File COPY

217622

LAW OFFICES OF

JONES, HOFFMANN & DAVISON

1000 DES MOINES BUILDING

DES MOINES, IOWA 50309-2462

W.C. HOFFMANN
BURNS H. DAVISON II
JAMES C. HUBER
MICHAEL R. HOFFMANN, P.C.
DOROTHY L. KELLEY
STEVEN L. UDELHOFEN
RICHARD G. BOOK
JOSEPH S. CORTESE II

JOHN J. MONTGOMERY
LINDA L. HOFFMANN

AREA CODE 515
TELEPHONE 243-4148

FILED

IOWA INDUSTRIAL COMMISSIONER

Mr. Greg A. Egbert
Betty, Newman & McMahon
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

RE: Betty Haynes v. Nixco Chemical and Home Insurance Company

Dear Greg:

You will find enclosed the drafts to bring Mrs. Haynes up to date, and to bring in line the amount of the weekly benefits pursuant to the Deputy's ruling. To date, she has received 189 weeks of benefits. Future payments will be at the weekly rate of $565.00, per week.

I am assuming that the calculation of interest set forth in your January 5, 1987, was an oversight on your part in that you apparently calculated interest based upon the figure of $565.00, rather than on the difference of $315.34.

My calculations are based upon the formula used by the Industrial Commissioner:

$$\frac{189}{2} \times (188) \times \frac{315.34}{52} \times .10 = \$10,775.71$$

If you agree, please advise and I will request a check.

Very truly yours,

D. Kelley

DOROTHY L. KELLEY

DLK:bja

Enclosures: Check for $58,337.50
Check for 1,261.36

COPY

JONES, HOFFMANN & DAVISON

CC: Iowa Industrial Commissioner
507 10th Street
Des Moines, IA 50319
File Number 777622

BEFORE THE IOWA INDUSTRIAL COMMISSIONER

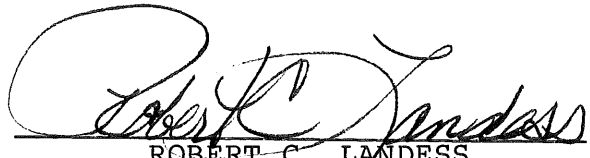
BETTY HAYNES, Widow of CARROLL HAYNES, Claimant, vs. WITCO CHEMICAL, Employer, and HOME INSURANCE COMPANY, Insurance Carrier, Defendants.	:	File No. 777622 R U L I N G

FILED
APR 15 1987
IOWA INDUSTRIAL COMMISSIONER

Claimant applies for an assessment and taxation of the cost of a copy of the transcript which was to be used in preparing her brief and argument on appeal. Claimant had ordered the transcript copy after receiving a notice of appeal by defendants from an arbitration decision of the deputy commissioner. The appeal was subsequently dismissed by defendants. Although the deputy commissioner assessed the costs of the arbitration proceeding against the defendant, the taxation of costs on appeal is at the discretion of the industrial commissioner.

The ordering of a copy of a transcript filed by appellant with the commissioner is available to all parties. Claimant's application is denied.

Signed and filed this 15 day of April, 1987.



ROBERT C. LANDESS
INDUSTRIAL COMMISSIONER

Copies To:

Mr. Greg A. Egbers
Attorney at Law
600 Union Arcade Bldg.
111 East Third Street
Davenport, Iowa 52801

Mr. James P. Richmond
Attorney at Law
900 Sixth Avenue
P.O. Box 148
DeWitt, Iowa 52742

Ms. Dorothy L. Kelley
Attorney at Law
1000 Des Moines Bldg.
Des Moines, Iowa 50309

BEFORE THE IOWA DIVISION OF INDUSTRIAL SERVICES

FILED
1987 APR 15 PM 4 15
IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, widow of CARROLL D. HAYNES, deceased,	)	
Claimant,	)	FILE NO. 777622
vs.	)	
WITCO CHEMICAL CORP.,	)	
Employer,	)	
and	)	
HOME INSURANCE COMPANY,	)	REPLY
Insurance Carrier, Defendants.	)	

