPLY TO:  
 SYRACUSE  
 CANTON  
 ROCHESTER

February 10th, 2003

Workers' Compensation Board  
935 James Street  
Syracuse, NY 13203

**REBUTTAL TO FULL BOARD**

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

**HONORABLE COMMISSIONERS:**

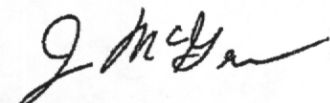
We are in receipt of carrier's Application for Full Board review dated January 9, 2003 regarding the above captioned workers' compensation Decision filed against Zurich Insurance.

**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. MCGEVNA



**ROBERT R. SNASHALL**  
CHAIRMAN

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

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
20 PARK STREET  
ALBANY, NY 12207

# FILE COPY



Office of General Counsel  
Legal Appeals Division

March 20, 2003

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

### Case Information

Claimant:	Robert Rice (deceased)	Social Security No.:	121-14-7716
WCB Case No.:	60108425	Carrier ID No.:	W228001
Date of Accident:	05/17/2001	Carrier Case No.:	2640097017
Employer:	Gouverneur Talc	Insurance Carrier:	Zurich American Insurance Co.

NEED REPORT BEFORE 7/24/02.



July 16, 2002

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

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

Zurich North America.

Claims

P.O. Box ZZ  
Jamaica, NY  
11430-00ZZ

Telephone (800) 396-6677  
Fax (631) 845-2530  
<http://www.zurichna.com>

Dear Dr Carl Freidman:

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.

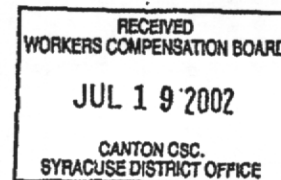
Very truly yours,  
Zurich American Insurance Company

Fran Hoffman  
MCU SUPERVISOR  
(631) 845-2417

Addendum: Please provide RUSH evaluation and we will gladly reimburse you an additional cost for a RUCH report. Please fax to 631-845-2530. BEFORE 7/24/02.

ATTENTION FRAN HOFFMAN

WCB # 60/08425



STATE OF NEW YORK  
WORKERS' COMPENSATION Board

100 State Street Albany 12241  
State Office Building 40 Barclay Street New York, NY 10007  
190 Livingston St Buffalo 14203  
State Office Building 125 Main Street Buffalo 14203  
200 Court Street Buffalo 14203  
175 Fulton Avenue Buffalo 14203  
411 N. Ontario Street Buffalo 14203  
130 Main Street W Buffalo 14203  
300 James Street Buffalo 14203

FEB 05 2003

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)	3640097017-001		5/17/2001	
103382 (CNA INS.)	40630958V7	W228001		121-14-7718

	Name	Address
Claimant	ROBERT RICE (DEC'D) ; GENEVA RICE	88 W. MAIN STREET., APT. 3B1 GOUVERNEUR, NY 13642
Employer	GOUVERNEUR TALC	GOUVERNEUR, NY 13642
Carrier	CNA INSURANCE	1 TELERGY PKWY., STE 300 EAST SYRACUSE, NY 13057
Representative, If Any	WOOD & ASSOCIATES	603 E. WASHINGTON STREET SYRACUSE, NY 13202
Other Parties, If Any See attached affidavit for cont.	WOOD & RICHMOND, LLP ZURICH AMERICAN SPECIAL FUNDS CONS. COMM.	3300 VICKERY RD., N. SYRACUSE, NY 13212 P O BOX 22 JAMAICA, NY 11430 5788 WIDEWATERS PKWY. DEWITT NY 12214

Party making Rebuttal (Please Print): CARRIER/EMPLOYER

Filing 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  
Signer's Name (Please Print): ANNE M. WOOD  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 apéndices deben ENVIARSE DIRECTAMENTE a su oficina de distrito, cuya dirección aparece al tope de la página. Copia de este escrito y sus apéndices TIENE que enviarse a TODAS las partes en el pleito. Llène la Declaración Jurada o la Afirmación de Servicio que aparece al 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 below or 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. For purposes of this section, an application is deemed filed with the board on the date of actual receipt of such application by the board.
- (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 make 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) (1) The board panel may deny review:
  - (i) where 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
  - (ii) where the application failed to specify issues or grounds for review; or
  - (iii) if any issues raised in the application that were not raised before the Workers' Compensation Law Judge.

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



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

ADDRESS MAIL TO:  
123 MAPLE AVENUE, SUITE 203  
CEDARHURST, NY 11516-2240  
(516) 374-1818  
FAX (516) 374-1830  
WEBSITE: WWW.DRCARLB.FRIEDMAN.COM  
E-MAIL: CARLB.FRIEDMAN@CS.COM

January 3, 2003

311 NORTH STREET  
SUITE 410  
WHITE PLAINS, NY 10605  
(516) 374-1818

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

50 ROUTE 111  
SUITE 102  
SMITHTOWN, NY 11787  
(516) 374-1818

Att: Ms. Hoffman

LEXINGTON PROFESSIONAL CENTER  
133 EAST 73RD STREET  
NEW YORK, NY 10021  
(212) 481-1733

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 comorbidities 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.

Page Two  
01/03/2003

Robert Rice  
File # 2640097017-001

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,

*Carl B. Friedman*

Date: 01/03/2003  
WCB Rating Coding: CIM

CARL B. FRIEDMAN, M.D., P.C.  
W.C. Authorization #106697-6B

# WOOD & RICHMOND, LLP

---

A T T O R N E Y S   A T   L A W

---

CHRISTOPHER RICHMOND

ANN M. WOOD

DANIEL J. PALGE

RACEY A. McLEAN

AMY M. BITTNER

JOHN L. HVOZDA

ANCI J. CHRISTY

OF COUNSEL

CHARLES M. CONNELLY  
1998-1999

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.

Robert Rice (Dec'd) vs. Gouverneur Talc  
Rebuttal of Application for FULL Board Review  
WCB#: 60103382 (CNA INSURANCE)  
Page 2 of 3

### 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	To
\$1,500.00	Oot & Associates

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-	08/02/2002

## 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).

Copies To:  
Claimant:  
Carrier:  
Employer:  
Attorney/Representative:

Robert Rice (deceased)  
Zurich American Insurance Co.  
Gouverneur Talc  
Oot & Associates  
Special Funds Sec 15-8  
Continental Casualty Company  
Holly Weaver  
Geneva Rice

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

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

Special Funds Sec 15-8  
5789 Widewaters 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

100 Broadway  
Menands  
ALBANY 12241  
(518) 474-8674

State Office Building  
44 Hawley Street  
BINGHAMTON 13901  
(607) 721-8368

180 Livingston Street  
BROOKLYN 11248  
(718) 802-8800

State Office Building  
125 Main Street  
BUFFALO 14203  
(716) 847-3168

175 Fulton Avenue  
HEMPSTEAD 11660  
(516) 580-7700

130 Main Street W.  
ROCHESTER 14614  
(716) 238-8300

State Office Building  
333 East Washington St.  
SYRACUSE 13202  
(315) 428-4484

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD

THIS AGENCY EMPLOYS AND SERVES  
PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION.

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.

WCB Case No. 60108425	Claimant's Name Robert Rice (Dec'd)	Claimant's Social Security Number 121-14-7716
Representative's Identification Number, if Any R- 670027	Date Retained 7-10-61	Amount of Fee Previously Received, if Any 0

I, DOT & ASSOCIATES, attorney/representative, request a fee of \$ 1500  
for the following services rendered in the above case.

A. SERVICES RENDERED TO THE CLAIMANT

- List dates of hearing/meeting/conference/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 C62, C65,  
MARRIAGE Certificate and SOCIAL SECURITY SURVIVORS  
BENEFITS AWARDS letter. Obtain necessary  
medical opinion in form of C64 to proceed  
with claim. Our office has attended 3  
out of four hearings in CANTON, NY & A Finding  
OF PRIMA FACIE MEDICAL EVIDENCE was obtained  
with a direction for the carrier to obtain  
an IME if desired. CLAIM established.

- List other assistance rendered to claimant: ANCR DEATH WITH Benefit  
payable to the widow from 5-77-61 and  
continuing. Funeral Expenses of \$2310 to be reimbursed.

- List disbursements actually incurred:

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

**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 \_\_\_\_\_ Date

**★ 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. McMane OOT ASSOCIATES 7-24-02  
Signature of Attorney / Representative Date Submitted  
303 E. Washington St. Syracuse, NY 13202 478 6687  
Address of Attorney / Representative Telephone No.  
7/24/02 1500 \_\_\_\_\_  
Date Amount of Fee Approved W.C. Law Judge's / Conciliator's or Designated Employee's Initials

W.C.B #: 80108425 CLAIMANT NAME: Rice (deceased), Robert DOA: 05/17/2001 STENO. *Patrick*

CLAIMANT PRESENT? <i>widow</i>	IF REPRESENTED, BY WHOM? <i>The Geneva Co. of</i>	CARRIER REPRESENTED? <i>Griffin - SF</i> <i>Neumann</i> <i>Zurek</i>	FULL NAMES OF WITNESSES HEARD <i>24-48</i> <i>Holly Weaver - Daughter</i>	FEES <i>Chia</i> <i>Daughter</i>
Were any medical/hospital bills paid by a private health carrier? <input type="checkbox"/> YES <input type="checkbox"/> 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 *Death*  ILFD  
 AWW *259 to wife Paq.*  DOD  
 ATTY/REP FEE: Amt \$ *1000* Payable To *COV & ASSOC*  Fee App Received?  WPA  
 \$ \_\_\_\_\_ Payable To \_\_\_\_\_  Fee App Received?  WPA

Disability	<input type="checkbox"/> NoPFM <input type="checkbox"/> NME <input type="checkbox"/> NCLT <input type="checkbox"/> DLWP <input type="checkbox"/> NFCRD <input type="checkbox"/> RTW
Permanency	<input type="checkbox"/> PPD <input type="checkbox"/> PTD <input type="checkbox"/> DES <input type="checkbox"/> NoMEP <input type="checkbox"/> Facial Dis \$ _____ <input type="checkbox"/> NoPHP <input type="checkbox"/> PHP _____ weeks <input type="checkbox"/> SLU _____ % POB _____ + _____ % POB _____ = Total Weeks _____
Penalty	<input type="checkbox"/> 25-1E <input type="checkbox"/> 25-2C (\$300 to clmt.) <input type="checkbox"/> 25-3C (\$75 to clmt., \$25 to §151(2) Fund) <input type="checkbox"/> 114-A <input type="checkbox"/> 25-1D <input type="checkbox"/> 25-2A <input type="checkbox"/> 25-3E (form _____) \$ _____ to Chair <input type="checkbox"/> 25-3F (dec. filed / / ) \$ _____ paid on / / (Penalty \$ _____ to clmt. \$ _____ to State)
Sp. Funds	<input type="checkbox"/> §15-8D <input type="checkbox"/> §15-8EE <input type="checkbox"/> § 15-8 premature <input type="checkbox"/> §14-6 <input type="checkbox"/> §25A (discharge CR _____)
Authorized	<input checked="" type="checkbox"/> Treatment <input type="checkbox"/> Surgery <input type="checkbox"/> MRI <input type="checkbox"/> EMG <input type="checkbox"/> NCV <input type="checkbox"/> CAT Scan _____ <input type="checkbox"/> PT _____
Misc.	<input type="checkbox"/> Cr/Jef. <input type="checkbox"/> FTP <input type="checkbox"/> FA <input type="checkbox"/> TPA settled w/consent, net \$ _____ <input type="checkbox"/> M&T \$ _____ subject to audit
C-8.1	<input type="checkbox"/> C8.1 _____ HP <input type="checkbox"/> C8.1 _____ CR

MPA	FROM	TO	RATE	ADDITIONAL FINDINGS (BY PERIOD)
	<i>5/17/01</i>	<i>DATE</i>	<i>172<sup>12</sup></i>	<i>Board Pa comp</i> <i>Soc Sec</i> <i>off set</i>
	<i>CCP</i>		<i>172<sup>24</sup></i>	

*Claim to Reimburse Holly Weaver 64 Main St  
 for # 2310 - funeral bill paid - Richelle WY  
 court exp #3601*

Depositions requested of \_\_\_\_\_ Within \_\_\_\_\_ Days.

Issues to be resolved:

<input type="checkbox"/> Continued	<input checked="" type="checkbox"/> No Further Action	<input type="checkbox"/> Reserved Decision
------------------------------------	---	--



**NOTICE OF WORKERS COMPENSATION HEARING**

State of New York  
WORKERS' COMPENSATION BOARD

FILE COPY

Place of Hearing		Part	Date of Hearing	Time	District Office
Canton, NY		1	07/24/2002	9:30 AM 15 Min	Syracuse
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

X1 McDonough, Leiter & Brune, LLP

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

\*F2 Special Funds Sec 15-8  
5789 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: 06/28/2002

THE BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION AND ASSURES HEARING LOCATIONS ACCESSIBLE  
TO THE DISABLED. CONTACT THE NEAREST BOARD OFFICE  
IF YOU HAVE SPECIAL ACCESSIBILITY NEEDS.

Page 1 of 1

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Copies To:  
Claimant: Robert Rice (deceased)  
Carrier: Zurich American Insurance Co.  
Employer: Gouverneur Talc  
Attorney/Representative: Oot & Associates  
Continental Casualty Company

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

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

ROBERT R. SNASHALL  
CHAIRMAN

**Bureau of Compliance**

**ENFORCEMENT UNIT**  
**INVESTIGATOR'S REPORT**

- WCB  
 DB  
 No Insurance  
 Groups

Claimant: Robert Rice (deceased)  
Alleged Employer: Gouverneur Talc  
Gouverneur, NY 13642  
ER #: FEIN #:  
Entity:  
Coverage: card files indicate CNA is correct carrier.

WCB#: 60108425

Accident Date: 05/17/2001

**ATTACH OTHER CORROBORATING INFORMATION (DOCUMENTS, LICENSE SEARCHES, ETC.)**

- CCU Printout       Business Certificate       Other:  
 Corporations Inquiry Report       DMV Report

District Office: Syracuse

- Final Report       Interim Report

Investigator:

Date: 05/21/2002

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.

