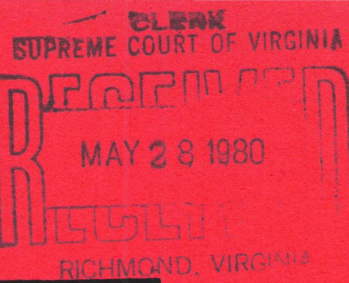
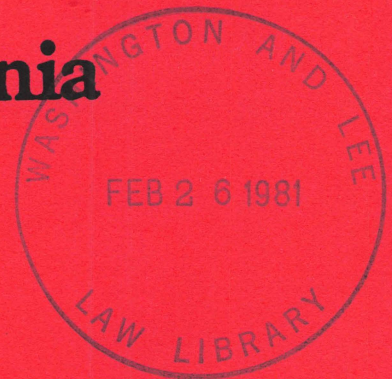


221VA411



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IN THE  
**Supreme Court of Virginia**  
AT RICHMOND



RECORD NO. 791734

OAK HILL NURSING HOME, INC.  
ST. PAUL FIRE & MARINE INSURANCE COMPANY  
Appellants

v.

RUBY BACK  
Appellee

JOINT APPENDIX

Colin J. S. Thomas, Jr.  
TIMBERLAKE, SMITH, THOMAS  
& MOSES  
The Virginia Building  
Staunton, Virginia 24401

Counsel for Appellants

Ruby Back  
Star Route B  
P.O. Box 96  
Staunton, Virginia 24401

Counsel for Appellee



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COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF WORKMEN'S COMPENSATION  
INDUSTRIAL COMMISSION OF VIRGINIA  
P. O. BOX 1794 - RICHMOND, VIRGINIA 23214

Case of \_\_\_\_\_  
File No. 781NA6752-45D-027

EMPLOYER'S FIRST REPORT OF ACCIDENT  
(Every question must be answered)

Employer	1. Name of Employer <u>Oak Hill Nursing Home, Inc.</u> Phone No. <u>703-886-2335</u> 2. Address: No. and St. <u>512 Houston St.</u> City <u>Staunton</u> State <u>Va.</u> Zip <u>24401</u> 3. Location, if different from mail address _____ 4. Insured by: Name of Company <u>The St. Paul Companies</u> 5. Nature of business (or article manufactured) <u>Professional Nursing Services</u>
Time and Place	6. (a) Location of plant or place where accident occurred <u>Staunton, Va.</u> (City or County) _____ State if employer's premises <u>Yes</u> (b) If injured in a mine, did accident occur on surface, underground, shaft, drift or mill _____ 7. (a) Date of Injury? <u>1/29</u> 1978 Day of week <u>Sun.</u> Hour of day _____ A. M. <u>7:00</u> P. M. (b) Was injured paid in full for day he was injured? <u>Yes</u> 8. Date incapacity began <u>2/17/</u> 1978 A. M. <u>3:00</u> P. M. 9. Was injured paid in full for day incapacity began? <u>Yes</u> 10. When did you or foreman first know of accident? <u>February 17, 1978</u> 11. Name of foreman <u>Roland R. Brown</u>
Injured Person	12. Name of Injured <u>Ruby C. Back</u> <u>230-50-1023</u> (First Name) (Middle Name) (Last Name) (Social Security No.) 13. Address: No. and St. <u>Star Route</u> City <u>Staunton</u> State <u>Va.</u> Zip <u>24401</u> 14. Check (✓) Married <u>X</u> , Single _____, Widowed _____, Widower _____, Divorced _____, Male _____, Female <u>X</u> , No of Dependent Children <u>4</u> 15. Age <u>41</u> Did you have on file employment certificate or permit? _____ 16. (a) Occupation when injured <u>Laundry Worker</u> (b) Was this his or her regular occupation? <u>Yes</u> In what department regularly employed? <u>Laundry</u> 17. (a) How long employed by you? <u>10 Mo</u> in present job? <u>10 Mo</u> (b) Piece or time worker <u>Time</u> (c) Wages per hour <u>\$2.75</u> 18. (a) No. hours worked per day <u>8</u> (b) Wages per day <u>\$22.00</u> (c) No. days worked per week <u>5</u> (d) Average weekly earnings <u>\$110.</u> (e) Work week starts on <u>Mon</u> and ends on <u>Sun</u> (f) Time shift started <u>A.M. 3:00</u> P.M. (g) If board, lodging, fuel or other advantages furnished in addition to wages, give estimated value per day, week or month <u>None</u>
Cause of Injury	19. Machine, tool or thing causing injury <u>Washing Machine</u> 20. Kind of power, (hand, foot, electrical, steam, etc.) _____ 21. Part of machine on which accident occurred <u>Door</u> 22. (a) Was safety appliance or regulation provided? _____ (b) Was it in use at time? _____ 23. Was accident caused by injured's failure to use or observe safety appliance or regulation? <u>No</u> 24. Describe fully how accident occurred, and state what employee was doing when injured <u>Was pulling laundry from washing machine and struck the radial portion of right wrist on washing machine door.</u> 25. Name and address of witness <u>None - Injury not reported to employer until Feb. 17, 1978</u>
Nature of Injury	26. Nature of injury (describe exact location of amputation or fractures, right or left) <u>Injured ligaments in right wrist and right forearm.</u> 27. Probable length of disability <u>Unknown</u> 28. Has injured returned to work? <u>No</u> If so, date and hour _____ At what wage \$ _____ 29. At what occupation? _____ 30. (a) Name and address of physician <u>John Todd Staunton Med. Center Staunton, Va.</u> (b) Name and address of hospital <u>King's Daughters' Hosp. Staunton, Va.</u>
Fatal Cases	31. Has injured died? _____ If so, give date of death _____

Date of this report Feb. 18, 1978 Firm Name Oak Hill Nursing Home, Inc.  
 Signed by Roland R. Brown Official Title Corp. President FEB 24 1978

THE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT.  
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF WORKMEN'S COMPENSATION  
INDUSTRIAL COMMISSION OF VIRGINIA  
P. O. Box 1794, Richmond, Virginia 23214

File No. Policy # 781 NA6752 Claim 45D-027

Case of Ruby C. Back ATTENDING PHYSICIAN'S REPORT

All questions in this blank should be answered, and the report should contain an account of all injuries, no matter how trivial. Fill out blank in ink using pen or typewriter, and mail promptly to the employer or the Claim Office of the insurance carrier.