COMES NOW Claimant, by her attorneys, Betty, Neuman and McMahon, and for her reply to Defendants' Resistance states as follows:

1. That Witco Chemical Corp. has now paid the $60.80 awarded in the Arbitration Decision filed on December 31, 1986.

2. That it is untimely for the Defendants to claim at this point that the Deputy Commissioner improperly awarded that amount in his Arbitration Decision filed December 31, 1986, because although the Defendants initially appealled this Arbitration Decision, they subsequently dismissed it and they cannot now be heard to complain of that award.

3. That Claimant honestly cannot believe the allegation contained in Paragraph 7 of the Defendants' Resistance claiming that the Claimant's Motion to Assess Costs of the appeal transcript is manifestly greedy and unfair. It would be manifestly greedy

C/S

and unfair to allow Defendants to file a Notice of Appeal, order the transcript from the court reporter and then, on their own volition, decide to voluntarily dismiss the Petition after a Motion to Dismiss had been filed by the Claimant. Claimant certainly would have needed her own copy of the transcript of the hearing to prepare any type of appeal brief that would have been required had the Defendants timely filed their appellate brief. To claim in Paragraph 8, as the Defendants did, that the original of the hearing transcript would be available to the Claimant without cost is ridiculous. That original transcript was filed with the Iowa Industrial Commissioner and it is not available to counsel for Claimant unless counsel for Claimant wants to drive to Des Moines and review it in preparing for the appeal. That would certainly result in unneccesary fees and costs to the Claimant.

4. That to assess the cost of a copy of the hearing transcript to the Defendants would certainly not constitute an abuse of discretion. As noted in the Defendants' Resistance, Defendants are not claiming that they would make their copy available to the Claimant, but are claiming that the original which was filed with the Industrial Commissioner was available for review by the Claimant. It would be ridiculous to require counsel for the Claimant to travel to Des Moines to review a transcript, especially in light of the fact that it appears that the Defendants filed the appeal simply to delay the payment awarded in the Arbitration Decision. Deputy Walshire's Arbitration Decision was filed on December 31, 1986, and counsel for Claimant did not receive the principal of

the award until April 8, 1987. Furthermore, counsel for Claimant is still waiting for the interest portion of the award which exceeds $10,700.00.

WHEREFORE, Claimant again respectfully requests that the Industrial Commissioner assess as costs against the Defendants the sum of $141.55 which represents what the Claimant paid for a copy of the transcript of the hearing.

BETTY, NEUMAN & McMAHON

By: _____

Greg A. Egbers
600 Union Arcade Building
111 East Third Street
Davenport, Iowa 52801-1550
(319) 326-4491
ATTORNEYS FOR CLAIMANT

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record herein at their respective addresses disclosed on the pleadings, on 13 April, 1987

Copy to:
Dorothy L. Kelley
1000 Des Moines Building
Des Moines, Iowa 50309-2462

CPW

BEFORE THE IOWA DIVISION OF INDUSTRIAL SERVICES

FILED

'87 APR 8 PM 4 20

IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, widow of CARROLL D. HAYNES, deceased,	:	FILE NO. 777622
Claimant,	:	
v.	:	
WITCO CHEMICAL CORP.,	:	RESISTANCE TO MOTION TO ASSESS COSTS AGAINST THE DEFENDANTS
Employer,	:	
HOME INSURANCE COMPANY,	:	
Insurance Carrier,	:	
Defendants.	:	

COME NOW the Defendants and for resistance and denial to Claimant's Motion, state as follows:

1. For answer to paragraph 1, the Defendants state that the Deputy Commissioner improperly awarded the amount of $60.80 as costs in an Arbitration Decision filed December 31, 1986, in that such amount reflected payment made by Claimant's attorneys for a copy of a trascript of a discovery deposition of Claimant taken by the Defendants, prior to hearing.