C-49.2

W.C.B #: 60108425 CLAIMANT NAME: Rice (deceased), Robert DOA: 05/17/2001 STENO. *Walters* 5

CLAIMANT PRESENT?	IF REPRESENTED, BY WHOM?	CARRIER REPRESENTED?	FULL NAMES OF WITNESSES HEARD	FEE
<i>NP</i>	<i>Me. Am DOT</i>	<i>Judge CNA The Druay Zurich</i>	<i>188-210</i>	
Were any medical/hospital bills paid by a private health carrier? <input type="checkbox"/> YES <input type="checkbox"/> 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 : Amt \$ \_\_\_\_\_ Payable To \_\_\_\_\_  Fee App Received?  WPA \_\_\_\_\_

\$ \_\_\_\_\_ Payable To \_\_\_\_\_  Fee App Received?  WPA \_\_\_\_\_

Disability	<input type="checkbox"/> NoPFM <input type="checkbox"/> NME <input type="checkbox"/> NCLT <input type="checkbox"/> DLWP <input type="checkbox"/> NFCRD <input type="checkbox"/> RTW
Permanency	<input type="checkbox"/> PPD <input type="checkbox"/> PTD <input type="checkbox"/> DES <input type="checkbox"/> NoMEP <input type="checkbox"/> Facial Dis \$ _____ <input type="checkbox"/> NoPHP <input type="checkbox"/> PHP _____ weeks <input type="checkbox"/> SLU _____ % POB _____ + _____ % POB _____ =Total Weeks _____
Penalty	<input type="checkbox"/> 25-1E <input type="checkbox"/> 25-2C (\$300 to clmt.) <input type="checkbox"/> 25-3C (\$75 to clmt., \$25 to §151[2] Fund) <input type="checkbox"/> 114-A <input type="checkbox"/> 25-1D <input type="checkbox"/> 25-2A <input type="checkbox"/> 25-3E (form _____) \$ _____ to Chair <input type="checkbox"/> 25-3F (dec. filed / / ) \$ _____ paid on / / (Penalty \$ _____ to clmt. \$ _____ to State)
Sp. Funds	<input type="checkbox"/> §15-8D <input type="checkbox"/> §15-8EE <input type="checkbox"/> § 15-8 premature <input type="checkbox"/> §14-6 <input type="checkbox"/> §25A (discharge CR _____)
Authorized	<input type="checkbox"/> Treatment <input type="checkbox"/> Surgery <input type="checkbox"/> MRI <input type="checkbox"/> EMG <input type="checkbox"/> NCV <input type="checkbox"/> CAT Scan _____ <input type="checkbox"/> PT _____
Misc.	<input type="checkbox"/> Cr/Jef. <input type="checkbox"/> FTP <input type="checkbox"/> FA <input type="checkbox"/> TPA settled w/consent, net \$ _____ <input type="checkbox"/> M&T \$ _____ subject to audit
C-8.1	<input type="checkbox"/> C8.1 _____ HP <input type="checkbox"/> C8.1 _____ CR

MPA	FROM	TO	RATE	ADDITIONAL FINDINGS (BY PERIOD)

*Find PFMG Per C-62*

*Bo to locate + POW carrier to  
Government table in Oct 76  
CNA - to verify coverage.*

**COPY**

Depositions requested of \_\_\_\_\_ to \_\_\_\_\_ *to do records* \_\_\_\_\_ Within \_\_\_\_\_ Days.

Issues to be resolved: *Zurich to do records 1ME July 24 9/30 15 min*

Continued  No Further Action  Reserved Decision

**NOTICE OF WORKERS COMPENSATION HEARING**State of New York  
WORKERS' COMPENSATION BOARD

FILE COPY

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

THE BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION AND ASSURES HEARING LOCATIONS ACCESSIBLE  
TO THE DISABLED. CONTACT THE NEAREST BOARD OFFICE  
IF YOU HAVE SPECIAL ACCESSIBILITY NEEDS.

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EC-16.1/28 (7-99)



STATE OF NEW YORK  
 WORKERS' COMPENSATION BOARD  
 935 James Street  
 Syracuse, NY 13203

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

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.
	W228001

CLAIMANT'S NAME	EMPLOYER'S NAME	CARRIER'S NAME
Robert Rice (deceased)	Gouverneur Talc	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 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.

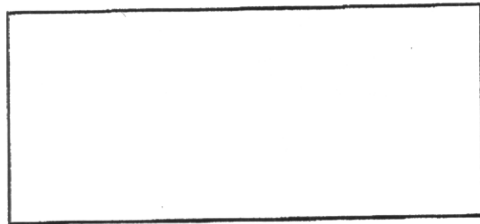
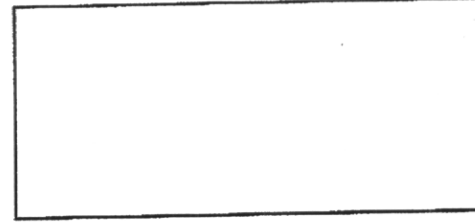
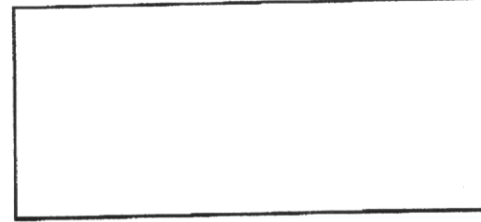
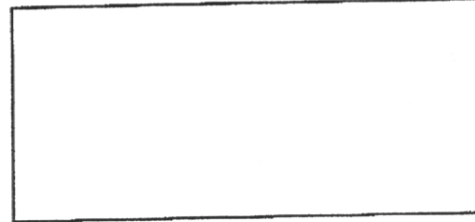
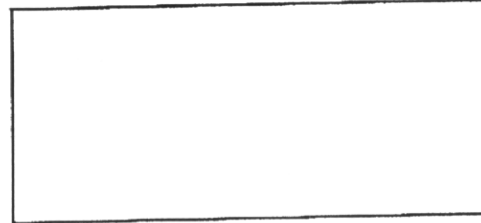
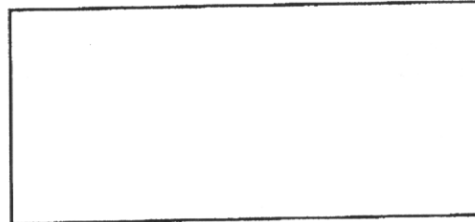
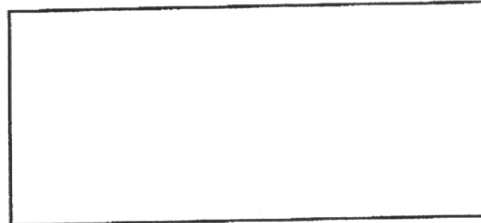
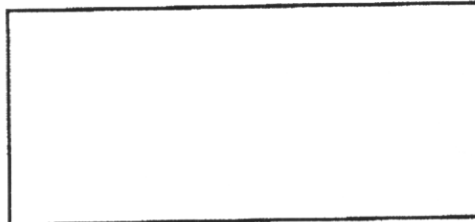
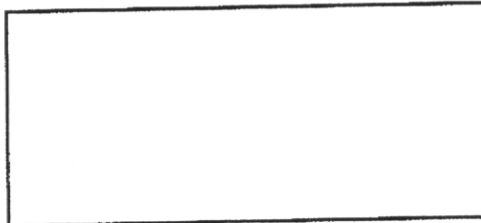
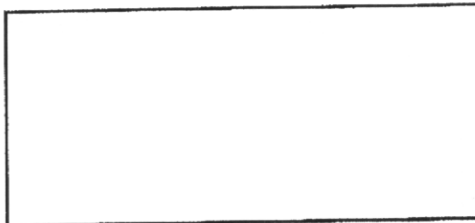
By neh Unit 1

Telephone No. (315)423-2932



# PARTIES OF INTEREST

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



# OOT & ASSOCIATES, PLLC

*Attorneys and Counselors at Law*

DAVID J. PHILIPPONE \*  
JAMES P. McGEVNA †  
JOSEPH P. BREDA  
NEAL P. McCURN Jr.  
LEAH A. OOT  
MEMBERS

\* ALSO ADMITTED IN NJ  
† ALSO ADMITTED IN CT

CHRISTIAN J. OOT  
WORKERS' COMPENSATION  
LICENSED REPRESENTATIVE #778

63 MAIN STREET  
CANTON, NEW YORK 13617  
(315) 379-1466 • FAX (315) 379-1433

503 EAST WASHINGTON STREET  
SYRACUSE, NEW YORK 13202  
(315) 471-6687 • FAX (315) 476-7603

125 STATE STREET, SUITE 300  
ROCHESTER, NEW YORK 14614  
(800) 435-8457

THADDEUS B. OOT  
OF COUNSEL

TERRY L. OOT  
LAW OFFICE MANAGER

MARIE L. PODKOWINSKI  
ROBERT M. MARSMAN  
PARALEGALS

REPLY TO:  
 CANTON  SYRACUSE  
 ROCHESTER

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  
hew

xc: Mrs. Robert A. Rice  
1599 US Highway 11  
Gouverneur, NY 13642

Zurich American Insurance Co.

**NOTICE OF CLAIM FOR REIMBURSEMENT OUT OF THE  
SPECIAL DISABILITY FUND UNDER SECTION 15, SUBD. 8**

ANSWER ALL QUESTIONS FULLY

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS		3. CARRIER CODE	4. DATE OF INJURY	5. SOCIAL SECURITY NUMBER
1. W.C.B. CASE NUMBER	2. CARRIER CASE NUMBER			
60108425	2640097017	w228001	12/08/00	121147716
ADDRESS				
6. INJURED PERSON		NAME		Apt. No.
Robert Rice		1599 US HWY 11, lot 13 Gouverneur		NY 13642
7. EMPLOYER		Gouverneur Talc Co		NY 13642

The carrier on behalf of the above-named employer is requesting apportionment 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)  
lungs and knees  
When incurred, 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 classification or schedule loss, state date and particulars of award.  
b. If judgment or settlement, attach particulars (s.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.W. 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(s) of report(s) from attending 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 NY 11430-0022  
Insurance Carrier Address

By Fran Hoffman MCU SUPERVISOR 03/18/2002 (631) 232-5854  
Name Title Date Telephone No.

(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

PQO

C-250



STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 James Street  
Syracuse, NY 13203

THIS AGENCY EMPLOYS AND SERVES  
PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION.

# FILE COPY

**ROBERT R. SNASHALL**  
CHAIRMAN

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

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.**

### Case Information

Claimant: Robert Rice (deceased)	Social Security No.: 121-14-7716
WCB Case No.: 60108425	Carrier ID No.: W228001
Date of Accident: 05/17/2001	Carrier Case No.:
Employer: Gouverneur Talc	Insurance Carrier: Zurich American Insurance Co.

# 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

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

Continental Casualty Company  
PO Box 4855  
Syracuse, NY 13221-4855

# OOT & ASSOCIATES, PLLC

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NEAL P. McCURN Jr.  
LEAH A. OOT  
MEMBERS

\* ALSO ADMITTED IN NJ  
† ALSO ADMITTED IN CT

CHRISTIAN J. OOT  
WORKERS' COMPENSATION  
LICENSED REPRESENTATIVE #778

63 MAIN STREET  
CANTON, NEW YORK 13617  
(315) 379-1466 • FAX (315) 379-1433

503 EAST WASHINGTON STREET  
SYRACUSE, NEW YORK 13202  
(315) 471-6687 • FAX (315) 476-7603

125 STATE STREET, SUITE 300  
ROCHESTER, NEW YORK 14614  
(800) 435-8457

THADDEUS B. OOT  
OF COUNSEL

TERRY L. OOT  
LAW OFFICE MANAGER

MARIE L. PODKOWINSKI  
ROBERT M. MARSMAN  
PARALEGALS

REPLY TO:

CANTON  SYRACUSE  
 ROCHESTER

February 11, 2002

Workers' Compensation Board  
935 James Street  
Syracuse, NY 13203

Re: Our File # C95679, ROBERT RICE, Dec'd 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





Robert R. Snashall  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES STREET  
SYRACUSE, NY 13203

(315) 423-2932

**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 02/04/2002 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wanamaker 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)	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-	02/12/2002

**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).

Copies To:  
Claimant: Robert Rice (deceased)  
Carrier: Zurich American Insurance Co.  
Employer: Gouverneur Talc  
Attorney/Representative: Oot & Associates  
Continental Casualty Company

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

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**State of New York  
WORKERS' COMPENSATION BOARD

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. Highway 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) 386-1789 OR (315) 386-1774.\*\*\*

**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

THE BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION AND ASSURES HEARING LOCATIONS ACCESSIBLE  
TO THE DISABLED. CONTACT THE NEAREST BOARD OFFICE  
IF YOU HAVE SPECIAL ACCESSIBILITY NEEDS.

Page 1 of 1

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EC-18.1/28 (7-89)

W.C.B # 60108425 CLAIMANT NAME: <sup>1st hearing -</sup> Rice (deceased), Robert DOA: 00/00/0000 STENO. Watters

CLAIMANT PRESENT? <i>W. Watters</i>	IF REPRESENTED, BY WHOM? <i>McQuinn OOT</i>	CARRIER REPRESENTED? <i>Heeter Zurch</i>	FULL NAMES OF WITNESSES HEARD <i>Jenna Lee Ford</i> <i>Holly Sue Danks</i>	FEE
Were any medical/hospital bills paid by a private health carrier? <input type="checkbox"/> YES <input type="checkbox"/> NO. If "YES" place private health insurer on notice and if appropriate direct reimbursement. Give name and address of health insurance carrier below.			CLAIMANT <input type="checkbox"/>	

**DECISION AND AWARD**

Work related injury  OD \_\_\_\_\_  ILFD

AWW \_\_\_\_\_  DOD \_\_\_\_\_

ATTY / REP FEE: Amt \$ \_\_\_\_\_ Payable To \_\_\_\_\_  Fee App Received?  WPA \_\_\_\_\_

\$ \_\_\_\_\_ Payable To \_\_\_\_\_  Fee App Received?  WPA \_\_\_\_\_

Disability	<input type="checkbox"/> NoPFM <input type="checkbox"/> NME <input type="checkbox"/> NCLT <input type="checkbox"/> DLWP <input type="checkbox"/> NFCRD <input type="checkbox"/> RTW
Permanency	<input type="checkbox"/> PPD <input type="checkbox"/> PTD <input type="checkbox"/> DES <input type="checkbox"/> NoMEP <input type="checkbox"/> Facial Dis \$ _____ <input type="checkbox"/> NoPHP <input type="checkbox"/> PHP _____ weeks <input type="checkbox"/> SLU _____ % POB _____ + _____ % POB _____ = Total Weeks _____
Penalty	<input type="checkbox"/> 25-1E <input type="checkbox"/> 25-2C (\$300 to clmt.) <input type="checkbox"/> 25-3C (\$75 to clmt., \$25 to \$151[2] Fund) <input type="checkbox"/> 114-A <input type="checkbox"/> 25-1D <input type="checkbox"/> 25-2A <input type="checkbox"/> 25-3E (form _____) \$ _____ to Chair <input type="checkbox"/> 25-3F (dec. filed / / ) \$ _____ paid on / / (Penalty \$ _____ to clmt. \$ _____ to State)
Sp. Funds	<input type="checkbox"/> \$15-8D <input type="checkbox"/> \$15-8EE <input type="checkbox"/> \$ 15-8 premature <input type="checkbox"/> \$14-6 <input type="checkbox"/> \$25A (discharge CR _____)
Authorized	<input type="checkbox"/> Treatment <input type="checkbox"/> Surgery <input type="checkbox"/> MRI <input type="checkbox"/> EMG <input type="checkbox"/> NCV <input type="checkbox"/> CAT Scan _____ <input type="checkbox"/> PT _____
Misc.	<input type="checkbox"/> Cr/Jef. <input type="checkbox"/> FTP <input type="checkbox"/> FA <input type="checkbox"/> TPA settled w/consent, net \$ _____ <input type="checkbox"/> M&T \$ _____ subject to audit
C-8.1	<input type="checkbox"/> C8.1 _____ HP <input type="checkbox"/> C8.1 _____ CR

MPA	FROM	TO	RATE	ADDITIONAL FINDINGS (BY PERIOD)

*Dated Death - 5/11/01.*  
*No PFME - last injurious exposure - ~~14~~ Oct 1976*

*Board to investigate coverage for  
Governmental Co. in Oct 1976 -  
& PDN - company and carrier.*

*Bl to locate - 60103392 (life time case) for need  
- Reeper in PFME.*

Depositions requested of \_\_\_\_\_ Within \_\_\_\_\_ Days.