1. NAME OF INJURED EMPLOYEE (First, middle initial, last) Ruby C. Back		2. DATE OF INJURY (Mo., day, yr.) approx. 2/3/78.	
3. EMPLOYEE'S HOME ADDRESS (Number and street, city, state, zip code) Star Route B, Box 96, Staunton, Virginia 24401		4. DATE OF BIRTH (or age) (Mo., day, yr.) 4/9/36	5. SEX F
6. NAME OF EMPLOYER Oak Hill Nursing Home		7. EMPLOYER'S ADDRESS (Number and street, city, state, zip code). Staunton, Virginia 24401	
8. DATE OF FIRST VISIT (Mo., day, yr.) 2/17/78	9. DATE DISCHARGED (Mo., day, yr.)	10. WHO AUTHORIZED TREATMENT? Patient	
11. EMPLOYEE'S ACCOUNT OF HOW INJURY OR EXPOSURE TO OCCUPATIONAL DISEASE OCCURRED The strap of a restraining jacket got caught in the washing machine. I pulled very hard on it and injured my right wrist.			
12. FINDINGS UPON EXAMINATION (INCLUDE RESULTS OF X-RAYS, LABORATORY STUDIES, ETC. NOTE PRIOR INJURIES AND PRE-EXISTING CONDITIONS AND ANY REMARKS AND RECOMMENDATIONS ON THE REVERSE OF THIS FORM.) Tenderness and swelling dorsum right wrist. Pain with wrist movement.			
13. DIAGNOSIS Tenosynovitis right wrist.		14. IS DIAGNOSED CONDITION DUE TO OCCURRENCE DESCRIBED IN ITEM 11? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF 'NO', EXPLAIN ON REVERSE OF THIS FORM	
15. NATURE OF TREATMENT Injection wrist; application short arm cast.		16. DATES OF YOUR TREATMENT (Mo., day, yr.) 2/17/78.	
17. WAS EMPLOYEE HOSPITALIZED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," give name and address of hospital in item 19)		18. WERE X-RAYS TAKEN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," give results in item 12)	
19. GIVE (1) NAMES, (2) ADDRESSES, AND (3) DATES OF TREATMENTS PROVIDED BY HOSPITALS OR OTHER DOCTORS FOR THIS INJURY <div style="text-align: center;">D. C. AREA SERVICE CENTER MAR 20 1978 NANCY RAMSIER CLAIM REPRESENTATIVE</div>			
20. WAS THERE DISABILITY FOR WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO (If "Yes," answer 20-A, B, C) → unknown	A. DATE DISABILITY BEGAN (Mo., day, yr.)	B. DATE ABLE TO RETURN TO LIGHT WORK (Mo., day, yr.)	C. DATE ABLE TO RETURN TO REGULAR WORK (Mo., day, yr.)
21. WILL THERE BE PERMANENT DEFECT, OR FACIAL OR HEAD DISFIGUREMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO (If "Yes," describe nature and extent of same. Estimate loss of function in % terms). ? too early to state.			
22. NAME OF ATTENDING PHYSICIAN (Type or print) John W. Todd, M. D. 54-0907475		23. ADDRESS (Number and street, city, state, zip code) Staunton Medical Center Staunton, Virginia 24401	
24. I CERTIFY THAT I PERSONALLY EXAMINED AND TREATED THIS PATIENT: SIGNATURE <u>John W. Todd</u> M. D.		25. DATE OF THIS REPORT 3/2/78 MAR 3 1978	

COMPLETE THIS REPORT IMMEDIATELY AFTER SEEING PATIENT FOR THE FIRST TIME.

THE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF WORKMEN'S COMPENSATION  
INDUSTRIAL COMMISSION OF VIRGINIA  
RICHMOND

573-110

MEMORANDUM OF AGREEMENT  
AS TO  
PAYMENT OF COMPENSATION

Ruby Back Employee  
Oak Hill Nursing Home Employer  
St. Paul Fire & Marine Ins. Co. Insurance Carrier

We Ruby Back residing at Star Route  
(Name of Employee or Dependents) (Number and Street)  
City or Town Staunton State Virginia 24401  
and Oak Hill Nursing Home  
(Name of Employer)  
Office address 512 Houston Street, Staunton, Virginia 24401  
(Number and Street) (City or Town) (State)

have reached an agreement in regard to compensation for the injury sustained by said employee and submit the following statement of facts relative thereto:—

Date of injury 1-29-78 Date disability began 2-19-78

Nature of injury ~~XXXXXX~~ injured ligaments in right wrist and right forearm.

Place of accident ~~XXXXXXXXXX~~ Staunton, Virginia

Cause of accident was pulling laundry from washing machine and struck the radial portion of right wrist on washing machine door.

Probable length of disability undetermined

The terms of this agreement under the above facts are as follows:—

That the said Ruby Back shall receive compensation at the rate of \$ 73.33 per week based upon an average weekly wage of \$ 110.00 and that said compensation shall be payable

from and including the 19th day of February month 19 78 until terminated in accordance with the provisions of the Workmen's Compensation Law of the State of Virginia

Witness ~~XXXXXXXXXX~~ Address ~~XXXXXXXXXX~~  
P.O. Box 712 - STAUNTON, VA. 24401  
(Number and Street)  
Witness Address ~~XXXXXXXXXX~~  
(Number and Street)  
Approved by \_\_\_\_\_  
(Commissioner or Board Member)  
Date of Approval 003  
Witness X Ruby Back Employee or Dependent  
Oak Hill Nursing Home Employer  
St. Paul Fire & Marine Ins. Co. Carrier  
By Nancy Ramsey  
Title APR 1 1978 Claim Representative  
Date of Agreement 3-22-78 RCV 45D

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF WORKMEN'S COMPENSATION  
INDUSTRIAL COMMISSION OF VIRGINIA

P. O. BOX 1794  
RICHMOND, VIRGINIA 23214

DIVISION OF CLAIMS

Claim No. 573-110 (781NA 6752 45D027)Case of Ruby Back  
Accident: 1-29-78

AWARD

Approval of Agreement  
scfDate April 21, 1978To Oak Hill Nursing Home, Inc., (Employer)  
512 Houston Street  
Staunton, Virginia 24401and Mrs. Ruby Back, (Employee)  
Star Route  
Staunton, Virginia 24401and St. Paul Fire & Marine Insurance Company,  
8111 Gatehouse Road  
Falls Church, Virginia 22042

(Insurance Carrier)

Note: The compensation herein awarded is to be paid by the insurance company or by the employer, if self-insurer. In the event that payment is delayed, the employee is requested to write the insurance company or his employer, before taking it up with the Commission.

Take notice that the Industrial Commission of Virginia has approved the memorandum of agreement entered into March 22, 1978 for the payment of compensation under the Workmen's Compensation Act, and in accordance with the provisions of said Act enters an award of compensation as follows:

\$73.33 per week, during incapacity, payable weekly, beginning February 19, 1978.

Medical benefits are awarded for as long as necessary.

004

INDUSTRIAL COMMISSION OF VIRGINIA

If incapacity (disability) as indicated in Section 65.1-62 exceeds three (3) weeks, compensation is THEN to be paid for such calendar days of incapacity to work, in accordance with Section 65.1-54 and Section 65.1-56, in addition to such payments as may be awarded under Section 65.1-55 and the Commission so advised.

in view of the nature of the injury sustained by this claimant, before closing the file, we will require a final medical report covering the question of permanent disability.

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF WORKMEN'S COMPENSATION**  
**INDUSTRIAL COMMISSION OF VIRGINIA**  
P. O. BOX 1794  
RICHMOND, VIRGINIA 23214

Ruby Back Employee 573-110  
Claim Number 781NA6752 45D027  
and  
Oak Hill Nursing Home Employer Date of Accident 1-29-78

APPROVED - AWARD TERMINATED

EFFECTIVE April 9-78

INDUSTRIAL COMMISSION OF VIRGINIA

**AGREED STATEMENT OF FACT BY Bar 6-23-78**

It is agreed that the employee (returned to work) ~~or was able to return to work~~ on April 10, 1978, at an average weekly wage of \$110.00. The outstanding award is terminated on the above date subject to approval by the Industrial Commission. The employee may reopen the claim pursuant to § 65.1-99. **SEE NOTE BELOW**

Date of Agreement May 1, 1978 St. Paul Fire & Marine Insurance, Co.

Employer or Insurer

Witness to Employee's Signature Employee  
Mrs. Ruby Back  
Theresa Hansen  
Theresa Hansen

Total compensation paid \$ 586.64\* at \$ 73.33 per week from Bar 6-23-78

~~overpayment of \$62.85 to be credited to any PPD.~~ Paid in full May 12.

February 19, 1978 through April 15, 1978 Medical Expense \$ 523.79

**NOTE:** The signing of the above agreement is not a requirement for payment. This agreement is neither a receipt for money nor a release of claim. Should further disability result, the claim can be reopened by written application received by the Industrial Commission within twenty-four months from the last date for which compensation was paid; however, at a hearing on the application, compensation cannot begin more than 14 days prior to the date of filing.