2. The allegations of paragragh 2, are admitted, and Defendants further state that the issues on appeal included the Order of the Deputy awarding such a sum as costs.

3. The allegations of paragraph 3, are denied for lack of sufficient information upon which to form a belief as to the truth thereof; Defendants state however, that a copy of such Motion was received March 19, 1987.

4. The allegations of paragraph 4, are admitted.

5. For answer to paragraph 5, Defendants admit that copies of letters by Counsel and a bill from Huney and Associates are attached to Claimant's Motion; the remainder of the allegations of paragraph 5 are denied for want of sufficient information upon which to form a belief as to the truth thereof.

6. For answer to paragraph 6, Defendants admit that Exhibit C, is a true copy of correspondence from Defendants' Counsel.

7. The Defendants deny the allegations of paragraph 7, and further state that the cost of the transcript on Appeal was paid for by the Defendants as required by Division of Industrial Services Rule 343-4.30; by way of further answer to paragraph 7, Defendants deny that the Rules require payment by the appealing party of costs of the other parties' copies of transcripts, and Claimant's Motion to assess such costs is manifestly greedy and unfair.

8. For answer to paragraph 8, Defendants admit that proper costs may be assessed at the discretion of the Deputy Industrial Commissioner, however, to assess the cost of a copy of the hearing transcript, the original of which would be otherwise available to Claimant without cost, would constitute an abuse of discretion.

WHEREFORE, Defendants pray that Claimant's Motion be overruled and denied as it pertains to the request for cost of Claimant's copy of the transcript of the proceeding.

JONES, HOFFMANN & DAVISON

Dorothy L. Kelley

DOROTHY L. KELLEY
1000 DES MOINES BUILDING
DES MOINES, IA 50309-2462
(515) 243-4148

ATTORNEYS FOR EMPLOYER AND INSURER

COPY TO:

Greg A. Egbers
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

Mr. James P. Richmond
900 Sixth Avenue
P. O. Box 148
DeWitt, IA 52742

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon the attorneys of record of all parties to the above entitled cause by enclosing the same in envelopes addressed to each such attorney at his [illegible] address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelopes in a United States Post Office receptacle in Des Moines, Iowa on the 8th day of April 1987.

Betty J. Andersen

WE OFFER
COMPUTER ASSISTED
TRANSCRIPTION BY

HUNEY & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS
616 Kahl Bldg., Davenport, Iowa 52801
(319) 326-6480

Registered Professional Reporters

TAX I.D. NO.
421108333

01700

TO: Jones, Hoffmann & Davison
Attorneys at Law
1000 Des Moines Building
Des Moines, IA 50309
Attn: Dorothy L. Kelley

RE: Before the Iowa Division of Industrial Services, File No. 777622, Betty Haynes, widow of Carroll D. Haynes, deceased -vs- Witco Chemical Corp., and Home Insurance Company.

DATE	REFERENCE	CHARGES
2/27/87	TO: Transcript of Proceedings in the above-entitled matter, Original & 1.	$398.35
	APPROVED: _____ TOTAL	$398.35

CURRENT	30 DAYS PAST DUE	60 DAYS PAST DUE	90 DAYS PAST DUE	TOTAL BALANCE DUE	$398.35

BEFORE THE IOWA DIVISION OF INDUSTRIAL SERVICES

FILED
87 APR 6 PM 4 03
IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, widow of CARROLL D. HAYNES, deceased, Claimant, vs. WITCO CHEMICAL CORP., Employer, and HOME INSURANCE COMPANY, Insurance Carrier, Defendants.	FILE NO. 777622 MOTION TO ASSESS COSTS AGAINST THE DEFENDANTS

COMES NOW Claimant, Betty Haynes, by her attorneys, Betty, Neuman and McMahon, and hereby moves that the Commissioner order that certain costs be taxed to the Defendants and in support thereof states to the Commissioner as follows:

1. That in the Arbitration Decision filed on December 31, 1986, the Deputy Commissioner awarded the Claimant costs in the amount of $60.80 as indicated in Paragraph 4 of that Order.