Issues to be resolved:

Continued \_\_\_\_\_  No Further Action  Reserved Decision

60108425

Zurich American Insurance Co.

NOTICE THAT RIGHT TO COMPENSATION IS CONTROVERTED

CHECK TYPE OF CASE:  WORKERS' COMPENSATION  VOLUNTEER FIREFIGHTER  VOLUNTEER AMBULANCE WORKER

ANSWER ALL QUESTIONS FULLY

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS				
1. W.C.B. Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Social Security Number
60108425	2640097017	w228001	5/17/01 <del>12/08/00</del>	121147716
Name		Address to which notices should be sent (Give Number and Street, City, State, and Zip Code)		
6. Injured Person	Robert Rice	1599 US Hwy 11, lot 13 Gouverneur NY 13642		Apt. No.
7. Employer	Gouverneur Talc Co	Gouverneur NY	13642	
8. Carrier	Zurich American Insurance Co.	P.O. Box 22 Jamaica NY	11430-0022	
9. Volunteer Fire or Ambulance Company, if applicable				
10. Claimant's Doctor				
<small>In volunteer firefighters and volunteer ambulance workers' benefit cases, the applicable policy classification for unemployment insurance benefits as defined in Sec. 30 (VAMBL) is deemed to be the "EMPLOYER".</small>				
11. Description (Diagnosis) of Alleged Injury <u>Death due to lung condition</u>				
12. Place where alleged injury occurred <u>Gouverneur</u> <u>NY</u> <small>(City, Town or Village) (County) (State)</small>				
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 FRIVOLOUS AND SUBJECT TO A PENALTY UNLESS SUPPORTING DOCUMENTATION IS ATTACHED. Question of accident notice and causal relationship. Question of OPNCR. Question of coverage.				
14. Date alleged disability began..... <u>5/17/01</u>				
15. Date employer or carrier first had knowledge of alleged injury, whichever is earlier..... <u>03/12/01</u>				
16. Date of receipt by carrier of employer's report of injury (C-2, VF-2 or VAW-2) (if None, So State)..... <u>03/16/01</u>				
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? <input type="checkbox"/> YES Enter name and address to whom sent, in the space provided below, and answer "B" below. <input checked="" type="checkbox"/> NO Indicate below, reasons for failure to comply with 12 NYCRR 363.12. 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 its DB carrier. (In VFAW cases, send to Regular Employer, if any, and enter name and address below.)				
(Name and address of DB carrier - Please endeavor to identify the DB carrier in every instance)				
B. Have you also sent copies of medical reports in your possession to the DB Carrier or Self-insured Employer?..... <input type="checkbox"/> YES <input type="checkbox"/> NO.				

Dated 01/21/2002

Signed By James Hillman

Tel. No. & Ext. 516 232-5854

Official Title case manager

C-7 (8-00) Prescribed by Chief Workers Compensation Board State of New York

SEE REVERSE SIDE

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

RECEIVED WORKERS COMPENSATION BOARD FEB 04 2002 CANTON CSC. SYRACUSE DISTRICT OFFICE



STATE OF NEW YORK  
 WORKERS' COMPENSATION BOARD  
 935 James Street  
 Syracuse, NY 13203

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

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

DATE OF MAILING	CLAIMANT'S S.S. NO.
10/5/2001	121-14-7716
WCB CASE NO.	DATE OF ACCIDENT
60108425	
CARRIER CASE NO.	CARRIER I.D. NO.
	W228001

CLAIMANT'S NAME	EMPLOYER'S NAME	CARRIER'S NAME
Robert Rice (deceased)	Gouverneur Talc	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 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



# PARTIES OF INTEREST

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

[Empty box]

[Empty box]

[Empty box]

[Empty box]

[Empty box]

[Empty box]

[Empty box]

[Empty box]

[Empty box]

[Empty box]

# OOT & ASSOCIATES, PLLC

*Attorneys and Counselors at Law*

DAVID J. PHILIPPONE \*  
JAMES P. McGEVNA †  
JOSEPH P. BREDA  
NEAL P. McCURN Jr.  
LEAH A. OOT  
MEMBERS

\* ALSO ADMITTED IN NJ  
† ALSO ADMITTED IN CT

CHRISTIAN J. OOT  
WORKERS' COMPENSATION  
LICENSED REPRESENTATIVE #778

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SYRACUSE, NEW YORK 13202  
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THADDEUS B. OOT  
OF COUNSEL

TERRY L. OOT  
LAW OFFICE MANAGER

MARIE L. PODKOWINSKI  
ROBERT M. MARSMAN  
PARALEGALS

REPLY TO:  
 CANTON  SYRACUSE  
 ROCHESTER

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



STATE OF NEW YORK  
**WORKERS' COMPENSATION BOARD**  
 935 James Street  
 Syracuse, NY 13203

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

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

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

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

**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

# PARTIES OF INTEREST

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

# OOT & ASSOCIATES, PLLC

*Attorneys and Counselors at Law*

DAVID J. PHILIPPONE \*  
JAMES P. McGEVNA †  
JOSEPH P. BREDA  
NEAL P. McCURN Jr.  
LEAH A. OOT

MEMBERS

\* ALSO ADMITTED IN NJ  
† ALSO ADMITTED IN CT

CHRISTIAN J. OOT  
WORKERS' COMPENSATION  
LICENSED REPRESENTATIVE #778

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THADDEUS B. OOT  
OF COUNSEL

TERRY L. OOT  
LAW OFFICE MANAGER

MARIE L. PODKOWINSKI  
ROBERT M. MARSMAN  
PARALEGALS

REPLY TO:  
 CANTON  SYRACUSE  
 ROCHESTER

August 9, 2001

Workers' Compensation Board  
935 James Street  
Syracuse, NY 13202

Re: Our File # C95679, ROBERT RICE, Dec'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

DOWNSTATE CENTRALIZED MAILING  
(for New York City, Hempstead, Hauppauge & Peekskill Districts)  
PO Box 29017 Brooklyn, NY 11202-9017  
NYC(718)902-8600 HEMP(516)280-7700 HALP(516)210-2000 PEK(914)780-5775

100 Broadway  
Menands  
ALBANY 12241  
(518) 474-6674

State Office Building  
44 Hawley Street  
BINGHAMTON 13901  
(607) 721-8356

Statler Towers  
107 Delaware Ave.  
BUFFALO 14202  
(716) 842-2166

130 Main Street W.  
ROCHESTER 14614  
(716) 238-8300

935 James St.  
SYRACUSE 13203  
(315) 423-2934

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD

PROOF OF BURIAL AND FUNERAL EXPENSES-BY UNDERTAKER

W. C. B. Case No. 60108425 Carrier Case No.

Social Security No.

STATE OF NEW YORK \_\_\_\_\_

COUNTY OF \_\_\_\_\_

ss.:

Michael V. Green being duly sworn, says, that (s)he is a duly licensed undertaker of Gouverneur, NY at 33 Park Street that on the 17th day of May 2001 (s)he prepared the body of Robert Rice

for cremation; that (s)he placed a cremation tray containing the said body in a cremation tray & taken to Frederick Brothers Crematory in \_\_\_\_\_ cemetery; that (s)he shipped said body via \_\_\_\_\_

to \_\_\_\_\_ at \_\_\_\_\_ (relative, friend, etc.) cremation that (s)he was directed to conduct such cremation by XXXXXXXXXX Geneva Rice

1599 US Hwy 11, Gouverneur, NY who authorized the following itemized bill:  
lot 13 (address)

direct cremation	\$1345.00
supervision & facilities for memorial service	455.00
van & mileage for post mortem exam	160.00
folders, register, acknowledgements	70.00
cash advances clergy \$75.00, death cert. \$50.00	280.00
crematory \$155.00	
<b>Total</b>	<b>\$2310.00</b>

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, \$ 2310.00 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  
Barbara A. Finnie  
Notary Public

C-65 (8-00)

BARBARA A. FINNIE  
Notary Public, State of New York  
St. Lawrence County 4820114  
My Commission Expires 07/04/2002



**Green Funeral Home, Inc.**

33 PARK STREET  
GOUVERNEUR, NEW YORK 13642  
(315) 287-1330

Date May 26, 2001

No 8146

Received From Hilly Weaver \$2310.00

Two Thousand Three hundred Ten and 00/100 Dollars

No

For Funeral Expenses Of ROBERT RICE

Amount of Account \$2310.00

Check # 3350

Thank You,

Amount Paid \$2310.00

Cash

Social Security

VA Benefit

Life Insurance

Wesley M. Rice

Balance Due \$ - 0 -

**GREEN FUNERAL HOME, INC.**

33 PARK STREET  
GOVERNEUR, NEW YORK 13642  
(315) 287-1330

No. 3211

Name Robert Rice

Place of Death 1599 US Highway 11 Gouverneur

Date of Death May 17, 2001

**GREEN FUNERAL HOME, INC.**

MAIN STREET  
HERMON, NEW YORK 13652  
(315) 347-2455

**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 N/A 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 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) memorial service ..... \$ 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) memorial service ..... \$ 205.00

**G. Livery**

- 1. a. Hearse or ..... \$ N/A
- b. Alternative vehicle ..... \$ 160.00  
    (Specify type: van to hotel - part extra mileage)
- 2. Flower vehicle ..... \$ N/A
- 3. Limousine(s) ..... \$ N/A  
    (Specify number: \_\_\_\_\_ @ \$ \_\_\_\_\_ / limousine)
- 4. Passenger car(s) ..... \$ N/A  
    (Specify number: \_\_\_\_\_ @ \$ \_\_\_\_\_ / car)

(Continued on Page 2)

**GREEN FUNERAL HOME, INC.**

33 PARK STREET  
GOUVERNEUR, NEW YORK 13642  
(315) 287-1330

**GREEN FUNERAL HOME, INC.**

MAIN STREET  
HERMON, NEW YORK 13652  
(315) 347-2455

Name Robert Rice No. 3211

**ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED**

H. Merchandise  
1. Casket or Alternative Container ..... \$ N/A

- a. Supplier \_\_\_\_\_
- b. Model name or number \_\_\_\_\_
- c. Material: Species of wood \_\_\_\_\_  
or kind of metal \_\_\_\_\_ weight or gauge \_\_\_\_\_  
or alternative container (describe) \_\_\_\_\_
- d. Interior \_\_\_\_\_

2. Outer Interment Receptacle ..... \$ N/A

- a. Supplier \_\_\_\_\_
- b. Model name or number \_\_\_\_\_
- c. Material: \_\_\_\_\_

I. Additional Services and Merchandise Selected  
(Describe And Show Price)

- 1. MEMORIAL FOLDERS ..... \$ 40.00
- 2. MEMORIAL REGISTER ..... \$ 15.00
- 3. ACKNOWLEDGMENT CARDS ..... \$ 15.00
- 4. \_\_\_\_\_ \$ \_\_\_\_\_
- 5. \_\_\_\_\_ \$ \_\_\_\_\_
- 6. \_\_\_\_\_ \$ \_\_\_\_\_
- 7. \_\_\_\_\_ \$ \_\_\_\_\_
- 8. \_\_\_\_\_ \$ \_\_\_\_\_
- 9. \_\_\_\_\_ \$ \_\_\_\_\_
- 10. \_\_\_\_\_ \$ \_\_\_\_\_

J. Limited Services  
1. Forwarding remains to \_\_\_\_\_ \$ N/A  
2. Receiving remains from \_\_\_\_\_ \$ N/A

TOTAL OF FUNERAL HOME CHARGES ..... \$ 2030.00

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. CEMETERY ..... \$ N/A
- 2. CLERGY ..... \$ 75.00
- 3. HONORARIUM ..... \$ N/A
- 4. CERTIFIED DEATH CERTIFICATES ..... \$ 50.00
- 5. crematory charge ..... \$ 155.00
- 6. \_\_\_\_\_ \$ \_\_\_\_\_
- 7. \_\_\_\_\_ \$ \_\_\_\_\_
- 8. \_\_\_\_\_ \$ \_\_\_\_\_
- 9. \_\_\_\_\_ \$ \_\_\_\_\_
- 10. \_\_\_\_\_ \$ \_\_\_\_\_
- 11. \_\_\_\_\_ \$ \_\_\_\_\_
- 12. \_\_\_\_\_ \$ \_\_\_\_\_

ESTIMATE TOTAL OF CASH ADVANCES ..... \$ 280.00

III. SUMMARY OF CHARGES  
1. Funeral Home Charges ..... \$ 2030.00  
2. Cash Advances ..... \$ 280.00  
TOTAL FUNERAL CHARGES ..... \$ 2310.00

**IV. EXPLANATION OF CHARGES**

Explain charges for embalming and for any items that are not required by law but may be necessary because of cemetery requirements, cemetery requirements or other selections made.

Combined charge for facilities & staff for visitation \$ N/A  
Combined charge for facilities & staff for funeral service \$ 455.00

Michael V. Green  
Signature of Licensed Funeral Director

Michael V. Green  
Printed or Typed Name of Funeral Director

5/17/01  
Date

**ACKNOWLEDGEMENT OF RECEIPT**  
I have received this itemization of funeral services and merchandise selected.

x Holly N. WEAVER  
Signature

5/17/01  
Date

**PUBLIC NOTICE** The New York State Department of Health is responsible for licensing and regulating New York State funeral directing under the Public Health Law. You may contact the Department at:  
Bureau of Funeral Directing  
New York State Department of Health  
433 River Street, Suite 303  
Troy, New York 12180-2289

**BILLING INFORMATION**

Bill To \_\_\_\_\_

Relationship to Decedent \_\_\_\_\_

Address \_\_\_\_\_

City-State \_\_\_\_\_

Zip \_\_\_\_\_ Phone ( ) \_\_\_\_\_

The only warranty on the casket and/or outer burial container sold in connection with this service is the express written warranty, if any, granted by the manufacturer. THIS 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 CASSET AND/OR OUTER INTERMENT RECEPTACLE.

**ACKNOWLEDGEMENT AND AGREEMENT**

I hereby acknowledge that I have the legal right to arrange the final services for the deceased, and I authorize this funeral establishment to perform services, furnish goods, and incur outside charges specified on this Statement. I acknowledge that I have received the General Price List, and have been offered to review the Casket Price List and Outer Interment Receptacle Price List.

Terms of Payment: \_\_\_\_\_

After \_\_\_\_\_ a LATE CHARGE of \_\_\_\_\_ % Monthly will be due on the unpaid balance.

I agree to pay the charges listed on this Statement, plus any Late Charge. In the event I default in payment to this funeral establishment, I agree to pay reasonable attorney's fees and court costs 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.

x Holly N. WEAVER 5/17/01  
Signed \_\_\_\_\_ Dated \_\_\_\_\_

Co-Signed \_\_\_\_\_ Dated \_\_\_\_\_

Co-Signed \_\_\_\_\_ Dated \_\_\_\_\_

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

By Michael V. Green  
PAYMENT RECEIVED FROM

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

Social Security Administration  
Retirement, Survivors, and Disability Insurance  
Notice of Award

17/jp M1 679

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

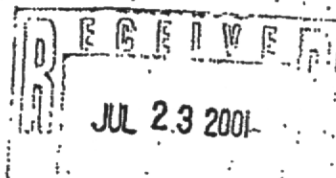
Your first check includes a lump-sum payment of \$255.00. This is a one-time payment we make because of a worker's death.