**SUPPLEMENTAL MEMORANDUM OF AGREEMENT**

It is agreed that on \_\_\_\_\_, 19\_\_\_\_, the employee (lost) (had permanent loss of use of) \_\_\_\_\_  
per cent of the \_\_\_\_\_

**OR**

had a change in average weekly wage of \$\_\_\_\_\_ to \$\_\_\_\_\_

It is further agreed that compensation will be paid and accepted beginning \_\_\_\_\_, 19\_\_\_\_, at the rate of  
\$\_\_\_\_\_ per week to continue for \_\_\_\_\_  
(Specify number of weeks or during disability) ..

Date of Agreement \_\_\_\_\_

\_\_\_\_\_  
Employer or Insurer

by: \_\_\_\_\_

MAY 9 1978

\_\_\_\_\_  
Witness to Employee's Signature

\_\_\_\_\_  
Employee

RCVD 45D

*I would like <sup>5</sup> to say Thank you  
Mr. Bader*

11A16  
573-110

Staunton Surgical Associates, Inc.  
JOHN W. TODD, M. D.  
PRESTON C. MANNING, JR., M. D.  
DONALD R. FOWLER, M. D.  
STAUNTON MEDICAL CENTER  
STAUNTON, VIRGINIA 24401

TELEPHONE 885-0327

May 16, 1978

Ms. Janice M. Peterson, Claim Clerk  
The St. Paul Property & Liability Insurance  
The D. C. Area Service Center  
Suite 200, 8111 Gatehouse Road  
Falls Church, Virginia 22042

Re: Ruby Back; File #781NA6752 45D027; Insured, Oak Hill Nursing Home.


Dear Ms. Peterson:

When last seen on 5/15/78, Ruby Back had no complaints with regard to the right wrist.

Examination of the right wrist was negative.

The patient is to return to see me only if she has further difficulty.

Sincerely,

  
John W. Todd, M. D.

JWT:rp

Enclosure

007 ST. PAUL FIRE & MARINE INS. CO.  
D. C. AREA SERVICE CENTER

JUN 13 1978

BARBARA HAMILTON  
CLAIM SUPERVISOR

MAY 19 1978

RCVD 45D

21.

Staunton Surgical Associates, Inc.

JOHN W. TODD, M. D.  
PRESTON C. MANNING, JR., M. D.  
DONALD R. FOWLER, M. D.  
STAUNTON MEDICAL CENTER  
STAUNTON, VIRGINIA 24401

TELEPHONE 685-0327

September 14, 1978

Ms. Nancy Ramsler, Claim Representative  
St. Paul Fire & Marine Insurance Company  
The D. C. Area Service Center  
8111 Gate House Road, Suite 200  
Falls Church, Virginia 22042

NA6752-21

WIC  
573-110

Re: Ruby Back

Dear Ms. Ramsler:

I examined Ruby C. Back on 9/8/78.

The patient stated that she was doing well until 9/6/78 when she reinjured her right hand and wrist at work while pushing the handle on a mop bucket. She was seen on the date of the injury by Dr. Eugene Nolley at the Emergency Room. X-rays were said to be negative.

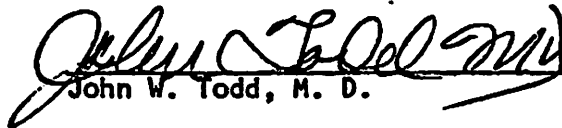
Examination revealed tenderness, dorsally and laterally, at the right wrist and hand and forearm.

I believe that this patient has now strained the right forearm, wrist, and hand. She might well have a recurrence of her tenosynovitis.

Treatment consisting of soaks, 4 times a day and analgesics was instituted.

I do not feel that I can evaluate this patient with regard to her January 29, 1978, injury at the present because of this most recent injury.

Sincerely,

  
John W. Todd, M. D.

JWT:rp

Copy to Industrial Commission of Virginia.

SEP 18 1978  
RCVD 45D

008

23.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF WORKMEN'S COMPENSATION

## INDUSTRIAL COMMISSION OF VIRGINIA

P. O. BOX 1794 - RICHMOND, VIRGINIA 23214

U A I C

Case of \_\_\_\_\_  
File No. 78/NA 7915 450026

## EMPLOYER'S FIRST REPORT OF ACCIDENT

(Every question must be answered)

Employer	1. Name of Employer <u>Oak Hill Nursing Home, Inc.</u> Phone No. <u>703-886-2335</u> 2. Address: No. and St. <u>512 Houston St.</u> City <u>Staunton</u> State <u>Va.</u> Zip <u>24401</u> 3. Location, if different from mail address _____ 4. Insured by: Name of Company <u>The St. Paul Companies</u> 5. Nature of business (or article manufactured) <u>Professional Nursing Services</u>
Time and Place	6. (a) Location of plant or place where accident occurred <u>Staunton</u> (City or County) State if employer's premises <u>Yes</u> (b) If injured in a mine, did accident occur on surface, underground, shaft, drift or mill _____ 7. (a) Date of Injury <u>09/06</u> 19 <u>78</u> Day of week <u>Wed</u> Hour of day _____ A. M. <u>1:30</u> P. M. (b) Was injured paid in full for day he was injured? <u>Yes</u> 8. Date incapacity began <u>None</u> , 19____ A. M. _____ P. M. 9. Was injured paid in full for day incapacity began? _____ 10. When did you or foreman first know of accident? <u>Sept. 28, 1978</u> 11. Name of foreman <u>Roland R. Brown</u>
Injured Person	12. Name of Injured <u>Ruby C. Back</u> (First Name) (Middle Name) (Last Name) Social Security No. <u>230-50-1023</u> 13. Address: No. and St. <u>Star Route "B"</u> City <u>Staunton</u> State <u>Va.</u> Zip <u>24401</u> 14. Check (✓) Married <u>X</u> , Single _____, Widowed _____, Widower _____, Divorced _____, Male _____, Female <u>X</u> , No of Dependent Children <u>4</u> 15. Age <u>41</u> Did you have on file employment certificate or permit? _____ 16. (a) Occupation when injured <u>Maid</u> (b) Was this his or her regular occupation? <u>Yes</u> In what department regularly employed? <u>Housekeeping</u> 17. (a) How long employed by you? <u>17 Mo.</u> in present job? <u>5 Mo.</u> (b) Piece or time worker <u>Time</u> (c) Wages per hour <u>\$2.75</u> 18. (a) No. hours worked per day <u>8</u> (b) Wages per day <u>\$22.00</u> (c) No. days worked per week <u>5</u> (d) Average weekly earnings <u>\$110.</u> (e) Work week starts on <u>Mon.</u> and ends on <u>Sun.</u> (f) Time shift started <u>7:00</u> A.M. <u>3:00</u> P.M. (g) If board, lodging, fuel or other advantages furnished in addition to wages, give estimated value per day, week or month <u>None</u>
Cause of Injury	19. Machine, tool or thing causing injury <u>?</u> 20. Kind of power, (hand, foot, electrical, steam, etc.) _____ 21. Part of machine on which accident occurred _____ 22. (a) Was safety appliance or regulation provided? _____ (b) Was it in use at time? _____ 23. Was accident caused by injured's failure to use or observe safety appliance or regulation? _____ 24. Describe fully how accident occurred, and state what employee was doing when injured <u>Reported to employer that she was cleaning bed and twisted her arm between bed rail and bed springs. Reported to physician that she injured her wrist using a mop bucket.</u> 25. Name and address of witness <u>None</u>
Nature of Injury	26. Nature of injury (describe exact location of amputation or fractures, right or left) <u>Right Wrist tenosynovitis.</u> 27. Probable length of disability <u>None</u> 28. Has injured returned to work? <u>No Lost Time</u> If so, date and hour _____ At what wage? _____ 29. At what occupation? _____ 30. (a) Name and address of physician <u>John Todd, M.D. Staunton Medical Center</u> (b) Name and address of hospital <u>King's Daughters' Hosp. Staunton, Va.</u>
Fatal Cases	31. Has injured died? _____ If so, give date of death _____

Date of this report 09/28/78 Firm Name Oak Hill Nursing Home, Inc.Signed by Roland R. Brown Official Title Corp. Pres. OCT 2 1978

Roland R. Brown

597-9.18

Dr Todd pull me  
from work for  
while you said  
it was to let you no  
if i am un able to  
earn my wage.  
due to the injury  
wrist let you  
no. i am sorry.  
for not let you no  
sooner i hope he  
let you go back  
to work. All order.  
The support i  
work in it to wear  
it will be up so bad  
The Bad.