2. That on January 13, 1987, the Defendants served a Notice of Appeal.

3. That on March 16, 1987, the Claimant filed a Motion to Dismiss the Defendants' appeal as the result of the Defendants' lack of compliance with the Industrial Commissioner Rules regarding the time for serving briefs.

4. That on March 18, 1987, the Defendants served a Dismissal of Appeal.

ds

5. That attached hereto and marked Exhibit A is Greg A. Egbers' letter to Dorothy Kelley dated March 23, 1987. Attached hereto and marked Exhibit B is a copy of the bill from Huney and Associates for the Claimant's copy of the transcript of proceedings in the above-entitled matter which was paid for by the undersigned's law firm.

6. That attached hereto and marked Exhibit C is Attorney Kelley's response indicating that she will not recommend that her clients reimburse the Claimant for the copy of the hearing transcript.

7. That the Claimant ordered a copy of the transcript as the result of the Defendants appealling the case and it would be absolutely and manifestly unjust to allow Defendants to appeal a case, then simply dismiss the case with the result that the Claimant goes to the unnecessary expense of ordering a copy of the transcript which costs the Claimant $141.55.

8. That pursuant to Iowa Code §86.40 and Industrial Commissioner Rule 343-4.33, the Industrial Commissioner has discretion to tax as costs transcription costs when appropriate. It would certainly be appropriate for the Industrial Commissioner to use his discretion to tax these costs to the Defendants since the costs were incurred solely as the result of the Defendants' filing a frivolous appeal which they ultimately dismissed.

WHEREFORE, Claimant respectfully requests that the Industrial Commissioner enter an Order taxing as costs the $60.80 referred to in Paragraph 4 of the Arbitration Decision filed on December 31,

1986, plus the $141.55 for the Claimant's copy of the Transcript of Proceedings.

Respectfully submitted,

BETTY, NEUMAN & McMAHON

By: _____

Greg A. Egbers
600 Union Arcade Building
111 East Third Street
Davenport, Iowa 52801 -1550
(319) 326-4491
ATTORNEYS FOR CLAIMANT

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on 2 April, 1987

Susan Kerrigan Sellak

Copy to:
Dorothy L. Kelley
1000 Des Moines Building
Des Moines, Iowa 50309-2462

LAW OFFICES

BETTY, NEUMAN & MCMAHON

600 UNION ARCADE BUILDING
111 EAST THIRD STREET
DAVENPORT, IOWA
ZIP CODE 52801-1550
TELEPHONE - (319) 326-4491

RICHARD M. McMAHON
RALPH D. SAUER
LARRY L. SHEPLER
HENRY G. NEUMAN
STEVEN H. JACOBS
ROGER A. LATHROP
GREG A. EGBERS
CRAIG A. LEVIEN
VICKI L. SEECK
MARK A. WOOLLUMS
THERESE M. BOTTS

HARRY B. BETTY 1874 - 1953
FRANK F. BETTY 1880 - 1974
HENRY N. NEUMAN 1905 - 1986
THOMAS F. DALEY, JR. 1930 - 1979

23 March 1987

Ms. Dorothy L. Kelley
Attorney at Law
1000 Des Moines Building
Des Moines, Iowa 50309-2462

RE: Betty Haynes v. Witco Chemical and Home Insurance

Dear Dorothy:

Thank you for providing me with a copy of the Dismissal of Appeal that you have apparently filed.

Pursuant to the Arbitration Decision filed on December 31, 1986, I would appreciate it if you would issue a check payable to our firm in the amount of $60.80 to cover the costs indicated in Paragraph 4 of the Order. Furthermore, I have enclosed a copy of the court reporter's bill for obtaining our copy of the transcript of proceedings. Since you have dismissed your appeal, I think that there is no question but that the Industrial Commissioner would order you to pay these costs as well. I would therefore appreciate it if you would reimburse our firm in the amount of $141.55 pursuant to the enclosed bill from Huney & Associates.