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



STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 James Street  
Syracuse, NY 13203  
(315) 423-2932

DATE FORM EC-84 SENT: 07/27/01  
STATUS: \*\* Death Case \*\* INJURY - death

NOTICE OF INDEXING CASE

WCB CASE NO.	CARRIER ID NO.	CARRIER CASE NO.	DATE OF ACCIDENT	SOCIAL SECURITY NO.
60108425	W228001		/ /	121-14-7716

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 W C B 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 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

## PARTIES OF INTEREST

Gouverneur Talc  
Gouverneur, NY 13642

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



Not found  
7-20-01

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD

THIS AGENCY EMPLOYS AND SERVES  
PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION.

CHECK ONE  NOTICE OF RETAINER AND APPEARANCE  NOTICE OF SUBSTITUTION AND APPEARANCE  
(For substitutions, Item C must also be completed.)

WCB Case No.	Soc. Sec. No. <u>113-10-0176</u> <u>Dec'd 121-14-7716</u>	Date of Accident, Illness or Injury <u>05/17/01</u> <u>Death</u>
Claimant <u>Robert Rice, Dec'd</u> <u>Genera Rice, widow</u>	Address <u>1599 USH11, Gouverneur NY 13642</u>	
Employer <u>Gouverneur Sales</u>	<u>Gouverneur NY 13642</u>	
Carrier <u>Zurich American</u>	<u>PO Box 4893, Sps NY 13221-4893</u>	
Attorney or Representative <u>Root &amp; Associates, PLLC</u>	<u>63 MAIN ST, Canton, N.Y. 13617</u>	
Representative's ID No., if any <u>R- 670027</u>	Telephone No. of Atty/Rep. <u>315 379-1466</u>	*If claim is made under the Volunteer Firefighters' Benefit Law or the Volunteer Ambulance Workers' Benefit Law, show as EMPLOYER the liable political subdivision and enter "X" here: <input type="checkbox"/> VFBL <input type="checkbox"/> VAWBL

A. CLAIMANT COMPLETE THIS SECTION

CHECK ONE  
 Please take notice that I have retained the above named firm/individual to represent and appear for me in all proceedings concerning my claim.  
 Please take notice that in place of \_\_\_\_\_, I have retained the above named to represent and appear for me in all proceedings concerning my claim.  
 My claim is under the  Workers' Compensation Law  Volunteer Firefighters' Benefit Law  Volunteer Ambulance Workers' Benefit Law  
 Disability Benefits Law  Section 120(241), WCL - Discharge or Discrimination Complaint  
 I hereby authorize the above named attorney/representative to request and obtain copies of any necessary medical records connected with the Workers' Compensation Board case indicated above. In addition, I consent to the transmittal of all medical reports in this case from my health provider(s) to my attorney/representative. I understand and agree that a licensed representative may appear on my behalf at the request of my attorney.  
 Date 07-10-01 Signature of Claimant Genera Rice

B. ATTORNEY/REPRESENTATIVE COMPLETE THIS SECTION

I agree to represent the above named claimant in compliance with aforementioned Law and Rules and Regulations promulgated thereunder and hereby notice my retention in the above case. All notices, decisions and other documents are to be sent to the undersigned unless otherwise indicated below. It is understood that the only fees to be paid in this case are those fixed by the W.C. Law Judge, the Board, the Conciliator or designated employee of the Chair.

I am (CHECK ONE)  An Attorney at Law  A Licensed Representative With Fee - License No. \_\_\_\_\_  
 A Licensed Representative Without Fee - License Number \_\_\_\_\_  
 Signature of Attorney/Representative Leah A. Ost Date 07-10-01  
 ATTORNEY OR REPRESENTATIVE WHO IS TO APPEAR, IF OTHER THAN YOURSELF  
 Name \_\_\_\_\_ Address \_\_\_\_\_ Tel. No. \_\_\_\_\_ will appear in this case. All notices, decisions and other documents should be sent to (him, her, or them). Fees, if any, should be made payable to:  
 Name \_\_\_\_\_ Address \_\_\_\_\_ Tel. No. \_\_\_\_\_

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

A copy of this notice of substitution was served on the \_\_\_\_\_ day of \_\_\_\_\_, on \_\_\_\_\_  
 Name of Former Attorney or Representative \_\_\_\_\_ Address \_\_\_\_\_

D. REQUEST AND NOTICE TO HEALTH PROVIDER

Pursuant to Section 13(f) of the Workers' Compensation Law, please transmit copies of all your records to the undersigned representative.  
 Signature of Attorney or Representative appearing for claimant \_\_\_\_\_  
 Please note: A photocopy of this notice shall be deemed as effective as an original.

RECEIVED

WORKERS' COMPENSATION BOARD

JUL 19 2001

Syracuse, N.Y.

- NOTICE TO ATTORNEY OR REPRESENTATIVE:
- This form may be used by either an original or a substituted attorney or representative. Check appropriate box at top of form.
  - Send a copy of this form to all of the claimant's health providers.

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 \_\_\_\_\_ } ss.:

Michael V. Green being duly sworn, says, that (s)he is a duly licensed undertaker of Gouverneur, NY at 33 Park Street that on the 17th day of May 2001, (s)he prepared the body of Robert Rice for ~~burial~~ cremation for burial; that (s)he placed a ~~casket~~ cremation tray & taken to Frederick Brothers Crematory in \_\_\_\_\_ cemetery; that (s)he shipped said body via \_\_\_\_\_ at \_\_\_\_\_ to \_\_\_\_\_ (relative, friend, etc.) cremation that (s)he was directed to conduct such ~~burial~~ cremation by ~~\_\_\_\_\_ Geneva Rice~~ \_\_\_\_\_ Geneva Rice 1599 US Hwy 11, Gouverneur, who authorized the following itemized bill:

lot 13 direct cremation	\$1345.00
supervision & facilities for memorial service	455.00
van & mileage for post mortem exam.	160.00
folders, register, acknowledgements	70.00
cash advances clergy \$75.00, death cert. \$50.00	280.00
crematory \$155.00	
<b>Total</b>	<b>\$2310.00</b>

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

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  
 (Signed) Michael V. Green  
Barbara A. Finnie  
 Notary Public

**Green Funeral Home, Inc.**  
33 PARK STREET  
GOUVERNEUR, NEW YORK 13642  
(315) 287-1350

Date May 21, 2001

Received From Holly 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

Thank You,

Amount Paid \$ 2310.00

Cash

Social Security

VA Benefit

Life Insurance

Balance Due \$ -0-

*Wesley M. Rice*

No 8146

No

**GREEN FUNERAL HOME, INC.**

33 PARK STREET  
GOUVERNEUR, NEW YORK 13642  
(315) 287-1330

No. 3211

Name Robert Rice

Place of Death 1599 US Highway 11, Gouverneur

**GREEN FUNERAL HOME, INC.**

MAIN STREET  
HERMON, NEW YORK 13652  
(315) 347-2455

Date of Death May 17, 2001

**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 N/A 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 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) memorial service ..... \$ 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) memorial service ..... \$ 205.00

**G. Livery**

- 1. a. Hearse or ..... \$ N/A
- b. Alternative vehicle ..... \$ 160.00  
    (Specify type: van to be between post exam + mileage)
- 2. Flower vehicle ..... \$ N/A
- 3. Limousine(s) ..... \$ N/A  
    (Specify number: \_\_\_\_\_ @ \$ \_\_\_\_\_ / limousine).
- 4. Passenger car(s) ..... \$ N/A  
    (Specify number: \_\_\_\_\_ @ \$ \_\_\_\_\_ / car)

**GREEN FUNERAL HOME, INC.**

33 PARK STREET  
GOUVERNEUR, NEW YORK 13642  
(315) 287-1330

**GREEN FUNERAL HOME, INC.**

MAIN STREET  
HERMON, NEW YORK 13652  
(315) 347-2455

Name Robert Rice No. 3211

**ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED**

**H. Merchandise**

1. Casket or Alternative Container ..... \$ N/A

- a. Supplier \_\_\_\_\_
- b. Model name or number \_\_\_\_\_
- c. Material: Species of wood \_\_\_\_\_  
or kind of metal \_\_\_\_\_ weight or gauge \_\_\_\_\_  
or alternative container (describe) \_\_\_\_\_
- d. Interior \_\_\_\_\_

2. Outer Interment Receptacle ..... \$ N/A

- a. Supplier \_\_\_\_\_
- b. Model name or number \_\_\_\_\_
- c. Material: \_\_\_\_\_

**I. Additional Services and Merchandise Selected**

(Describe And Show Price)

- 1. MEMORIAL FOLDERS ..... \$ 40.00
- 2. MEMORIAL REGISTER ..... \$ 15.00
- 3. ACKNOWLEDGMENT CARDS ..... \$ 15.00
- 4. \_\_\_\_\_ \$ \_\_\_\_\_
- 5. \_\_\_\_\_ \$ \_\_\_\_\_
- 6. \_\_\_\_\_ \$ \_\_\_\_\_
- 7. \_\_\_\_\_ \$ \_\_\_\_\_
- 8. \_\_\_\_\_ \$ \_\_\_\_\_
- 9. \_\_\_\_\_ \$ \_\_\_\_\_
- 10. \_\_\_\_\_ \$ \_\_\_\_\_

**J. Limited Services**

- 1. Forwarding remains to ..... \$ N/A
- 2. Receiving remains from ..... \$ N/A

**TOTAL OF FUNERAL HOME CHARGES** ..... \$ 2030.00

**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. CEMETERY ..... \$ N/A
- 2. CLERGY ..... \$ 75.00
- 3. HONORARIUM ..... \$ N/A
- 4. CERTIFIED DEATH CERTIFICATES ..... \$ 50.00
- 5. crematory charge ..... \$ 155.00
- 6. \_\_\_\_\_ \$ \_\_\_\_\_
- 7. \_\_\_\_\_ \$ \_\_\_\_\_
- 8. \_\_\_\_\_ \$ \_\_\_\_\_
- 9. \_\_\_\_\_ \$ \_\_\_\_\_
- 10. \_\_\_\_\_ \$ \_\_\_\_\_
- 11. \_\_\_\_\_ \$ \_\_\_\_\_
- 12. \_\_\_\_\_ \$ \_\_\_\_\_

**ESTIMATE TOTAL OF CASH ADVANCES** ..... \$ 280.00

**III. SUMMARY OF CHARGES**

- 1. Funeral Home Charges ..... \$ 2030.00
- 2. Cash Advances ..... \$ 280.00

**TOTAL FUNERAL CHARGES** ..... \$ 2310.00

**IV. EXPLANATION OF CHARGES**

Explain charges for embalming and for any items that are not required by law but may be necessary because of cemetery requirements, cemetery requirements or other selections made.

Combined charge for facilities & staff for visitation \$ N/A

Combined charge for facilities & staff for funeral service \$ 455.00

Michael V. Green  
Signature of Licensed Funeral Director

Michael V. Green  
Printed or Typed Name of Funeral Director

Date 5/17/01

**ACKNOWLEDGEMENT OF RECEIPT**

I have received this itemization of funeral services and merchandise selected.

Yvonne M. WEAVER  
Signature

Date 5/17/01

**PUBLIC NOTICE:** The New York State Department of Health is responsible for licensing and regulating New York State funeral directing under the Public Health Law. You may contact the Department at:  
Bureau of Funeral Directing  
New York State Department of Health  
433 River Street, Suite 303  
Troy, New York 12180-2299

**BILLING INFORMATION**

Bill To \_\_\_\_\_

Relationship to Decedent \_\_\_\_\_

Address \_\_\_\_\_

City-State \_\_\_\_\_

Zip \_\_\_\_\_ Phone ( ) \_\_\_\_\_

The only warranty on the casket and/or outer burial container sold in connection with this service is the express written warranty, if any, granted by the manufacturer. THIS 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 CASSET AND/OR OUTER INTERMENT RECEPTACLE.

**ACKNOWLEDGEMENT AND AGREEMENT**

I hereby acknowledge that I have the legal right to arrange the final services for the deceased, and I authorize this funeral establishment to perform services, furnish goods, and incur outside charges specified on this Statement. I acknowledge that I have received the General Price List, and have been offered for review the Casket Price List and Outer Interment Receptacle Price List.

Terms of Payment \_\_\_\_\_

After \_\_\_\_\_ a LATE CHARGE of \_\_\_\_\_ % Monthly will be due on the unpaid balance.

I agree to pay the charges listed on this Statement, plus any Late Charge. In the event I default in payment to this funeral establishment, I agree to pay reasonable attorney's fees and court costs 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.

Yvonne M. WEAVER 5/17/01  
Signed Dated

x \_\_\_\_\_ Dated

Co-Signed \_\_\_\_\_ Dated

x \_\_\_\_\_ Dated

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

By Michael V. Green  
PAYMENT RECEIVED FROM

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_



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 obtain copies 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.      c. Death certificate.  
b. Proof of relationship such as birth certificate, marriage certificate, adoption papers, etc.      d. Itemized funeral bill.

FOR USE OF WCB	
Spouse	<input type="checkbox"/>
Minor Child	<input type="checkbox"/>
Student	<input type="checkbox"/>
Other	<input type="checkbox"/>

W.C.B. CASE NO. (if known)	CARRIER CASE NO. (if known)	AND CODE NO.	DECEDENT'S SOC. SEC. NO.	CLAIMANT'S SOC. SEC. NO.	DATE OF ACCIDENT
			121-14-7716	113-10-0176	
NAME			ADDRESS (Give Number, Street, City, State and Zip Code)		
DECEASED	Robert A. Rice		1599 USH II, Gouverneur, NY 13642		
EMPLOYER	Gouverneur Talc		Gouverneur, NY 13642		
CARRIER	Zurich American		PO Box, 4893, Syracuse NY 13221		
CLAIMANT	Geneva Rice		1599 USH II, Gouverneur NY 13642		

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 information:

1. a. Death occurred on 17 day of May, 2001  
at Gouverneur, N.Y. (Attach death certificate, if available)  
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  
c. Place of Accident: \_\_\_\_\_  
d. Nature of injury and part of body injured: Lungs

Note: Attach a medical report, if available.

	Name	Address
2. ATTENDING PHYSICIAN	Dr. Callahan/Dr. Rhode	53-59 Public Sq, W. Town NY 13601
3. LAST PHYSICIAN OR HOSPITAL		
4. UNDERTAKER	Green Funeral Home	33 Park St. Gouverneur NY 13642
6. PERSON WHO PAID UNDERTAKER BILLS	Holly Weaver	PO Box 164, Richville, N.Y. 13681

6. Amount of Undertaker's Bills \$ 2310.00 Amount paid, if any \$ 2310 (Attach funeral bill, if available)  
7. Claimant's date of birth 10/26/11 8. Relationship to deceased spouse  
9. Is deceased survived by a spouse and/or children under 18 years of age or under 23 years of age and enrolled and attending as full time students in any accredited educational institution?  Yes  No

10. Survivors or dependents of the deceased: (See reverse side for instructions)			
NAME	ADDRESS	BIRTH DATE	RELATIONSHIP
Geneva Rice	1599 USH II, Gouverneur NY 13642	10/26/11	spouse

(Attach proof of relationship such as birth certificate, marriage certificate, adoption papers, etc., if available)  
(SEE INSTRUCTIONS ON REVERSE SIDE)

IF YOU HAVE ANY QUESTIONS ABOUT CLAIMING DEATH BENEFITS, CONTACT THE NEAREST OFFICE OF THE WORKERS' COMPENSATION BOARD.