010

Rec'd 11-21-78  
MWR

7.



December 8, 1978

File No. 597-978 - Ruby C. Back vs Oak Hill Nursing Home, Inc.  
Accident: 9-6-78 (781 NA 7913 45 D 026)

Mrs. Ruby C. Back  
Star Route B-96  
Staunton, VA. 24401

Dear Mrs. Back:

We have your letter received in the Commission's office on November 21, 1978 indicating you are not working at this time under doctor's order, as a result of the above injury.

We are considering your letter as a making of a claim, but as you do not give us enough information in your letter, we are sending you an Application for Hearing form for you to complete and return to us, stating exactly what you are claiming for.

By copy of this letter to the insurance carrier, we are asking them to secure and file Memorandum of Agreement providing for the payment of compensation during incapacity, or advise its position in this case.

Very truly yours,

INDUSTRIAL COMMISSION OF VIRGINIA

Chief Deputy Commissioner

bk

Enc.

CC: St. Paul Fire & Marine Insurance Co.  
8111 Gatehouse Road (ENC)  
Falls Church, VA. 22042

011

8.

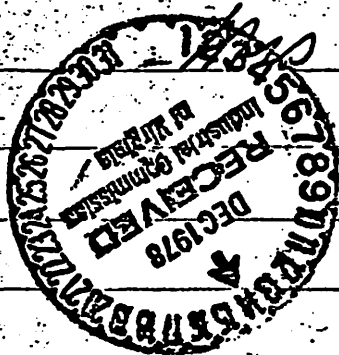
Dear Mr James

You said i Making Claim  
But i did't say what for i want  
you to no i did't mean it in the way  
i wrote it i feed up been lie  
to jump on buss abuse like  
a dog. Cuse of not having noting  
wrong with my wrist i could tell  
it was right at all i dont under  
stand it at all. i go to Dr Webster  
he exray it he find out it something  
wrong with my joint and Reg  
Dr Todd to exray it he would. so  
when he found out i could work  
in support he said i could back  
to work. he did say how long  
noting else so i want you to no.  
i dont have no claim to file  
on Oak Hill if he said i got to quit  
9. - over -

i sign the paper at Oak Hill  
i dont want no money i not taken  
one dime from Oak Hill i been  
at home i did nothing to help  
no one i can prove it i go back  
Dr Todd 27. of Dec. He ~~told~~ told me  
he said no about My joint would  
take it or not. i dont want you  
to send me nothing at all. i will  
take it back to Oak Hill give it  
to Mr Brown say said i was after  
money. so i show them i not after  
nothing at all. i want in to be treat  
right i not no dog.

So thank you

Kelly Back.



Rec'd 12-14-78  
MWR

10

OUT PATIENT FORM

KING'S DAUGHTERS' HOSPITAL  
STAUNTON, VIRGINIA DR MOORE FMD

WAK 597-978

PATIENT'S NAME <b>RUBY BACK, MRS. MRS CHRISTINE LOTTS</b>		HOSP. NO. <b>R 38,732</b>	NAME OF INSURED OR NEAREST RELATIVE <b>MR. WILBUR K BACK HUSB</b>	
ADDRESS <b>STAR RT B, BOX 8 96 STAUNTON, VA</b>		PHONE <b>NONE</b>	ADDRESS <b>SAME</b>	PHONE
OCCUPATION AND EMPLOYER <b>OAK HILL NURSING HOME</b>		SEX AGE RACE <b>M 42 W</b>	GUARANTOR'S OR INSURED'S EMPLOYER <b>W S H</b>	
GUARANTOR OR INS. CO. <b>ACCIDENT TIME: BC/BS V223421391 GR# 10706005 EFF 7-1-72 FAMILY STATX OPT PLAN WILBUR K BACK</b>		DATE OF BIRTH <b>4-9-36</b>	ADDRESS	HOW BROUGHT TO HOSPITAL <b>CAR</b>
DATE AND TIME OF ADM. <b>9-6-78 7:45PM</b>	SERVICE <b>ER</b>	MARITAL STATUS	NATION. ATY <b>M</b>	ATTENDING PHYSICIAN <b>DR. EUGENE NOLLEY</b>

PHYSICAL EXAMINATION

*Painful wrist allegedly from  
Jan. Tends over dorsal wrist area.  
Probable tendinitis - very severe  
no acute change -*

CC DR. MOORE 9--6 TW & TODD

D. C. AREA SERVICE CENTER

OCT 17 1978

NANCY RAMSIER  
CLAIM REPRESENTATIVE

CONDITION ON ADMISSION: **RIGHT WRIST HURTING**

GOOD ☐ FAIR ☐ POOR ☐ COMA ☐ SHOCK ☐

B.P. 116/80 TEMP. 37.0 ORAL P 160 R 74

*Not known drug allergies*  
NURSES NOTES:

*Wrist hurt on Jan. Wrist hurt by  
TODD. No injury since then. No  
pain upon physical exam.*

SIGNATURE OF NURSE *F. Bright 9/11*

ER FEE **10.00**

DRUGS *Disinfectant & As to 90* **1.00**

OTHER

SUB TOTAL **11.00**

E. R. PHYSICIANS FEE **12.00**

TOTAL **23.00**

PHYSICIAN'S ORDERS AND MEDICATIONS

*Conveyed to Todd  
for Jan.*

*send #5*

DISCHARGE DIAGNOSIS:

CONDITION OF DISCHARGE:

DATE AND TIME OF DISCHARGE: \_\_\_\_\_ A.M.  
\_\_\_\_\_ P.M.

INSTRUCTIONS TO PATIENT:

*Referred to Todd  
Carpenter*

SIGNED *[Signature]* M.D.

(PATIENT'S SIGNATURE)

EMERGENCY ROOM

XXXXX 9540



February 27, 1979

Mrs. Ruby Back  
Star Route, Box 96  
Staunton, Virginia 24401

Re: Ruby Back v. Oak Hill Nursing Home Inc.  
File 781NA7915 45D026  
D/Loss 9-6-78

Dear Mrs. Back:

Upon completing the investigation of your alleged workmens compensation injury, we have been unable to determine if your current problem is a result of an injury arising out of and in the course of your employment.

Therefore, we are denying Workers' Compensation benefits to you.

Please be advised that you have the right to request a Hearing before the Industrial Commission of Virginia, their address being P.O. Box 1794, Richmond, Virginia 23214.