As you know, on January 5, 1987, I wrote to you indicating what my calculations were for the benefits due Mrs. Haynes plus interest through December 30, 1986. I presume that your client has continued to make weekly benefit payments at the rate of $247.66 from that date and I would appreciate it if you would advise me through what date your client has paid my client so I can determine the amount plus interest that is presently owing to Mrs. Haynes.

Thank you for your cooperation in these regards and I look forward to hearing from you.

Very truly yours,

BETTY, NEUMAN & McMAHON

COPY

Greg A. Egbers

sps
Enc.
cc: James P. Richmond
w/o Enc.

EXHIBIT A
PAGE 1 OF 1 PAGES

WE OFFER
COMPUTER ASSISTED
TRANSCRIPTION BY

...NEY & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS
616 Kahl Bldg., Davenport, Iowa 52801
(319) 326-6480

Registered Professional Reporters

TAX I.D. NO.
421108333

01701

TO: Betty, Neuman & McMahon
Attorneys at Law
600 Union Arcade Building
Davenport, IA 52801
Attn: Greg A. Egbers

RE: Before the Iowa Division of Industrial Services, File No. 777622, Betty Haynes, widow of Carroll D. Haynes, deceased -vs- Witco Chemical Corp., and Home Insurance Company.

DATE	REFERENCE	CHARGES
2/27/87	TO: Transcript of Proceedings in the above-entitled matter.	$141.55
	Paid 3/3/87 firm ✓	
	APPROVED: _____ TOTAL	$141.55

CURRENT	30 DAYS PAST DUE	60 DAYS PAST DUE	90 DAYS PAST DUE	TOTAL BALANCE DUE	$141.55

EXHIBIT B
PAGE 1 OF 1 PAGES

LAW OFFICES OF

JONES, HOFFMANN & DAVISON

1000 DES MOINES BUILDING

DES MOINES, IOWA 50309-2462

W.C. HOFFMANN
BURNS H. DAVISON II
JAMES C. HUBER
MICHAEL R. HOFFMANN, P.C.
DOROTHY L. KELLEY
STEVEN L. UDELHOFEN
RICHARD G. BOOK
JOSEPH S. CORTESE II

JOHN J. MONTGOMERY
LINDA L. HOFFMANN

AREA CODE 515
TELEPHONE 243-4148

March 30, 1987

Mr. Greg A. Egbers
Betty, Neuman & McMahon
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

RE: Betty Haynes v. Witco Chemical and Home Insurance Company

Dear Greg:

I am in receipt of your correspondence of March 23, regarding the above. I have written my Client concerning the appropriate facts and figures which I believe are proper. I would ask your patience, as the information will be reviewed by several individuals at several levels. It is my information that payments continue to be made to Claimant in the amount of $247.00 per week. All benefits will be properly and correctly adjusted. I do disagree with your interest calculations and will be corresponding with you concerning that issue, upon hearing from my Client. I will not be recommending that my Client reimburse you for the copy of your hearing transcript, however, reimbursement for the costs of $60.80 will be requested.

Very truly yours,

Dorothy Kelley

DOROTHY L. KELLEY

DLK:bja

EXHIBIT C

PAGE 1 OF 1 PAGES

BEFORE THE IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, widow of CARROLL D. HAYNES, deceased,	:	FILE NO. 777622
Claimant,	:	
v.	:	
WITCO CHEMICAL CORP.,	:	DISMISSAL OF APPEAL
Employer,	:	
HOME INSURANCE COMPANY,	:	FILED
Insurance Carrier,	:	MAR 18 1987
Defendants.	:	INDUSTRIAL SERVICES

COME NOW the above-named Defendants, and hereby dismiss their appeal filed in the above-captioned matter.