SI TIENE ALGUNAS PREGUNTAS RESPECTO A COMO RECLAMAR BENEFICIOS POR MUERTE, COMUNIQUESE CON LA OFICINA MAS CERCANA DE LA JUNTA DE COMPENSACION OBRERA

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



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 18 day of April, 1991  
 at Richville by Rev. Meola (Attach marriage certificate, if available)  
(Place) (Person Performing Ceremony)
- b. Number of children under 18 years of age at the time of death of the deceased. 0
- 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. 0

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.)
- | SOURCE | AMOUNT |
|--------|--------|
|        |        |
|        |        |

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 (Name & Address)	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 Generosa Rice (315) 287-0254 or  
(Claimant's Signature) Telephone No.

Signed by \_\_\_\_\_ (A person on behalf of Claimant) \_\_\_\_\_ (Relationship) \_\_\_\_\_ Telephone No.

TO THE CLAIMANT

- A. Under the Workers' Compensation Law, a claim for compensation in a death case may be filed by:
- Spouse of the deceased;
  - Children of the deceased who are under age 18 at the time of death;
  - Children of any age who were totally blind or physically disabled at the time of accident and whose disablement is total and permanent;
  - Grandchildren and brothers and sisters of the deceased who were under the age of 18 at the time of death and wholly or partially dependent upon the deceased for support at the time of accident;
  - Parents and grandparents of the deceased who were wholly or partially dependent upon the deceased for support at the time of accident;
  - Children of the deceased, dependent grandchildren, dependent brothers and dependent sisters of the deceased under the age of 23 who are enrolled and attending as full time students in any accredited educational institution, where death occurs on or after January 1, 1978.
- B. 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 assist 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 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 Street, Albany, NY 12207 (518) 486-9564.

Claims should be sent to the district office of the Workers' Compensation Board at one of these addresses:

ALBANY 12241 - 100 Broadway, Merands (518) 474-6574. For all accidents in the following counties: Albany, Clinton, Columbia, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Orange, Putnam, Rensselaer, Saratoga, Schoenectady, Schotarie, Ulster, Warren, Washington.

BINGHAMTON 13901 - State Office Building, 44 Hawley Street (607) 721-8356. For all accidents in the following counties: Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schuyler, Sullivan, Tioga, Tompkins.

BUFFALO 14203 - State Office Building, 126 Main Street (716) 847-3158. For all accidents in the following counties: Cattaraugus, Chautauque, Erie, Niagara.

HEMPSTEAD 11650 - 175 Fulton Avenue (516) 580-7700. For all accidents in the following counties: Nassau, Suffolk.

NEW YORK CITY 11248 - 180 Livingston Street, Brooklyn (718) 802-6600. For all accidents in the following counties: Bronx, Kings, New York, Queens, Richmond, Rockland, Westchester.

ROCHESTER 14614 - 130 Main Street West (716) 238-8300. For all accidents in the following counties: Allegany, Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Steuben, Wayne, Wyoming, Yates.

SYRACUSE 13203 - 936 James Street (315) 423-2934. For all accidents in the following counties: Cayuga, Herkimer, Jefferson, Lewis, Madison,

THIS CERTIFICATE IS THE PROPERTY OF THE FAMILY IT MUST NOT BE RETAINED BY ANYONE ELSE

NEW YORK STATE DEPARTMENT OF HEALTH  
DIVISION OF VITAL STATISTICS  
ALBANY

This is to Certify that a

# Certificate of Birth

has been filed for GENEVA BLAIR

born on OCTOBER 5 26 1911 whose parents are

LAWRENCE W. BLAIR (Father)

and ETHEL MAY STEWIS (Mother)

T. O. Rogers (Local Registrar)

at CONCATONVILLE, N.Y. May 10 1927

(County Name) (Date)

New York State Department of Health

Certificate of Marriage Registration

District Name Gouverneur, New York  
District No. 4460  
Local Register No. 9

*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  
First Middle Premarriage Surname  
New Surname (if applicable)  Check box if same as premarriage surname.  
Residing at P.O. Box 217 Richville, New York 13681

Date of Birth May 28, 1914 Place of Birth Gouverneur, New York  
Month Day Year City, Town or Village/State or Country

**Bride** Name Geneva H. Jones Blair  
First Middle Premarriage Surname Maiden Name (if different from premarriage surname)  
New Surname (if applicable)  Check box if same as premarriage surname.  
Residing at R/R4 Box 101A Gouverneur, New York 13642

Date of Birth Oct. 26, 1911 Place of Birth Gouverneur, New York  
Month Day Year City, Town or Village/State or Country

Date of Marriage April 18, 1991 Place of Marriage Richville NEW YORK  
Month Day Year City, Town or Village

(SEAL)

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

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



Robert R. Snashall  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES STREET  
SYRACUSE, NY 13203  
www.wcb.state.ny.us  
(315) 423-2932

State of New York - Workers' Compensation Board

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

JUN 03 2002

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)	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 -	05/30/2002

ATENCIÓN:

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).



Robert R. Snashall  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES STREET  
SYRACUSE, NY 13203  
[www.wcb.state.ny.us](http://www.wcb.state.ny.us)

(315) 423-2932

**State of New York - Workers' Compensation Board**

**In regard to Robert Rice, WCB Case #6010 3382**

JUN 03 2002

**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

**ATENCIÓN:**

Puede llamar a la oficina de la Junta de Compensación 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 (C

---

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

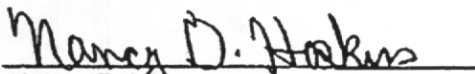
Attorney General, State of New York  
Attorney for Workers' Compensation Board Respondent  
120 Broadway  
New York, NY 10271

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. Hoskins  
Notary Public, State of New York  
Qualified in Onon. Co. No. 01HO038105  
My Commission expires 11/22/05

DOWNSTATE CENTRALIZED MAILING  
 (for New York City, Hempstead, Hauppauge & Peekskill Districts)  
 PO Box 20017 Brooklyn, NY 11202-0017  
 NYC (718) 802-6600/ Hemp. (516) 560-7700/ Haupp. (813) 652-8000/ Peek. (914) 788-5778

100 Broadway Menands ALBANY 12241 (518) 474-8874  
 State Office Building 44 Hanley Street BINGHAMTON 13901 (807) 721-8358  
 Statler Towers 107 Delaware Ave. BUFFALO 14202 (716) 842-2166  
 130 Main Street W. ROCHESTER 14614 (716) 236-8300  
 935 James St. SYRACUSE 13203 (315) 423-2832

**State of New York  
 WORKERS' COMPENSATION BOARD  
 PRACTITIONER'S REPORT OF REQUEST FOR INFORMATION/RESPONSE TO REQUEST  
 REGARDING INDEPENDENT MEDICAL EXAMINATION**

1. PRACTITIONER'S NAME AND ADDRESS CARL B FRIEDMAN MDPC 123 MAPLE AVENUE STE 203 CEDARHURST, NEW YORK 11516-2240		2. NAME AND ADDRESS OF PARTY REQUESTING INFORMATION ZURICH P.O. BOX ZZ JAMAICA, NY 11430-00ZZ ATT: FRAN HOFFMAN	
3. PRACTITIONER'S IIME AUTHORIZATION NO. 106697-6B	4. IIME ENTITY REGISTRATION NO. (If Applicable)	5. DATE OF INDEPENDENT MEDICAL EXAMINATION 7/22/02 Death file Rev.	
6. CLAIMANT'S NAME ROBERT RICE	7. CLAIMANT'S WCB CASE NO.	8. DATE OF INJURY 12/8/00	9. DATE OF THIS REPORT 1/3/03

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 faxed 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 requester, shall be submitted by the responding practitioner to the Board within ten days of the submission of the response to the requester.

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 IIME-5 ("Claimant's Notice of Independent Medical Examination") to the designated Workers' Compensation Board office.

**Instructions:**

- Complete all identifying information, items 1-9 above.
- 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.
- To report practitioner's response to a request for information, complete item 11 below, sign, date and mail to appropriate Workers' Compensation district office within ten days of submission of response to the requester. A copy of the response and all materials sent to the requester must be attached.
- If the practitioner responds to the requester 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 response 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 110-a 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 *Carl B. Friedman* 12/18/02  
 Practitioner's Name Signature Date

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

Date response submitted to requester 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 requester.

CARL B FRIEDMAN MD PC *Carl B. Friedman* 1/6/03  
 Practitioner's Name Signature Date

Page Three  
01/03/2003

Robert Rice  
File # 2640097017-001

FOR THE FOLLOWING WCB'S

AVAILABILITY

JAMAICA- 1<sup>ST</sup> TUESDAY OF THE MONTH -A.M.  
BROOKLYN- 2<sup>ND</sup> TUESDAY OF THE MONTH -A.M.  
MANHATTAN- 4<sup>TH</sup> TUESDAY OF THE MONTH -A.M.  
WHITE PLAINS-TELEPHONE DEPOSITIONS ONLY!  
HEMPSTEAD - 2<sup>ND</sup> & 3<sup>RD</sup> FRIDAY OF THE MONTH - P.M.  
NEWBURGH -TELEPHONE DEPOSITIONS ONLY!  
YONKERS -TELEPHONE DEPOSITIONS ONLY!  
HAUPPAUGE - 4<sup>TH</sup> 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

David J. Phillippone \*  
James P. McGevna +  
Joseph P. Breeda  
Neal P. McCurn, Jr.  
Lcah A. Oot  
MEMBERS

John F. McDonough, Jr.

\* ALSO ADMITTED IN NJ  
+ ALSO ADMITTED IN CT

Christian J. Oot  
WORKERS' COMPENSATION  
LICENSED REP. #778

**OOT & ASSOCIATES, PLLC**  
*Attorneys and Counselors at Law*

503 East Washington Street  
Syracuse, New York 13202  
(315) 471-6687 facsimile (315) 476-7603

63 Main Street  
Canton, New York 13617  
(315) 379-1466 facsimile (315) 379-1433

125 State Street, Suite 300  
Rochester, New York 14614  
(585) 325-7170 facsimile (585) 232-4811

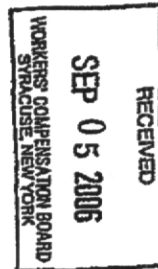
www.OotandAssociates.com

Thaddeus B. Oot  
RETIRED

Terry L. Oot  
LAW OFFICE MANAGER

Marie L. Podkowinski  
Robert M. Marsman  
PARALEGALS

REPLY TO:  
 Syracuse  
 Canton  
 Rochester



September 1, 2006

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

**CLAIMANT'S MEMORANDUM**

RE: Robert Rice (Deceased) vs Gouveneur Talc  
Geneva Rice (Widow)  
WCB #60108425 D/I: 5/17/01  
O&A File#C95679-01-1 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 and 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.

**MEMO-OF-LAW**

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

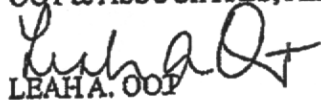
Given the facts and circumstances of this matter, on behalf of Mrs. Rice, it is respectfully requested that Zurich's request to recoup the overpayment be denied. Alternatively, should Your Honor deem that recovery of the overpayment is necessary, I request that it be held in abeyance

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,

OQT & ASSOCIATES, PLLC



LEAH A. OOT

cc: Mrs. Geneva Rice  
Zurich Insurance  
Aggregate Trust Fund  
Leiter & Brune



State of New York WORKERS' COMPENSATION BOARD REQUEST FOR ACTUARIAL COMPUTATION

m. G. 12 05 71 00/00 SCAN

Under Sec. 27 (1) Workers' Compensation Law (2) Volunteer Firefighters' Benefit Law (3) Volunteer Ambulance Workers' Benefit Law
WC Case No. 60108425 Carrier Case Number 2640097017 Carrier Code Number W228001 Date of Accident/Injury 5/17/2001 Date of Death 05/27/2001
Claimant Rice (Deceased), Robert Carrier Zurich American Insurance Co. Employer Gouverneur Talc

Amount of Compensation/WFAW benefits paid: plus 4 biweekly payments at \$193.16 (6/9/04 to 8/4/04) = \$772.64

\$ 9,464.84 for 98 weeks, from 7/24/2002 to 6/9/2004 (Fill in A or B and appropriate items C, D and E below)

A. FATAL CASES

- 1. Weekly wages \$259.10
2. Schedule of dependents

Table with columns: RELATIONSHIP, DATE OF BIRTH, ATTAINED AGE, WEEKLY COMP.
Spouse (Geneva) 12/26/1911 89 \$96.58
Handwritten calculations: 1/2 x 660 x 2 = 660, 17273, 745, 9658

\*Attained age means nearest age at date of lump sum award.

C. INTEREST ON APPEALED CASES

- 1. Appeal taken from award dated
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

B. NON-FATAL CASES

- 1. Does claimant have spouse, or children under 18?
2. Date of birth
3. Nature of disability

pv as of 7/1/04

D. TERMS OF LUMP SUM AWARD

- 1. Lump sum award dated
2. For \$ and (check one)
() for all future payments - ( ) payments suspended
() None compensation rate reduced ( ) deducted from end of award
(x) other (specify)

Please compute deposit into Aggregate Trust Fund.

DISTRICT OFFICE Syracuse UNIT 1
DATE 7/2/04 BY Matthew T. Cook

E. FOR THIRD PARTY CASES - COMPLETE REVERSE SIDE

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.

Philip Santoro Senior Actuary

PS/jl

MTC JUL 22 2004

EXHIBIT A



# New York State Insurance Fund

Workers Compensation & Disability Benefits Specialists Since 1914

199 Church Street, New York, N.Y. 10007

Aggregate Trust Fund, Unit 999, 4<sup>th</sup> Floor

(212) 312-9000

Date: 11/29/04

To: Zurich American Insurance  
Address: PO Box 77  
Jamaica, NY 11430

Employer: Dav-ed Operating Corp.