Very truly yours,

*Nancy Ramsier*  
Nancy Ramsier,  
Claim Representative

NR:ehp

cc: Industrial Commission of Virginia  
I.C. File No. 597-978



015

*573-110 first injury 1-29-79  
of wrist. Award entered*



WALC  
597-978

Staunton Surgical Associates, Inc.  
JOHN W. TODD, M. D.  
PRESTON C. MANNING, JR., M. D.  
DONALD R. FOWLER, M. D.  
STAUNTON MEDICAL CENTER  
STAUNTON, VIRGINIA 24401

TELEPHONE 885-0327

D. C. AREA SERVICE CENTER  
FEB 26 1979  
NANCY RAMSBERG  
CLAIM REPRESENTATIVE

January 2, 1979

St. Paul Fire and Marine Insurance Company  
Suite 200  
8111 Gatehouse Road  
Falls Church, Virginia 22042

Re: Ruby C. Back

Dear Ms. Hamilton:

I examined Ruby C. Back on December 27, 1978.

This patient re-injured her right wrist on September 6, 1978 while pushing the handle on a mop bucket at work. She strained the right forearm, wrist, and hand and probably developed a reoccurrence of her tenosynovitis.

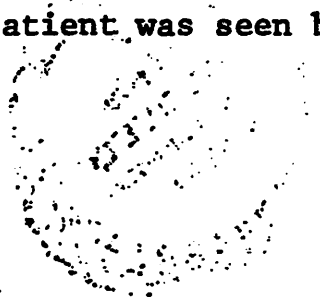
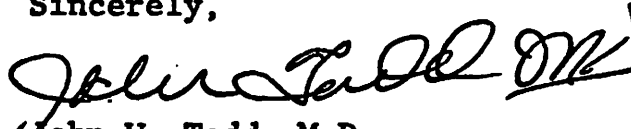
I have seen her at regular intervals since this second injury. Patient continues to complain of pain which is brought on by such things as sweeping or vacuuming.

Examination reveals motion of the right wrist and hand to be relatively good but the patient cannot make a tight fist.

I doubt that this patient will be able to return to a type of work which requires heavy work with right wrist. I believe that she should be trained, if at all possible, for a different type work.

The patient was seen by Dr. David Webster of Staunton, Va.

Sincerely,

  
  
John W. Todd, M.D.

JWT/h

016

25.

JAN 5 1979  
RCVD 45D  
B1

Staunton Surgical Associates, Inc.

JOHN W. TODD, M. D.  
PRESTON C. MANNING, JR., M. D.  
DONALD R. FOWLER, M. D.  
STAUNTON MEDICAL CENTER  
STAUNTON, VIRGINIA 24401

TELEPHONE 885-0327

March 5, 1979

St. Paul Fire and Marine Insurance Co.  
Suite 200  
8111 Gatehouse Road  
Falls Church, Virginia 22042

Re: Ruby C. Back

Dear Sir:

I have referred Ruby C. Back to Dr. Frank McCue at the University of Virginia Hospital for treatment of the persistent pain in her wrist.

Sincerely yours,

John W. Todd, M.D.

JWT/lh

017

27.

B

597-978

Try 573-110

Mr James.

Mrs Ramsie sent me a letter  
say that they can not help me.  
Dr Todd said he did not tell  
them that ~~that~~ tell they are  
saying he did not file that  
the promble i have did come  
from the injury he said it  
did come from the injury.  
they are to pay my Bill  
i had insurance when i  
went there and they new it  
to. i go to the Hospital  
to have my wrist operation  
on first of the month you  
let me lose the use of it  
i set here at home hope  
they would stand be here me.  
Oak hill is in for a shock  
i told them i got to go.  
they made no way to help 12.

me. at all. Can you see  
 that They pay me pay my Bill  
 Dr Todd said he did not say  
 what Mrs. Ramsier wrote to me.  
 he file the paper to the Hospital  
 it did come from the  
 Surgery i seen it at his office  
 they show it to me. Can you  
 see they help me. i Be Look  
 to hear from you

6<sup>9</sup> Mrs Ruby Back

SUBJECT FOR		Staunton	
DATE OF LAST PAYMENT		3/14/19	
APPLICATION FILED		4/10/19	
REVERTED TO COURT		BY J.	



13.

April 9, 1979

File No. 597-978    Ruby C. Back vs. Oak Hill Nursing Home, Inc.  
Accident: 9-6-78                      (781 NA 7915 45 D 026)

Mrs. Ruby Back  
Star Route B, Box 96  
Staunton, Virginia 24401

Dear Mrs. Back:

We received your letter of March 19, 1979, and we are considering it  
as an Application For Hearing.

Your case is being placed on our hearing docket, and you will be notified  
of the time and place of the hearing at a later date.

Very truly yours,

INDUSTRIAL COMMISSION OF VIRGINIA

James F. Utley  
Claims Examiner

JFU:mab

cc: St. Paul Fire & Marine Insurance Company  
8111 Gatehouse Road  
Falls Church, Virginia 22042                      (Enc.)

020

14.



COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF WORKMEN'S COMPENSATION  
INDUSTRIAL COMMISSION OF VIRGINIA  
P. O. Box 1794, Richmond, Virginia 23214

597-978  
573-110

File No. \_\_\_\_\_

Case of \_\_\_\_\_ ATTENDING PHYSICIAN'S REPORT

All questions in this blank should be answered, and the report should contain an account of all injuries, no matter how trivial. Fill out blank in ink using pen or typewriter, and mail promptly to the employer or the Claim Office of the insurance carrier.

1. NAME OF INJURED EMPLOYEE (First, middle initial, last) <i>Ruby C. BACK</i>		2. DATE OF INJURY (Mo., day, yr.) <i>9/6/78</i>	
3. EMPLOYEE'S HOME ADDRESS (Number and street, city, state, zip code) <i>Star Route B Staunton, VA. 24401</i>		4. DATE OF BIRTH (or age) (Mo., day, yr.) <i>4/9/36</i>	5. SEX <i>F</i>
6. NAME OF EMPLOYER <i>OAK Hill Nursing Home</i>		7. EMPLOYER'S ADDRESS (Number and street, city, state, zip code) <i>Staunton, VA. 24401</i>	
8. DATE OF FIRST VISIT (Mo., day, yr.) <i>9/8/78</i>	9. DATE DISCHARGED (Mo., day, yr.) _____	10. WHO AUTHORIZED TREATMENT? <i>Pt.</i>	
11. EMPLOYEE'S ACCOUNT OF HOW INJURY OR EXPOSURE TO OCCUPATIONAL DISEASE OCCURRED <i>pushing handle on mop bucket + injured Rt. hand + wrist.</i>			
12. FINDINGS UPON EXAMINATION (INCLUDE RESULTS OF X-RAYS, LABORATORY STUDIES, ETC. NOTE PRIOR INJURIES AND PRE-EXISTING CONDITIONS AND ANY REMARKS AND RECOMMENDATIONS ON THE REVERSE OF THIS FORM.) <i>TENDERNESS AT DISTAL ULNA. Pain in Rt. hand + wrist.</i>			
13. DIAGNOSIS <i>Strain Rt. hand + wrist.</i>		14. IS DIAGNOSED CONDITION DUE TO OCCURRENCE DESCRIBED IN ITEM 11? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF "NO", EXPLAIN ON REVERSE OF THIS FORM	
15. NATURE OF TREATMENT <i>SOAK G.I.D + ANALGESICS.</i>		16. DATES OF YOUR TREATMENT (Mo., day, yr.) <i>9/8/78 12/11, 27/78 9/11, 18, 29/78 1/26/79 10/6, 13, 27/78 3/2/79 11/1, 10, 20/27/78</i>	
17. WAS EMPLOYEE HOSPITALIZED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," give name and address of hospital in item 19)		18. WERE X-RAYS TAKEN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," give results in item 12)	
19. GIVE (1) NAMES, (2) ADDRESSES, AND (3) DATES OF TREATMENTS PROVIDED BY HOSPITALS OR OTHER DOCTORS FOR THIS INJURY <i>Pt. has been referred to DR McCue At Univ. of Virginia Medical Center.</i>			
20. WAS THERE DISABILITY FOR WORK? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If "Yes," answer 20-A, B, C) <i>→</i>		A. DATE DISABILITY BEGAN (Mo., day, yr.) <i>9-8-78</i>	B. DATE ABLE TO RETURN TO LIGHT WORK (Mo., day, yr.) <i>10-16-78</i>
		C. DATE ABLE TO RETURN TO REGULAR WORK (Mo., day, yr.) <i>unknown</i>	
21. WILL THERE BE PERMANENT DEFECT OR DISFIGUREMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If "Yes," describe nature and extent of same. Estimate loss of function in % terms.) <i>TO EARLY to STATE.</i>			
22. NAME OF ATTENDING PHYSICIAN (Type or print) <i>John W. Todd, M.D.</i>		23. ADDRESS (Number and street, city, state, zip code) <i>Staunton Medical Center Staunton, VA. 24401</i>	
24. I CERTIFY THAT I PERSONALLY EXAMINED AND TREATED THIS PATIENT:  SIGNATURE <i>John W. Todd, (u)</i> M. D.		25. DATE OF THIS REPORT <i>4/30/79</i>	

