



WITHERSPOON • KELLEY

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October 22, 2010

**VIA FACSIMILE**

**Fax #: 208-664-9933**

Art Macomber  
408 East Sherman Avenue, Suite 215  
Post Office Box 102  
Coeur d'Alene, ID 83816

**RE: Witness Fee**

Dear Mr. Macomber:

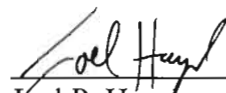
I received your correspondence dated October 19, 2010, requesting return of the witness fee you paid my wife, Christa Hazel, in order to perfect service on her for a trial subpoena. As you know, IRCP 45(e)(2) requires the payment of a \$20 witness fee plus mileage if demanded by a witness a demand that Christa in fact made. The payment of said fee was a condition precedent to effective service under IRCP 45(e)(2). It is certainly not my wife's fault that you mistook a 4:00 p.m. status conference for a trial. (Never in my 16-year law practice has a court set a trial at 4:00 p.m.)

It has also been well publicized that my wife endorsed your witness fee check over to the Mike Kennedy Legal Defense Fund. My wife, therefore does not have the \$21.46 to return to you.

As such, the \$21.46 will not be returned.

Sincerely,

WITHERSPOON KELLEY

  
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Joel P. Hazel

JPH:kwb

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