Ins. Carrier#2640097017

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 (4/90)

## 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

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS						
1. WCB Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Social Security Number		
6010 8425	2640097017	W228001	12/08/00	121147716		
6. Claimant/Name of Deceased		Name				
Robert Rice		68 West Main Street Gouverneur NY 13642-1348				
7. Employer*		Address to which notices should be sent				
Gouverneur Talc Co		Gouverneur NY 13642				
8. Carrier		P.O. Box 66946 Chicago IL 60666-0946				
Zurich American Insurance Company		IL 60666-0946				
* In VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER"						
9. County Where Injury Occurred		10. Date Disability Began or Date of Death	11. Average Weekly Wage*	12. Date First Payment Mailed		
		12/08/00	\$ 500.00			
13. Date Most Recent Payment Mailed						
14. Description (Diagnosis) of Injury lung condition						
15. SUMMARY OF BENEFIT PAYMENTS						
Indicate Type of Disability	Period(s) of Payment		Less Days Worked	Number of Weeks	Weekly Rate	Amount
	TOTAL/PARTIAL	PERM/TEMP.				
					0.00	10.
						28.
						28.
DISFIGUREMENT						
LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award)						
DEATH BENEFITS	From		To	Paid To Or For		Amount
	05/17/01		9/23/04	Geneva Rice		28,096.21
	Per NOD		08/10/04	NY State Insurance		
Lump Sum Death Benefit (VFBL and VAWBL only)						
Funeral Expenses						
State Treasurer (Sections 15-B, 25-a or 26-a)						
Payment made into Aggregate Trust Fund - Date: 9/15/04						
TOTAL AWARD						\$ 9995.79
PENALTY PAYMENT TO CLAIMANT						\$ 10.00
LESS: a. Fees to representative:						\$
b. Reimbursement to:						\$
c. Other (specify):						\$
TOTAL DEDUCTIONS (a+b+c)						\$
BALANCE TO CLAIMANT						\$
16. Have benefits been paid in full in accordance with an award of the WCB? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," check and complete items a-c, as appropriate:						
a. <input type="checkbox"/> Claimant returned to work. Date of return: <input type="checkbox"/> At pre-injury wages <input type="checkbox"/> At reduced wages						
b. <input type="checkbox"/> There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)						
c. <input type="checkbox"/> Payments stopped or modified for other reason. (Explain below and/or attach explanation/documentation.)						
17. <input type="checkbox"/> 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 Robek

Dated 10/15/2004

Official Title CLAIM CASE MANAGER

Telephone No. & Extension 847 605-6052

C-8/8.8 (8-03)

Prescribed by Chief  
Workers' Compensation Board  
State of New York

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  
mlb@lwcny.rr.com

JAMES A. LEITER  
TRACY A. BRUNE  
DEAN C. LACLAIR

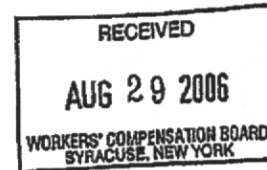
(315) 422-1177  
FAX (315) 476-9441

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

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

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 Bloomingtondale's 2004 NY Wrk. Comp. 9304795; citing McDonnell 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 Bloomingtondale'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 Bloomingtondale'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



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

payment in an action in equity. Liberty Mutual Insurance Company citing National Life Insurance Company vs. Jones, 1 Thomp & C466 affirmed 59 NY 649; Masonic Life Association of Western New York vs. Crandall, 9 App. Div. 400; Allcity Insurance Company vs. Bankers Trust Company of Albany, A.D. Misc. 2d 899; Graphics Arts Mutual Insurance Company vs. Monello, 44 Misc. 2d 588, see, generally, 31 NY Jur, Ins, Section 1606; 44 NY Jur., Section 96; Ann., (Right of insurer to restitution of payments made under mistake, 167 Alr 470).

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



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

such awards, nor claimant's attorney, informed Zurich Insurance Company that the claimant was receiving duplicative benefits.

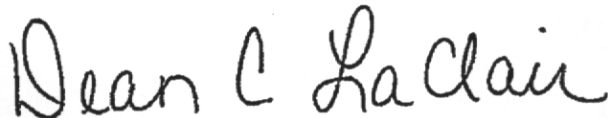
As the Board sits as a court of law and a court of equity, the carrier, Zurich Insurance Company, should be entitled to reimbursement from claimant's widow, Geneva Rice. If there is no reimbursement ordered in this case, claimant's widow, Geneva Rice, will have received duplicate awards and will have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

---

AUG. 17. 2006 2:53PM

WILSON ELSER MOSKOWITZ EDELMAN

NO. 1657 P. 1

# WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

3 Gannett Drive, White Plains, NY 10604-3407

Tel: 914.323.7000 Fax: 914.323.7001

*Albany • Baltimore • Boston • Chicago • Dallas • Garden City • Houston • Las Vegas • London • Los Angeles • McLean  
Miami • Newark • New York • Orlando • Philadelphia • San Diego • San Francisco • Stamford • Washington, DC • White Plains  
Affiliates: Berlin • Cologne • Frankfurt • Munich • Paris*

www.wilsonelsel.com

August 15, 2006

BY FACSIMILE 1-315-423-1262

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

Attn.: Laurie Clark

Re: [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
Robert Rice WCB# 6010 8425  
[REDACTED] [REDACTED]

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

  
Bernice E. Margolis

Encls.

1236631.1

SCAN

RECEIVED  
AUG 17 2006  
WORKERS' COMPENSATION BOARD  
SYRACUSE, NEW YORK

Oot and Associates, 503 E. Washington Ave, Syracuse, NY 13202

**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. WCB Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Social Security Number		
6010 8425	2640097017	W228001	05/17/01	121147716		
6. Claimant/Name of Deceased		Address to which notices should be sent				
Geneva Rice		68 West Main Street Gouverneur NY 13642-1348				
7. Employer*		Gouverneur NY 13642				
8. Carrier		P.O. Box 22 Jamaica NY 11430-0022				
* in VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER"						
9. County Where Injury Occurred	10. Date Disability Began or Date of Death	11. Average Weekly Wage	12. Date First Payment Mailed	13. Date Most Recent Payment Mailed		
	12/08/00	\$ 259.10				
14. Description (Diagnosis) of Injury lung condition						
15. SUMMARY OF BENEFIT PAYMENTS						
Indicate Type of Disability	Period(s) of Payment		Loss Days Worked	Number of Weeks	Weekly Rate	Amount
TOTAL/PARTIAL	PERM/TEMP.	From To				\$
			isp			
DISFIGUREMENT						
LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award)						
DEATH BENEFITS	From	To	Paid To Or For			
	05/17/01	09/01/04	171.8 @ 96.58		16592.44	
	Lump Sum Death Benefit (VFBL and VAWBL only)					
	Funeral Expenses					
State Treasurer (Sections 15-b, 25-a or 26-a)						9995.79
Payment made into Aggregate Trust Fund - Date:						
<b>TOTAL AWARD</b>						<b>\$ 26588.23</b>
PENALTY PAYMENT TO CLAIMANT						
LESS: a. Fees to representative: \$						
b. Reimbursement to: \$						
c. Other (specify): Previously paid on the claim \$33501.64						
<b>TOTAL DEDUCTIONS (a+b+c)</b>						<b>\$ 33501.64</b>
<b>BALANCE TO CLAIMANT</b>						<b>\$ -6913.41</b>
16. Have benefits been paid in full in accordance with an award of the WCB? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "No," check and complete items a-c, as appropriate:						
a. <input type="checkbox"/> Claimant returned to work. Date of return: <input type="checkbox"/> At pre-injury wages <input type="checkbox"/> At reduced wages						
b. <input type="checkbox"/> There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)						
c. <input type="checkbox"/> Payments stopped or modified for other reason. (Explain below and/or attach explanation/documentation.)						
Carrier has overpayment of \$6,913.41, seeks reimbursement.						
17. <input type="checkbox"/> 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:						

Lin Murphy

Dated 06/21/2006

Specialist  
Employed by Char  
 Insurance Compensation Board  
 of New York

Telephone No. & Extension 631 845-2414

SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE.

5/21/2006-17:15:26

PQ

C-8/8.b

Prepared by KA  
Official Title ACT  
C-8/8.8 (8-03)

W DDC: 0



STATE OF NEW YORK  
 WORKERS' COMPENSATION BOARD  
 935 JAMES 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 06/06/2006 involving the claim of Robert Rice (deceased) at the Canton hearing location, Judge Giles Wanamaker 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:

Award to:	Relation	DOB	Pct	Rate / week	Total	Pay to:
Geneva Rice	Spouse	12/26/1911	66.67%	*\$96.58	\$10,044.32	Geneva Rice

\*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)	Employer -	Gouverneur Talc
Social Security No. -		Carrier -	Zurich American Insurance Co.
WCB Case No. -	6010 8425	Carrier ID No. -	W228001
Date of Accident -	05/17/2001	Carrier Case No. -	2640097017
District Office -	Syracuse	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).

Copies To:  
Claimant:  
Carrier:  
Employer:  
Other:

Robert Rice (deceased)  
Zurich American Insurance Co.  
Gouverneur Talc  
Oot & Associates  
Aggregate Trust Fund  
Wilson, Elser, Moskowitz,  
Empire Blue Cross and  
Vytra Health Plans  
Geneva Rice

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



**NOTICE OF WORKERS COMPENSATION HEARING**State of New York  
WORKERS' COMPENSATION BOARD

FILE COPY

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
60108425	W228001	2640097017		05/17/2001	www.wcb.state.ny.us

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

POIs not sent a notice  
PE Gouverneur Talc

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

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

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

\*H1 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: 05/12/2006

THE BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION AND ASSURES HEARING LOCATIONS ACCESSIBLE  
TO THE DISABLED. CONTACT THE NEAREST BOARD OFFICE  
IF YOU HAVE SPECIAL ACCESSIBILITY NEEDS.

Page 1 of 1

EC-16.1/28 (7-88)

31

**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:** Wanamaker, Giles  
**Hearing Reporter:** Carrier, Nila

---

**ATTENDEES**

CLAIMANT                      CLAIMANT ATTORNEY  
                                    LEAH OOT

CARRIER REP                                      FOR WHOM  
DEAN LACLAIR                                      Zurich American Insurance Co.  
JOHN SNYDER                                      Aggregate Trust Fund

---

**ELSE:**  
MOL                                      due 9/1/06

---

**FINDINGS:**  
Award reflect SS offset              paid by ATF  
Claimed overpyt HIA  
MOLs on overpyt 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.

Gouverneur Taft

\*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

Bernice Margolis  
Signature of Attorney Bernice Margolis

Printed Name of Attorney Wilson, Elter, Mackowitz Fiedman & Dickel LLP

Office Address 3 Gannett Drive  
White Plains New York 10604

Office Telephone Number 914 322 7000 ext 4022

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.

'06 APR 19 PM 12:28

Date April 18, 2006

Paul Vanderbilt  
Signature of Person Authorized to Sign on Behalf of Employer

Paul Vanderbilt

Printed Name of Person Authorized to Sign on Behalf of Employer

ORIGINAL SIGNATURE VERIFIED

BY AA DATE 4-19-06

Vice President/Secretary

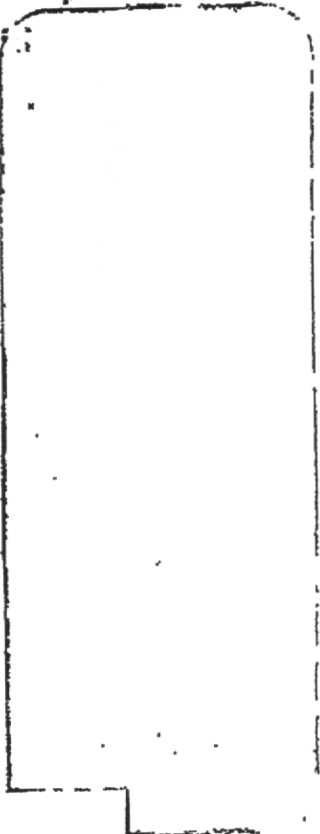
Title of Person Authorized to Sign on Behalf of Employer

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."

G-5 Bulk (7-96)

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD



KACASHIS 13642

Return Service Requested  
9-5 JAMES STREET  
SYRACUSE, NY 13203

PRESORTED  
FIRST CLASS



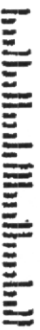
H METERS 504652

U.S. POSTAGE  
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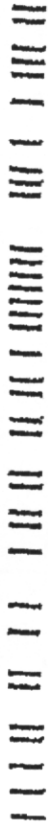
NIXIE 130 1  
RETURN TO SENDER  
NO SUCH NUMBER  
UNABLE TO FORWARD

BC: 19200

\*1937-01861-29-15



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





STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 James Street  
Syracuse, NY 13203  
www.wcb.state.ny.us

THIS AGENCY EMPLOYS AND SERVES  
PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION.

DAVID P. WEHNER  
CHAIRMAN

Geneva Rice  
88 W Main St  
Apt 3B1  
Gouverneur, NY 13642-1348

December 27, 2005



**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**

Claimant: Robert Rice (deceased)  
WCB Case No.: 60108425  
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.





STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 James Street  
Syracuse, NY 13203  
[www.wcb.state.ny.us](http://www.wcb.state.ny.us)

THIS AGENCY EMPLOYS AND SERVES  
PEOPLE WITH DISABILITIES WITHOUT  
DISCRIMINATION.

# FILE COPY

DAVID P. WEHNER  
CHAIRMAN

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

December 27, 2005

**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

Claimant:	Robert Rice (deceased)	Social Security No.:	
WCB Case No.:	60108425	Carrier ID No.:	W228001
Date of Accident:	05/17/2001	Carrier Case No.:	2640097017
Employer:	Gouverneur Talc	Insurance Carrier:	Zurich American Insurance Co.

# PARTIES OF INTEREST

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

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 WCB 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.

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS		3. CARRIER CODE	4. DATE OF INJURY	5. SOCIAL SECURITY NO.	6. DISTRICT OFFICE
1. WCB CASE NO.	2. CARRIER CASE NO.				
6 0 1 0 8 4 2 5	2640097017	W 2 2 8 0 0 1	1 2 0 8 0 0 1 2 1	1 4 7 7 1 6	
NAME		ADDRESS TO WHICH NOTICES SHOULD BE SENT			
7. CLAIMANT	Robert Rice	68 West Main Street Gouverneur NY 13642-1348			APT. NO.
8. EMPLOYER	Gouverneur Talc Co	Gouverneur NY 13642			
9. CARRIER	Zurich American Insurance Company	P.O. Box 66946 Chicago IL 60666-0946			
10. ATTORNEY OR LICENSED REP.					ATTY/REP ID. NO. R
CHECK HERE <input type="checkbox"/> IF CLAIMANT'S ADDRESS SHOWN ABOVE IS NEW					

**REASON FOR THIS REQUEST**  
(Check all that apply - use item 1. for explanation or additional information)

**11. CARRIER/EMPLOYER**

a. contends that continuing payments should be:  
 Suspended  Reduced to \$\_\_\_\_\_ per week based on:  
 evidence of change in medical condition pursuant to Rule 300.23(b).  
 payroll evidence warranting a rate modification under Rule 300.23(c).  
ATTACH MEDICAL OR PAYROLL EVIDENCE SUPPORTING YOUR POSITION. IF MEDICAL EVIDENCE WAS PREVIOUSLY SUBMITTED, IDENTIFY IT IN ITEM 1. BELOW BY DATE, DOCTOR'S NAME AND FORM ID, IF ANY.

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).  
 the right to compensation is disputed (explain below).

c. has evidence of voluntary removal from the labor market.  
 d. requests referral to conciliation (WCL 25(2-b) and Rule 312) 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-a or 14(6) which was denied by Special Funds.  
 h. has new or requested evidence.  
 i. has payroll evidence relating to reduced earnings.  
 j. has evidence of the settlement of a third party action.  
 k. requests a resolution regarding schedule loss of use or facial disfigurement.  
 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 ID, IF ANY, IN THE SPACE PROVIDED ABOVE.