DEPARTMENT OF ORTHOPEDICS AND REHABILITATION

University of Virginia Medical Center  
Charlottesville, Virginia 22908

Warren G. Stamp, M.D., Chairman  
Charles J. Frankel, M.D.  
Michael W. Hakala, M.D.  
Daniel N. Kulund, M.D.  
Frank C. McCue, M.D.

Robert E. McLaughlin, M.D.  
Maurice D. Schuell, M.D.  
Michael D. Sussman, M.D.  
Gwo-Jaw Wang, M.D.  
Richard Whitehill, M.D.

Research Laboratory

Colin A. McLaurin, Ph.D.  
Steven I. Reger, Ph.D.

May 4, 1979

597-978

David L. Webster, M.D.  
Staunton Medical Center  
Staunton, Virginia 24401

Re: Ruby Back  
UVA # 85 10 02

Dear Dave:

Ms. Ruby Back was not seen on 4/9/79, but was seen on 4/30/79 with findings of deQuervain's and stenosing tenosynovitis of the wrist. In addition, she also has median and ulnar palsy in the hand, a greater degree of numbness in the median area and more tingling and pain in the ulnar area. This, of course, is diagnostic of a more severe involvement of the median nerve with progressive involvement of the ulnar. Arrangements were made for decompression of the median and ulnar nerves under magnification with possible interneural lysis and also a release of the abductor pollicis longus and extensor pollicis brevis.

I certainly appreciate seeing this patient.

With best wishes and kindest regards, I remain

Sincerely,

*Stamp*

Frank C. McCue, III, M.D.  
Professor of Orthopedic Surgery,  
Plastic Surgery, and Surgery of  
the Hand

MAY 24 1979

*WK*

FCMc:klh

022 29.

*Mr. Yates help me, i paid all of the  
other Bill. i not see if you need to  
no any thing more. Dr Webster xray my wrist*

# COMMONWEALTH OF VIRGINIA



(Refer to L.C. File No. in all correspondence about this injury.)

*Ready!*

DEPARTMENT OF WORKMEN'S COMPENSATION  
INDUSTRIAL COMMISSION OF VIRGINIA  
P. O. BOX 1794 RICHMOND, VIRGINIA 23214

L.C. FILE NO. 597-978  
*Comp. file* 573-110  
CARRIER'S NO. 781 NA 7915 45 D 026

DATE OF ACCIDENT 9-6-78

## NOTICE OF HEARING

RE **RUBY BACK**  
v.  
**Oak Hill Nursing Home, Inc.**

### TO THE PARTIES ADDRESSED:

A hearing will be held at:

**City Hall  
Council Chamber (2nd Floor)  
STAUNTON, Virginia**

Claimant

**Ruby Back  
Star Route B, Box 96  
Staunton, Virginia 24401**

Employer

**Oak Hill Nursing Home, Inc.**

Insurance Carrier

**St. Paul Fire & Marine Ins. Co.  
8111 Gatehouse Road  
Falls Church, Virginia 22042**

Claimant's Counsel

Defendant's Counsel

**Colin J. S. Thomas, Jr., Esq.  
P. O. Box 2566  
Staunton, Virginia 24401**

on **JUNE 1, 1979 - at - 9:15 A.M.**

SUBJECT OF HEARING

**Claimant's letter application,  
filed March 19, 1979.**

This hearing is part of a schedule. Postponement cause inconvenience and extra expense. Continuance is entirely within the discretion of the Commission except as otherwise provided by law.

All medical reports are to be submitted to this Commission so they can be placed in the file prior to the date of hearing. Medical reports are acceptable in lieu of physicians personal appearances.

The parties must arrange to have all witnesses present to testify at the time and place designated. Failure of any party to appear at the time and place herein prescribed will result in action by the Commission as provided by law.

**WILLIAM R. YATES, Deputy Commissioner**  
**INDUSTRIAL COMMISSION OF VIRGINIA**



023

5-18-79  
5-3-79/mfk  
Date of this Notice

RUBY BACK, Claimant

v.            Claim No. 597-978  
              SEE ALSO: 573-110

OAK HILL NURSING HOME, INCORPORATED, Employer  
ST. PAUL FIRE & MARINE INSURANCE COMPANY, Insurer

Claimant Appeared In Person

Colin J. S. Thomas, Jr., Esquire  
P. O. Box 2566  
Staunton, Virginia 24401  
for the Defendants

Hearing before Deputy Commissioner YATES, at Staunton, Virginia on  
June 1, 1979.

All witnesses having been duly sworn, the following testimony was  
taken.

DEPUTY COMMISSIONER YATES:

It's on your application, Mr. Back, saying that you were hurt on  
September 6, 1978 at the Oak Hill Nursing Home. The Commission also has a prior  
file for you for an accident that took place early February of 1978 with the same  
employer and I believe the same carrier and we cannot act as your attorney or  
anything, I'll try to get all of the facts.

BY DEPUTY COMMISSIONER YATES:

Q            Would you tell me what your job was at the Nursing Home in September of  
last year?

A            I worked in--I started off with being a housekeeper in the housekeeping  
department.

Q            Doing what?

A            Mr. Crosby put me to mopping the floor, the halls.

Q            Tell me what it is that you say happened to you?

A       An then they transferred me into--to mopping the bedrooms and then, I don't know, I felt like I twisted my hand or you know what but I went to and it kept on--on me, so I went over to the hospital and I had it X-rayed and Dr. Eugene Nolley, he X-rayed it and he sent me back to Dr. Todd.

Q       What is it you say happened on the job to cause you to have to go see the doctor to start with, what if anything?

A       Well, I don't why I could have pulled it or what, my--and it just swoll continuously, you know, bad, so I went to see Dr. Todd and he said I had twisted my wrist, pulled my leters or something.

Q       Did this come on you gradually or was it a certain event on a given day that it happened or what?

A       No sir.

Q       Was it any of that? Did it come on gradually?

A       Yes sir.

Q       It developed then, over a period of days or weeks, is that what you're saying?

A       Yes sir.

Q       What happened, it finally got so bad that you went to see the doctor?

A       Yes sir.

DEPUTY COMMISSIONER YATES:

I'm going to let the medical reports tell what they did.

Q       I see you ended up with Dr. McCue at the University of Virginia Hospital?

A       Yes sir.

Q       I think you also saw Dr. David Webster?

A       Yes sir.

Q       And Dr. Todd?



A Yes.

Q You had surgery?

A No sir, I have it on the 22nd day of this month, surgery at Waynesboro Community Hospital under Dr. McCue.

Q Are you working anywhere?

A No sir.

Q When did you last work?

A 31st day of October in the Nursing Home and I walked out and I haven't been in there since. I haven't worked nowhere.

Q Why did you walk out?

A Because Dr. Todd told me I couldn't go back on account of my wrist and he--me.

Q Has any doctor ever told you that your problem that you're complaining of now in your wrist is because of your job?

A Yes sir.

Q Which doctor told you that?

A Dr. Todd did.

Q When did he tell you that?

A When I--he told me that--

Q When?

A When the last time I was there to see him, he told me, he said, Mrs. Back, he said, you cannot go back there to work, he said, the work is entirely too hard on your wrist.

Q When did he ever tell you that the job caused your wrist problem, if he ever did?

A No, he just told me the work was too hard for me.

Q But he never did tell you that the job caused your problem, did he?

A No sir.

Q If he did, just say so, but he did not?

A No sir.

Q Did Dr. McCue ever tell you that?

A No sir.

DEPUTY COMMISSIONER YATES:

Mr. Thomas, do you have any questions?

MR. THOMAS:

No sir.

DEPUTY COMMISSIONER YATES:

Do you have anyone to put on?

MR. THOMAS:

Yes.

DEPUTY COMMISSIONER YATES:

Would you just. . .

Witnesses dismissed.

Case concluded.

027

7-25-79 (mph)

-4-

Ruby Back, Claimant

19.

OPINION BY YATES  
Deputy Commissioner

JUN 27 1979

Hearing before Deputy Commissioner YATES, at Staunton, Virginia on June 1, 1979.

This case is before us on application of the claimant, filed March 19, 1979, alleging an industrial accident for which she should be awarded benefits. From the record before us it is apparent there was no specific occurrence but rather a gradual onset of the problem that appears from the medical reports to be tenosynovitis which is an occupational disease. It is further clear from the record there was no diagnosis of this problem communicated to this claimant on/or after September 14, 1978. It does appear from the medical report contained in this file as well as an earlier file which was found to be compensable (573-110) that a condition of tenosynovitis existed in our other file from an accident date of January 29, 1978 though the claim was handled as a traumatic injury.

It is the order of this Commission that our file 597-978 be closed and consolidated into 573-110 and that the difficulty of this claimant is a continuation of the earlier compensable injury.

There was no question whatsoever of credibility aspect of this claimant's testimony at the recent hearing. We note this claimant has recited a specific occurrence of pushing on the handle of a mop bucket, thereby causing the injury, according to

report of Dr. J. W. Todd of April 30, 1979 and January 2, 1979.

We find the current application is, in effect, a change in condition application which will properly be handled as an extension of the claim under our file 573-110.

This case is dismissed and stricken from the Commission Hearing Docket.

OPINION BY YATES  
Deputy Commissioner

JUN 27 1979

Hearing before Deputy Commissioner YATES, at Staunton, Virginia on June 1, 1979.

This case is before us on application of the claimant, filed March 19, 1979, alleging a change in condition under appropriate statutes and our Rule 13. The basis for the application is that there is further disability which will necessitate surgical procedures on June 22, 1979 at the University of Virginia Hospital. It is obvious from the record before us that this claimant is an uneducated individual and this conclusion is buttressed by personal observation of her at the recent hearing. However, there is no question whatsoever of lack of witness credibility on her part. The medical record is clear that this claimant has sustained further injury to her right wrist. Both Dr. Todd and Dr. Frank McCue believe the tenosynovitis of the period of January-February, 1978 has reasserted itself.

It is our finding the claimant has borne the burden of proving an aggravation of her original compensable industrial accident of January 29, 1978. We are precluded by the fourteen (14) day provision of our Rule 13 from awarding benefits prior to March 5, 1979.

General disability benefits are reinstated at a weekly rate of \$73.33, effective March 5, 1979. All benefits which have accrued from that date to the nearest full week from the date of this opinion shall be paid in one lump sum directly to this

claimant. Future benefits shall be paid weekly until any future change in condition is timely brought to our attention. The defendants shall be responsible for the continuing medical care which will include the June, 1979 hospitalization and surgical procedures.

This case is dismissed and stricken from the Commission Hearing Docket.

*Law Offices*

*Timberlake, Smith, Thomas & Moses*

*The Virginia Building*

*Staunton, Virginia 24401*

*Post Office Box 2566*

5-73-110

Area Code 703

Telephone 885-1517

*Wayt B. Timberlake, Jr.*

*Richard W. Smith*

*Colin J. S. Thomas, Jr.*

*P. Donald Moses*

*John W. Lills, III*

*James G. Welsh*

*Thomas G. Bell, Jr.*

June 29, 1979

Department of Workmen's Compensation  
Industrial Commission of Virginia  
Post Office Box 1794  
Richmond, Virginia 23214

Re: Ruby Back v. Oak Hill Nursing Home, Inc.  
Claim No.: 573-110, 597-978

Gentlemen:

We would like to note our appeal to the Full Commission with regard to decisions made in both of these claims.

With regard to Claim No. 597-978, we would appeal that portion of the Order closing this file and consolidating it into 573-110. With regard to Claim No. 573-110, we would like to appeal that decision.

Thanking you, I am

Very truly yours,

*Colin J. S. Thomas, Jr.*  
Colin J. S. Thomas, Jr.

CJST/js

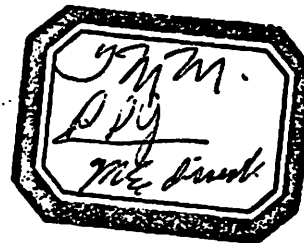
cc: Ms. Nancy Ramsier

CC: *Christ*

DOCKET FOR	<i>Review</i>
DATE OF LAST PAYMENT	
APPLICATION FILED	<i>7/2/79</i>
REFERRED TO DOCKET	<i>7/10/79</i>
032 BY	<i>7.</i>

211

OCT 29 1979



Opinion by MILLER,  
Commissioner

REVIEW before the full Commission at Richmond, Virginia,  
September 5, 1979.

This matter involving files 597-978 and 573-110 came on for review by the defendants aggrieved by the June 2, 1979 decision and award consolidating the two matters and holding that the continuing related incapacity and medical attention are compensable from the January 29, 1978 right arm injury (573-110).

Significantly only one employer and carrier is involved in these matters. Moreover, the two files have been jointly processed by the carrier and Commission all along. Medical reports have gone to the carrier covering the matters and it was manifestly aware of the overlapping aspect inherent in the particular medical condition involved.

A main purpose of Workmen's Compensation procedure is to eliminate technical procedure and delays insofar as possible. In this regard considerable delay and attendant hardship to the unrepresented laundry worker claimant of limited education



would become involved in requiring further technical proceedings herein. Moreover, pursuant to long standing approved workmen's compensation practice all possible relevant aspects of a matter are considered and determined in one hearing proceeding.

The fact that the docketing clerk in the scheduling notice form referred only to a September 6, 1978 accident date and claimant's general letter application of March 9, 1979 as the subject of the hearing is not a fatal defect to the decision <sup>defendants</sup> ~~and~~ thereby have not been prejudiced.

Plainly the defendants (from all correspondence and medicals) were aware of the entire nature of the matter and claim. Moreover, as per transcript, the hearing Deputy also made reference to the additional companion file at the very outset of the hearing.

(In fact it further appears that one of the claimant's two earlier letters, i.e. those filed December 14, 1978 and November 26, 1978 might be deemed the reapplication date thereby enabling an earlier date for the resumption of benefits. In addition the carrier was specifically apprised of the November 21 filed claim by Commission's letter of December 8, 1978 and finally responded February 27, 1979 denying responsibility.)

Accordingly, the majority of the Commission on Review affirms the said June 27, 1979 decision and award.