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 (Please Print Name)  
Jody Beckford

DATE PREPARED  
1 2 0 5 0 5

AREA CODE TELEPHONE NUMBER  
6 4 7 6 0 5 6 9 9 1

This form is submitted by  carrier  self-insurer

# 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. WCB Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Social Security Number		
6010 8425	2540097017	W228001	12/08/00	121147716		
6. Claimant/Name of Decedent		Address to which notices should be sent				
Geneva Rice		68 West Main Street Gouverneur NY 13642-1348				
7. Employer*		Gouverneur NY 13642				
8. Carrier		P.O. Box 66946 Chicago IL 60666-0946				
* In VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER"						
9. County Where Injury Occurred	10. Date Disability Began or Date of Death	11. Average Weekly Wage	12. Date First Payment Made	13. Date Most Recent Payment Made		
	12/08/00	\$ -500.00				
14. Description (Diagnosis) of Injury lung condition						
<b>15. SUMMARY OF BENEFIT PAYMENTS</b>						
Indicate Type of Disability		Period(s) of Payment	Less Days Worked	Number of Weeks	Weekly Rate	Amount
TOTAL/PARTIAL	PERM/TEMP.	From To				\$
		09/02/2004 11/16/2005		62.6	96.58	6070.70
DISFIGUREMENT						
LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award)						
DEATH BENEFITS	From To		Paid To Or For			
Lump Sum Death Benefit (VFBL and VAWBL only)						
Funeral Expenses						
State Treasurer (Sections 15-9, 25-a or 26-a)						
Payment made into Aggregate Trust Fund - Date:						
TOTAL AWARD						\$
PENALTY PAYMENT TO CLAIMANT						\$ 0.00
LESS: a. Fees to representative: \$						
b. Reimbursement to: \$						
c. Other (specify): \$						
TOTAL DEDUCTIONS (a+b+c) \$						
BALANCE TO CLAIMANT						\$ -6070.70
16. Have benefits been paid in full in accordance with an award of the WCB? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," check and complete items a-c, as appropriate:						
a. <input type="checkbox"/> Claimant returned to work. Date of return: <input type="checkbox"/> At pro-injury wages <input type="checkbox"/> At reduced wages						
b. <input type="checkbox"/> There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)						
c. <input checked="" type="checkbox"/> Payments stopped or modified for other reason. (Explain below and/or attach explanation/documentation.)						
Payments taken over by Aggregate Trust Fund 9/1/04 per NOD						
17. <input type="checkbox"/> 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 Jody Beckford

Dated 12/05/2005

Official Title CLAIM CASE MANAGER

Telephone No. & Extension 847 605-6991

C-8/8.6 (8-03)

Prescribed by Chair  
Workers' Compensation Board  
State of New York

**SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE**



David P. Wehner  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES STREET  
SYRACUSE, NY 13203  
www.wcb.state.ny.us  
(866) 802-3730

1435443

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. Coordinate the actions planned by the Board and its members.

Claimant -	Robert Rice (deceased)	Employer -	Gouverneur Talc
Social Security No. -		Carrier -	Zurich American Insurance Co.
WCB Case No. -	6010 8425	Carrier ID No. -	W228001
Date of Accident -	05/17/2001	Carrier Case No. -	2640097017
District Office -	Syracuse	Date of Filing of this Decision -	08/10/2004

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).

# THE STATE INSURANCE FUND PAGE 1

ANSWER ALL QUESTIONS FULLY

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS		3. Carrier Code W 995005	4. Date of Injury 5/17/2001	5. Claimant's Soc. Sec. No. 000-00-0001
1. W.C.B. Case Number 60108425	2. Carrier Case Number ATF 223222-999			
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 <i>Courvenner Pale</i>	
			8. Name of Deceased RICE ROBERT	
9. Carrier THE STATE INSURANCE FUND		Address ATF, 199 CHURCH ST 4TH FL, NYC, NY 10007		

\* In VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER"

## 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 UNKNOWN	11. Date of Death 5/17/2001	12. Average Weekly Wage 259.10	13. Date First Payment Mailed 10/13/2004	14. Date Last Payment Mailed 12/01/2004
---	--------------------------------	-----------------------------------	---	--

15. Description (Diagnosis) of Injury

### 16. SUMMARY OF DEATH BENEFITS PAID

Paid To Or For	Start Date	End Date	Weeks	Rate	Amount
Name <u>SPOUSE GENEVA</u>	<u>9/01/2004</u>	<u>12/06/2004</u>	<u>13.71</u>	<u>172.73</u>	\$ <u>2368.85</u>
Name <u>SSO</u>	<u>9/01/2004</u>	<u>12/06/2004</u>	<u>13.71</u>	<u>76.15</u>	- <u>1044.33</u>
Name _____					
Name _____					
Name _____					
Lump Sum Death Benefit (VFBL and VAWBL 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 _____)					
<b>TOTAL AWARD</b>					<b>\$ 1324.52</b>
Less: a. Fees to representative					
b. Reimbursement					
c. Other (specify)					
<b>TOTAL DEDUCTIONS</b>					
<b>BALANCE TO CLAIMANT</b>					<b>\$ 1324.52</b>

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 <i>[Signature]</i>	Official Title <i>Claims Service Representative</i>
Tel. No. & Ext. (212) 312-9805		



# THE STATE INSURANCE FUND PAGE 1

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS				
1. W.C.B. Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Claimant's Soc. Sec. No.
60108425	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			7. Employer	
RICE GENEVA PO BOX 164 RICHVILLE NY 13681			Gouverneur State Gouverneur, N.Y. 13642	
			8. Name of Deceased	
			RICE ROBERT	
9. Carrier		Address		
THE STATE INSURANCE FUND		ATF, 199 CHURCH ST 4TH FL, NYC, NY 10007		

\* In VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAW8L) is deemed to be the "EMPLOYER"

## 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	11. Date of Death	12. Average Weekly Wage	13. Date First Payment Mailed	14. Date Last Payment Mailed
UNKNOWN	5/17/2001	259.10	10/13/2004	11/17/2004

15. Description (Diagnosis) of Injury

### 16. SUMMARY OF DEATH BENEFITS PAID

Paid To Or For	Start Date	End Date	Weeks	Rate	Amount
Name SPOUSE GENEVA	9/01/2004	11/22/2004	11.71	172.73	\$ 2023.39
Name SSO	9/01/2004	11/22/2004	11.71	76.15	- 892.03
Name _____					
Name _____					
Lump Sum Death Benefit (VFBL and VAW8L 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					
BALANCE TO CLAIMANT					\$ 1131.36

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 11/30/2004	Prepared By <i>P. Duggan</i>	Official Title <i>Claims Service Representative</i>
Tel. No. & Ext. (212) 312-9805		

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 999, 4<sup>th</sup> Floor  
(212) 312-9000

Date: 11/29/04

To: Zurich American Insurance  
Address: PO Box 77  
Jamaica, NY 11430

Employer: Dav-ed Operating Corp.

Ins. Carrier#2640097017

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 (4/90)

# 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**

ALL COMMUNICATIONS SHOULD REFER TO THESE NUMBERS							
1. WCB Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Social Security Number			
6010 8425	2640097017	W228001	12/08/00	121147716			
6. Claimant/Name of Deceased		Address to which notices should be sent					
Robert Rice		68 West Main Street Gouverneur NY 13642-1348					
7. Employer *		Gouverneur Talc Co Gouverneur NY 13642					
8. Carrier		Zurich American Insurance Company P.O. Box 66946 Chicago IL 60666-0946					
* In VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER"							
9. County Where Injury Occurred	10. Date Disability Began or Date of Death	11. Average Weekly Wage	12. Date First Payment Made	13. Date Most Recent Payment Made			
	12/08/00	\$ 500.00					
14. Description (Diagnosis) of Injury <u>lung condition</u>							
<b>15. SUMMARY OF BENEFIT PAYMENTS</b>							
Indicate Type of Disability		Period(s) of Payment		Less Days Worked	Number of Weeks	Weekly Rate	Amount
TOTAL/PARTIAL	PERM/TEMP.	From	To				\$
						0.00	16.
DISFIGUREMENT.....							
LUMP SUM PAYMENT (Include Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award).....							
<b>DEATH BENEFITS</b>	From		To	Paid To Or For			
	05/17/01		9/23/04	Geneva Rice		28,096.21	
	Per NOD		08/10/04	NY State Insurance			
Lump Sum Death Benefit (VFBL and VAWBL only).....							
Funeral Expenses.....							
State Treasurer (Sections 15-9, 25-a or 26-a).....							
Payment made into Aggregate Trust Fund - Date: <u>9/15/04</u> ..... 9995.79							
<b>TOTAL AWARD</b>							\$
PENALTY PAYMENT TO CLAIMANT.....							\$ 0.00
LESS: a. Fees to representative:.....							\$
b. Reimbursement to:.....							\$
c. Other (specify):.....							\$
<b>TOTAL DEDUCTIONS (a+b+c)</b>							\$
<b>BALANCE TO CLAIMANT</b>							\$
16. Have benefits been paid in full in accordance with an award of the WCB? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," check and complete items a-c, as appropriate:							
a. <input type="checkbox"/> Claimant returned to work. Date of return:..... <input type="checkbox"/> At pre-injury wages <input type="checkbox"/> At reduced wages							
b. <input type="checkbox"/> There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)							
c. <input type="checkbox"/> Payments stopped or modified for other reason. (Explain below and/or attach explanation/documentation.)							
17. <input type="checkbox"/> 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 Robek

Dated 10/15/2004

Official Title CLAIM CASE MANAGER

Telephone No. & Extension 847 605-6052

C-8/8.6 (8-03)

Prescribed by Chair  
Workers' Compensation Board  
State of New York

**SEE IMPORTANT INFORMATION TO CLAIMANT AND CARRIER ON REVERSE**



STATE OF NEW YORK  
**WORKERS' COMPENSATION BOARD**  
 935 James Street  
 Syracuse, NY 13203

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

Geneva Rice  
 PO Box 164  
 Richville, NY 13681

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
Geneva Rice	Gouverneur Talc Co.	Zurich American Insurance Co.

### 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

# PARTIES OF INTEREST

Geneva Rice  
PO Box 164  
Richville, NY 13681

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



STATE OF NEW YORK  
**WORKERS' COMPENSATION BOARD**  
 935 James Street  
 Syracuse, NY 13203  
 www.wcb.state.ny.us

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

**DAVID P. WEHNER**  
 CHAIRMAN

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

October 4, 2004

**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 indicates 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(d) 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 (866)802-3730

**Case Information**

Claimant: Robert Rice (deceased)	Social Security No.:
WCB Case No.: 60108425	Carrier ID No.: W228001
Date of Accident: 05/17/2001	Carrier Case No.: 2640097017
Employer: Gouverneur Talc	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

NOTICE OF INDEXING CASE

DATE FORM EC-84 SENT: 08/17/04  
STATUS: \*\* Newly Indexed \*\* INJURY - Lungs

WCB CASE NO.	CARRIER ID NO.	CARRIER CASE NO.	DATE OF ACCIDENT	SOCIAL SECURITY NO.
60408517	W228001	2640097017	12/08/00	121-14-7716

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 W C B Case Numbers.)

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

C-2; C-669; 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 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

# PARTIES OF INTEREST

Gouverneur Talc Co.  
P.O. Box 89  
Gouverneur, NY 13642

Geneva Rice  
68 West Main Street  
Gouverneur, NY 13642

[Empty box]



David P. Wehner  
Chairman

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
935 JAMES 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)	Employer -	Gouverneur Talc
Social Security No. -		Carrier -	Zurich American Insurance Co.
WCB Case No. -	6010 8425	Carrier ID No. -	W228001
Date of Accident -	05/17/2001	Carrier Case No. -	2640097017
District Office -	Syracuse	Date of Filing of this Decision -	08/10/2004

**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).

Copies To:  
Claimant:  
Carrier:  
Employer:  
Other:

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

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

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 Pkwy.  
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

Geneva Rice  
68 W Main St  
Apt 3B1  
Gouverneur, NY 13642-1348

# 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. W C B Case Number	2. Carrier Case Number	3. Carrier Code	4. Date of Injury	5. Social Security Number	
	2640097017		12/08/00	121147716	
6. Claimant/Name of Deceased		Address to which notices should be sent			
Geneva Rice		68 West Main Street Gouverneur NY 13642-1348			
7. Employer *		Gouverneur NY 13642			
8. Carrier		P.O. Box 66946 Chicago IL 60666-0946			
* In VF and VAW benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER"					
9. County Where Injury Occurred	10. Date Disability Began or Date of Death	11. Average Weekly Wage	12. Date First Payment Mailed	13. Date Most Recent Payment Mailed	
	12/08/00	\$ 500.00			
14. Description (Diagnosis) of Injury <u>lung condition</u>					
<b>15. SUMMARY OF BENEFIT PAYMENTS</b>					
Indicate Type of Disability		Period(s) of Payment		Less Days Worked	Number of Weeks
TOTAL/PARTIAL	PERM/TEMP.	From	To		Weekly Rate
					0.00
Amount					
\$					
DISFIGUREMENT.....					
LUMP SUM PAYMENT (Includes Lump Sum Non-Schedule Adjustment or Lump Sum Advance on a Schedule Loss Award).....					
<b>DEATH BENEFITS</b>	From	To	Paid To Or For		Amount
	08/02/2002	12/20/2002	Amount of interest due		\$186.21
	Lump Sum Death Benefit (VFBL and VAWBL only).....				
	Funeral Expenses.....				
	State Treasurer (Sections 15-9, 25-a or 26-a).....				
Payment made into Aggregate Trust Fund - Date:.....					
<b>TOTAL AWARD</b>					<b>\$ 186.21</b>
PENALTY PAYMENT TO CLAIMANT.....					
LESS: a. Fees to representative:.....					\$
b. Reimbursement to:.....					\$
c. Other (specify):.....					\$
<b>TOTAL DEDUCTIONS (a+b+c)</b>					<b>\$</b>
<b>BALANCE TO CLAIMANT</b>					<b>\$</b>
16. Have benefits been paid in full in accordance with an award of the WCB? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If "No," check and complete items a-c, as appropriate:					
a. <input type="checkbox"/> Claimant returned to work. Date of return: _____ <input type="checkbox"/> At pre-injury wages <input type="checkbox"/> At reduced wages					
b. <input type="checkbox"/> There is a change in condition and/or earnings. (A medical report or other supporting documentation must be attached.)					
c. <input type="checkbox"/> Payments stopped or modified for other reason. (Explain below and/or attach explanation/documentation.)					
17. <input type="checkbox"/> 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 Gary Regan

Dated 08/03/2004

Official Title CLAIM CASE MANAGER

Telephone No. & Extension 847 605-6057

C-8/8.6 (8-03) Prescribed by Chair  
Workers' Compensation Board  
State of New York

**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 999, 4<sup>th</sup> 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,

- ③ Please forward Actuarial Computation form C-40 pertaining to form EC-23, date.
- ③ 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.
- ③ Please forward Actuarial Computation Form C-40 pertaining to interest due based upon carrier's late deposit.
- ③ We are in receipt of Form C-40 and are still awaiting EC-97 directing interest.
- ③ Please verify the Aggregate Trust Fund is noted as a Party of Interest on E Case in order that we may review the file when necessary.