EVANS, Commissioner, dissenting:

The record reveals that claimant sustained a traumatic injury to her right wrist on January 29, 1978, for which compensation was paid pursuant to an award of the Commission

and payments terminated by an Agreed Statement of Fact on April 10, 1978. These payments were made under Claim File 573-110.

Claimant subsequently filed claim with the Industrial Commission in which she alleged that she had sustained another injury to her right wrist arising out of and during the course of her employment with the defendant on September 6, 1978. This claim was assigned Claim No. 597-978. The evidence adduced at the hearing clearly refutes the recurrence of an injury by accident to the right wrist on September 6, 1978, therefore, this claim was properly dismissed and the Commission affirms the decision and award insofar as it applies to Claim No. 597-978.

The employer contends that the Hearing Commissioner was in error in consolidating the two caption files and making a finding that claimant's difficulty occurring in September, 1978 was an occupational disease and causally related to the January traumatic injury.

The record fails to reveal that any notice was given for a hearing on Claim File 573-110 or that any application had been made on the grounds of change in condition. Under such circumstances I am of the opinion that the decision and award rendered in 573-110 should not be sustained and the claimant should reapply on the injury sustained on January 29, 1978.

PS Form 3811, Apr. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).  
☒ Show to whom and date delivered.....  
☐ Show to whom, date, and address of delivery.....  
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(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO: *20#597-978*  
*Mr. Colin J. S. Thomas* *573-110*  
*Stanton, Va. 24481*

3. ARTICLE DESCRIPTION:  
REGISTERED NO. CERTIFIED NO. INSURED NO.  
*327-914*

(Always obtain signature of addressee or agent)

I have received the article described above.  
SIGNATURE ☐ Addressee ☒ Authorized agent  
*[Signature]*

4. DATE OF DELIVERY *OCT 2 1979* POSTMARK

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☆GPO: 1977-0-249-595

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MOTION FOR REHEARING

Now come Oak Hill Nursing Home, Inc. and St. Paul Fire & Marine Insurance Company, by counsel, and they do jointly move the Industrial Commission to award them a rehearing.

The basis upon which this Motion is made is the Opinion by Commissioner Miller dated October 29, 1979, which Opinion is deemed to be incorrect and apparently based upon incorrect information. As stated in that Opinion, the two files were jointly processed by carrier and Commission all along. It is asserted that this is not correct. It is further asserted that basis for this Opinion is that medical reports have gone to the carrier which reports made the carrier manifestly aware of the overlapping aspect inherent in the particular medical condition involved. It is asserted that such is not correct. In the Opinion, it is asserted that the defendants were aware of the entire nature of the matter and claim, however, this is not correct and absent from the Opinion is the absolute fact that prior to the taking of evidence, it was agreed that the matter before the Commission at that point was with regard to a particular accident which occurred on a particular date.

It is further asserted that to deny a rehearing in this cause would not only work a hardship on carrier and employer but would further be the basis for enabling any claimant to file any type of letter which might be deemed to be a reapplication despite the fact that no notice of such reapplication is received by a

LAW OFFICES  
BLAKE, SMITH,  
JAMES & MOSES  
AUNTON, VIRGINIA

Rec'd  
11-5-79  
MWR

carrier or employer.

Accordingly, Oak Hill Nursing Home, Inc. and St. Paul Fire & Marine Insurance Company, by counsel, move the Industrial Commission to set aside the Opinion dated October 29, 1979, and to grant a rehearing in this cause at which time further cogent and relative particulars may be enunciated.

Respectfully submitted,

OAK HILL NURSING HOME, INC.  
ST. PAUL FIRE & MARINE INSURANCE COMPANY

BY COUNSEL

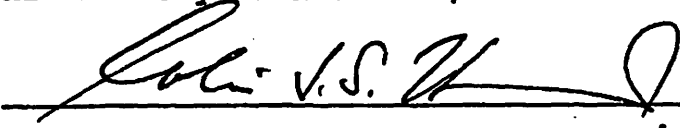
Timberlake, Smith, Thomas & Moses

By

  
Post Office Box 2566

Staunton, Virginia 24401

I certify that a copy of the foregoing Motion for Rehearing was mailed to Ruby Back, Box 96, Star Route B, Staunton, Virginia, 24401, this 1st day of November, 1979.



# COMMONWEALTH OF VIRGINIA



E. EVANS, COMMISSIONER  
THOMAS M. MILLER, COMMISSIONER  
BART. P. JOYNER, COMMISSIONER  
A. SCOTT, CLERK

## DEPARTMENT OF WORKMEN'S COMPENSATION INDUSTRIAL COMMISSION OF VIRGINIA

P. O. BOX 1794  
RICHMOND, VIRGINIA 23214

November 13, 1979

Re: claims 573-110 and 597-978  
Ruby Back v. Oak Hill Nursing Home, Inc.

Colin J. S. Thomas, Jr., Esq.  
The Virginia Building  
P. O. Box 2566  
Staunton, Virginia 24401

Dear Mr. Thomas:

This will confirm my telephone conversation of this morning with Mrs. Shifflett, of your office, in which I advised that your Motion for Rehearing in the captioned matter had been denied by the Commission.

Very truly yours,

INDUSTRIAL COMMISSION OF VIRGINIA

Secretary

MWRagland  
cc: Mrs. Ruby Back

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41.



NOTICE OF APPEAL

Now come the defendants, Oak Hill Nursing Home, Inc. and St. Paul Fire & Marine Insurance Company, by counsel, pursuant to Rule 5:19 of the Rules of the Supreme Court of Virginia, and they do give notice that they will petition the Supreme Court of Virginia for an appeal from the Opinion of the Industrial Commission dated October 29, 1979; a copy of which was received (registered mail, return receipt requested) on October 31, 1979.

The primary basis for this appeal is error on the part of the Commission in dismissing a claim numbered as 597-978 and then, without notice and contrary to stipulation and agreement, reopening a previous claim numbered 573-110. This portion of the appeal is not based on a challenge insofar as a sufficiency of the evidence. Secondary to the foregoing, part of the appeal will be based on a finding by the Industrial Commission that the results of a previous accident found to be compensable as a result of an accident are an occupational disease. This aspect of the appeal will involve a challenge insofar as the sufficiency of the evidence.

The Clerk of the Industrial Commission is requested to file a transcript, prepare a table of contents and record and to timely transmit same to the Clerk of the Supreme Court of Virginia. It is specifically requested that the transcript to be


filed include all matters subject of the preevidentiary hearing discussion, agreements and stipulations.

Respectfully submitted,

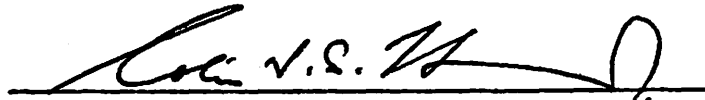
OAK HILL NURSING HOME, INC.  
ST. PAUL FIRE & MARINE INSURANCE COMPANY

BY COUNSEL

Timberlake, Smith, Thomas & Moses

By   
Post Office Box 2566  
Staunton, Virginia 24401

I certify that a true copy of the foregoing Notice of Appeal was mailed by ordinary mail to Ms. Ruby Back, Post Office Box 96, Star Route B, Staunton, Virginia, 24401, this 14th day of November, 1979.





### ASSIGNMENTS OF ERROR

Defendants make the following assignments of error pursuant to Rule 5:21:

1. The Industrial Commission erred in consolidating pending claim 597-978 for accidental injury with a previous claim without notice of such intent being given to carrier and employer.

2. The Industrial Commission erred in entering an award in file 573-110 without giving notice to carrier and employer that a claim with regard to such file was being made.

3. The Industrial Commission erred in finding that the notice and hearing afforded employer and carrier was sufficient to enable employer and carrier to defend the claim which the Industrial Commission asserted was the basis of the award made.