\*

  
Case Manager  
Aggregate Trust Fund  
212-312-9805

C-769 (4/90)

TSP



State of New York  
WORKERS' COMPENSATION BOARD

REQUEST FOR ACTUARIAL COMPUTATION

*M. Cook  
ES 7/20/04*

Under: Sec. 27  Workers' Compensation Law  Volunteer Firefighters' Benefit Law  Volunteer Ambulance Workers' Benefit Law

WCB Case No. 60108425	Carrier Case Number 2640097017	Carrier Code Number W228001	Date of Accident/Injury 5/17/2001	Date of Death 05/17/2001
Claimant Rice (Deceased), Robert		Carrier Zurich American Insurance Co.	Employer Gouverneur, Talc	

Amount of Compensation/VFNW benefits paid: plus 4 biweekly payments at \$193.16 (6/9/04 to 8/4/04) = \$772.64

\$ 9,464.84 for 98 weeks, from 7/24/2002 to 6/9/2004  
(Fill in A or B and appropriate items C, D and E below.)

A. FATAL CASES

- Weekly wages \$259.10
- Schedule of dependents

RELATIONSHIP	DATE OF BIRTH	ATTAINED AGE*	WEEKLY COMP.
Spouse (Geneva)	12/26/1911	89	\$96.58
			172.73
			76.5
			96.58

*1/2 x 660 x 2 = 52 =*

\*Attained age means nearest age at date of lump sum award.

C. INTEREST ON APPEALED CASES

- Appeal taken from award dated \_\_\_\_\_
- Date of payment \_\_\_\_\_
- Date Board affirmed WC Law Judge's decision \_\_\_\_\_
- Date Board adopted court decision \_\_\_\_\_
- Date appeal withdrawn \_\_\_\_\_
- Remarks \_\_\_\_\_

B. NON-FATAL CASES

- Does claimant have spouse, or children under 18? \_\_\_\_\_  
Claimant's attained age at date of lump sum award \_\_\_\_\_
- Date of birth \_\_\_\_\_  
Award \$ \_\_\_\_\_ weekly for \_\_\_\_\_ weeks.
- Nature of disability: \_\_\_\_\_

*PV as of 9/1/04*

D. TERMS OF LUMP SUM AWARD

- Lump sum award dated \_\_\_\_\_
- For \$ \_\_\_\_\_ and (check one)
  - for all future payments  payments suspended
  - future compensation rate reduced  deducted from end of award
  - other (specify) \_\_\_\_\_

Please compute deposit into Aggregate Trust Fund.

DISTRICT OFFICE Syracuse	UNIT 1
DATE 7/2/04	BY Matthew T. Cook

E. FOR THIRD PARTY CASES - COMPLETE REVERSE SIDE

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.

*Philip Santoro*  
Senior Actuary

PS/jl

E. THIRD PARTY CASES

1. Gross recovery ..... \$ \_\_\_\_\_

2. Amount reimbursed to carrier for:

a. Benefits paid (from \_\_\_\_\_ to \_\_\_\_\_ )

\_\_\_\_\_ weeks at \$ \_\_\_\_\_ per week \$ \_\_\_\_\_

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)

Dependent

Share of Net Recovery

\$

Total \$ \_\_\_\_\_  
(must equal item 6 above)

25th JUNE - 9 AM 11:13

C-40 (3-01) Reverse

REC'D CLAIMS  
NYC DIVISION

State of New York  
WORKERS' COMPENSATION BOARD  
REQUEST FOR ACTUARIAL COMPUTATION

M. Cook  
ES 7/20/04  
SCAN

Under Sec. 27 WCB Case No. 60108425	( ) Workers' Compensation Law Carrier Case Number 2640097017	( ) Volunteer Firefighters' Benefit Law Carrier Code Number W228001	( ) Volunteer Ambulance Workers' Benefit Law Date of Accident/Injury 5/17/2001	Date of Death 05/17/2001
Claimant Rice (Deceased), Robert		Carrier Zurich American Insurance Co.	Employer Gouverneur Talc	

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5. Date appeal withdrawn \_\_\_\_\_
6. Remarks \_\_\_\_\_

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1. Does claimant have spouse, or children under 18? \_\_\_\_\_  
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2. Date of birth \_\_\_\_\_  
Award \$ \_\_\_\_\_ weekly for \_\_\_\_\_ weeks.
3. Nature of disability: \_\_\_\_\_

*PV as of 9/1/04*

D. TERMS OF LUMP SUM AWARD

1. Lump sum award dated \_\_\_\_\_
2. For \$ \_\_\_\_\_ and (check one)  
 for all future payments     payments suspended  
 future compensation rate reduced     deducted from end of award  
 other (specify) \_\_\_\_\_

Please compute deposit into Aggregate Trust Fund.

DISTRICT OFFICE Syracuse	UNIT 1
DATE 7/2/04	BY Matthew T. Cook

E. FOR THIRD PARTY CASES -- COMPLETE REVERSE SIDE

ACTUARY'S REPLY

July 21, 2004

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*Philip Antonio*  
Senior Actuary

PS/jl

MTC JUL 22 2004



STATE OF NEW YORK  
 WORKERS' COMPENSATION BOARD  
 935 James Street  
 Syracuse, NY 13203  
 www.wcb.state.ny.us

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

DAVID P. WEHNER  
 CHAIRMAN

Robert Rice (deceased)  
 Geneva Rice (widow)  
 PO Box 184  
 Richville, NY 13681

July 7, 2004

Please see enclosed C-40. Please calculate deposit into Aggregate Trust Fund, if any.

By: Matthew Cook  
 Telephone: (866)802-3730

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 numero de caso "W.C.B. Case No." es importante. En el futuro, indique el numero de su caso "W.C.B. Case No." que aparece de abajo para poder procesar la correspondencia que usted nos mande mas rapidamente.

### Case Information

Claimant: Robert Rice (deceased)  
 WCB Case No.: 60108425  
 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

Aggregate Trust Fund  
% The State Insurance Fund  
199 Church Street  
Main Floor  
New York, NY 10007-1173

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STATE OF NEW YORK  
**WORKERS' COMPENSATION BOARD**  
 935 James Street  
 Syracuse, NY 13203

THIS AGENCY EMPLOYS AND SERVES  
 PEOPLE WITH DISABILITIES WITHOUT  
 DISCRIMINATION.

# FILE COPY

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

DATE OF MAILING	CLAIMANT'S S.S. NO.
7/7/2004	
WCB CASE NO.	DATE OF ACCIDENT
60108425	05/17/2001
CARRIER CASE NO.	CARRIER I.D. NO.
2640097017	W228001

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

### 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:

Pay To	As Interest On Specific Award or Other Payment On Which Interest is Due	Date of Award	Interest Computed To	Amounts of Interest Due
Geneva Rice	5/17/01 - 7/24/02 and continuing	08/02/2002	12/20/2002	\$ 196.21

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



NEW YORK STATE  
DEPARTMENT OF HEALTH  
**CERTIFICATE  
OF DEATH**

STATE FILE NUMBER

095679

RECORDED DISTRICT  
**4460**  
REGISTER NUMBER  
**2**

RESIDENCE

1. NAME: FIRST MIDDLE LAST  
**Robert Allen Rice**  
2. SEX: MALE  FEMALE   
3A. DATE OF DEATH: MONTH DAY YEAR  
**05 17 2001**  
3B. HOUR: **7:05 AM**

NCHS

4A. PLACE OF DEATH: HOSPITAL (Check only one) DDA ER HOSPITAL OUTPATIENT HOSPITAL INPATIENT NURSING HOME PRIVATE RESIDENCE OTHER (Specify)  
      XIX Hospice  
4B. IF FACILITY, DATE ADMITTED: MONTH DAY YEAR

4C

4C. NAME OF FACILITY: (If not facility, give address)  
**1599 U.S. Highway 11, lot 13**  
4D. LOCALITY: (Check one and specify) CITY VILLAGE TOWN  
**Gouverneur**  
4E. COUNTY OF DEATH: **St. Lawrence**

4G

4F. MEDICAL RECORD NO. 4G. WAS DECEDENT TRANSFERRED FROM ANOTHER INSTITUTION? (If yes, specify institution name, city or town, county and state)  
NO YES

DECEDENT

5. DATE OF BIRTH: MONTH DAY YEAR  
**May 28 1914**  
6A. AGE IN YEARS: **86**  
6B. IF UNDER 1 YEAR ENTER: months days  
6C. IF UNDER 1 DAY ENTER: hours minutes  
7A. CITY AND STATE OF BIRTH: (If not USA, Country and Region/Province)  
**Gouverneur, NY**  
7B. IF AGE UNDER 1 YEAR, NAME OF HOSPITAL OF BIRTH:

7A

8. SERVED IN U.S. ARMED FORCES? NO YES (Specify years)    
9. RACE: (Black, White, etc.) **white**  
10. HISPANIC ORIGIN? (If yes, specify) NO YES    
11. DECEDENT'S EDUCATION (Enter only the highest year of school completed. Do not circle range; enter specific number of years.)  
Elementary/Secondary (0-12) **12** College (1-4 or 5-)

7B

12. SOCIAL SECURITY NUMBER: **121-14-7716**  
13. MARITAL STATUS: NEVER MARRIED MARRIED SEPARATED WIDOWED DIVORCED  
      
14. SURVIVING SPOUSE: Enter name if married or separated. If surviving spouse is wife, enter maiden name.  
**Geneva Blair**

9

15A. USUAL OCCUPATION: (Do not enter retired) **miner**  
15B. KIND OF BUSINESS OR INDUSTRY: **talc mining**  
15C. NAME AND LOCALITY OF COMPANY OR FIRM: **Gouverneur Talc Co., Balmat**

10

16A. RESIDENCE: (State or County if not USA) **New York**  
16B. County or Region/Province if not USA: **St. Lawrence**  
16C. LOCALITY: (Check one and specify) CITY VILLAGE TOWN  
   **Gouverneur**  
16D. STREET AND NUMBER OF RESIDENCE: **U.S. Highway 11, lot 13**  
16E. ZIP CODE: **13642**

SI

17. NAME OF FATHER: FIRST MI LAST  
**Allen Rice**  
18. MAIDEN NAME OF MOTHER: FIRST MI LAST  
**Mary Bassett**

25

19A. NAME OF INFORMANT: **Geneva Rice**  
19B. MAILING ADDRESS: (Include zip code)  
**1599 U.S. Highway 11, lot 13, Gouverneur, NY 13642**

30

20A. BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION: (Specify) MONTH DAY YEAR  
**cremation May 18 2001**  
20B. PLACE OF BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION: **Frederick Brothers Crematory, Theresa, NY**  
20C. LOCATION: (City or town and state)

31

21A. NAME AND ADDRESS OF FUNERAL HOME: **Green Funeral Home, Inc., 33 Park Street, Gouverneur, NY 13642**  
21B. REGISTRATION NUMBER: **00767**

31B

22A. NAME OF FUNERAL DIRECTOR: **Michael V. Green**  
22B. SIGNATURE OF FUNERAL DIRECTOR: **Michael V. Green**  
22C. REGISTRATION NUMBER: **02053**

QR

23A. SIGNATURE OF REGISTRAR: **Joan Hall**  
23B. DATE FILED: MONTH DAY YEAR  
**05 18 2001**  
24A. BURIAL OR REMOVAL PERMIT ISSUED BY: **Joan Hall**  
24B. DATE ISSUED: MONTH DAY YEAR  
**05 18 2001**

QS

ITEMS 25 A-E THRU 33 COMPLETED BY CERTIFYING PHYSICIAN - OR - ITEMS 25 F-K THRU 33 COMPLETED BY CORONER OR MEDICAL EXAMINER

QCOD

25A. TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSES STATED.  
SIGNATURE: **John M. Callahan** MONTH DAY YEAR  
**05 17 2001**  
25B. THE PHYSICIAN ATTENDED THE DECEASED FROM TO BY ATTENDANT:  
MONTH DAY YEAR MONTH DAY YEAR MONTH DAY YEAR  
**12 01 00 05 17 01**

CANCER

25C. LAST SEEN ALIVE BY ATTENDANT: MONTH DAY YEAR  
**05 17 01**  
25D. NAME OF ATTENDING PHYSICIAN: **John M. Callahan**  
25E. ATTENDING PHYSICIAN LICENSE NUMBER: **NY 208546**  
25F. ON THE BASIS OF INVESTIGATION AND SUCH EXAMINATIONS, AS I FELT NECESSARY, IN MY OPINION, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSES STATED.  
SIGNATURE AND TITLE: **John M. Callahan**  
25G. PRONOUNCED DEAD ON: MONTH DAY YEAR  
25H. HOUR: m  
25I. DATE SIGNED: MONTH DAY YEAR

25J. SIGNATURE OF CORONER OR CORONER'S PHYSICIAN, IF OTHER THAN CERTIFIER:  
25K. MEDICAL PHYS. LICENSE NUMBER:

26. NAME AND ADDRESS OF CERTIFIER WHO SIGNED 25A or 25F.

27. MANNER OF DEATH: NATURAL CAUSE ACCIDENT HOMICIDE SUICIDE UNDETERMINED CIRCUMSTANCES PENDING INVESTIGATION  
       
28. WAS CASE REFERRED TO CORONER OR MEDICAL EXAMINER?  NO  YES  
29A. AUTOPSY? NO YES REFUSED     
29B. IF YES, WERE FINDINGS USED TO DETERMINE CAUSE OF DEATH?  NO  YES

30. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR (A), (B), AND (C).)  
PART I. IMMEDIATE CAUSE: **Respiratory Failure 2<sup>o</sup> Pleural Effusion** months  
(A) DUE TO OR AS A CONSEQUENCE OF: **Pleural Tumor** year  
(B) DUE TO OR AS A CONSEQUENCE OF:  
(C) PART II. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I (A): **Talcum Exposure**

31A. IF INJURY, DATE: MONTH DAY YEAR  
31B. INJURY LOCALITY: (City or town and county and state)  
31C. DESCRIBE HOW INJURY OCCURRED:

31D. PLACE OF INJURY: 31E. INJURY AT WORK? NO YES    
32. WAS DECEDENT HOSPITALIZED IN LAST 2 MONTHS? NO YES    
33A. IF FEMALE, WAS DECEDENT PREGNANT IN LAST 6 MONTHS? NO YES    
33B. DATE OF DELIVERY: MONTH DAY YEAR

31A. IF INJURY, DATE: MONTH DAY YEAR  
31B. INJURY LOCALITY: (City or town and county and state)  
31C. DESCRIBE HOW INJURY OCCURRED:

31D. PLACE OF INJURY: 31E. INJURY AT WORK? NO YES    
32. WAS DECEDENT HOSPITALIZED IN LAST 2 MONTHS? NO YES    
33A. IF FEMALE, WAS DECEDENT PREGNANT IN LAST 6 MONTHS? NO YES    
33B. DATE OF DELIVERY: MONTH DAY YEAR

NAME: Rice, Robert M.R.#: M0360395 SMC01-05  
DOB: 05/28/1411 PAGE: 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:vlj)

*Shahandeh Haghir, MD*  
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 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 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 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 auricles 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 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 medial and upper lung medially. The lung parenchyma is dark red, emphysematous and exudes gray brown fluid on pressure.

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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.