JONES, HOFFMANN & DAVISON

Dorothy L. Kelley

DOROTHY L. KELLEY
1000 DES MOINES BUILDING
DES MOINES, IA 50309-2462
515 243-4148

ATTORNEYS FOR EMPLOYER AND INSURER

COPY TO:

Greg A. Egbers
Betty, Neuman, McMahon
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

COPY TO:

Mr. James P. Richmond
900 Sixth Avenue
P. O. Box 148
DeWitt, IA 52742

CERTIFICATE OF [illegible]

The undersigned hereby certifies that a [illegible] of the foregoing instrument was served [illegible] the attorneys of record of all parties to the [illegible] cause by enclosing the same in an envelope addressed to each such attorney at his residence address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office mailbox in Des Moines, Iowa on the 18th day of March, 1987.

Betty J. Andersen

FILED

BEFORE THE IOWA DIVISION OF INDUSTRIAL SERVICES

'87 MAR 16 PM 3 46

IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, Widow of CARROLL D. HAYNES, deceased, Claimant,	
vs.	FILE NO. 777622
WITCO CHEMICAL CORP., Employer,	
and	MOTION TO DISMISS APPEAL
HOME INSURANCE COMPANY, Insurance Carrier, Defendants.	

COMES NOW Claimant, by her attorneys, Betty, Neuman and McMahon, and hereby moves to dismiss the appeal filed by the Defendants and in support thereof states to the Commissioner as follows:

1. That on January 13, 1987, the Defendants filed an appeal of the Arbitration Decision which was filed December 31, 1986.

2. That Industrial Commissioner Rule 343-4.28(1) provides as follows:

> "Appellant shall serve its brief within fifty days after the date on which notice of appeal was filed, or within twenty days after filing of the hearing transcript, whichever date is later...."

3. That fifty days from January 13, 1987, is March 4, 1987.

4. That the transcript was filed on February 13, 1987. Twenty days from February 13, 1987, is March 5, 1987.

5. That the Appellant has not served its brief within fifty

015

days after the date on which notice of appeal was filed nor within twenty days after the filing of the hearing transcript.

6. That Industrial Commissioner Rule 343-4.28(86) provides:

> "If any party to a contested case or an attorney representing such party shall fail to comply with these rules or any order of a deputy commissioner or the industrial commissioner, the deputy commissioner or industrial commissioner may dismiss the action. Such dismissal shall be without prejudice. The deputy commissioner or industrial commissioner may enter an order closing the record to further activity or evidence by any party for failure to comply with these rules or an order of the deputy commissioner or the industrial commissioner."

7. That based upon the fact that the Defendants have failed to comply with Rule 343-4.28(1), the Industrial Commissioner should either dismiss the Defendants' appeal or, in the alternative, close the record and not allow the Defendants to file an appellant's brief.

8. The terms of Rule 343-4.28(1) are clear. The appellant <u>shall</u> serve its brief within fifty days after the date on which the notice of appeal was filed, or within twenty days after filing of the hearing transcript, whichever date is later.

9. The Defendants have not requested an extension of time to file their brief and it would be a little late at this point to request an extension since the Defendants have already failed to comply with the Rule. To extend the time to comply with the Rule at this point would result in a waiver of the express terms of Rule 4.28(1).

10. As there has been no compliance with Rule 343-4.28(1), the Claimant respectfully requests that the appeal filed by the Defendants be dismissed.

Respectfully submitted,

BETTY, NEUMAN & McMAHON

By: _____

Greg A. Egbers
600 Union Arcade Building
111 East Third Street
Davenport, Iowa 52801-1550
(319) 326-4491
ATTORNEYS FOR CLAIMANT

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on 11 March, 19 87

Copy to:
Dorothy L. Kelley
1000 Des Moines Building
Des Moines, Iowa 50309

file

BCL

LAW OFFICES OF

JONES, HOFFMANN & DAVISON

1000 DES MOINES BUILDING

DES MOINES, IOWA 50309-2462

W.C. HOFFMANN
BURNS H. DAVISON II
JAMES C. HUBER
MICHAEL R. HOFFMANN, P.C.
DOROTHY L. KELLEY
STEVEN L. UDELHOFEN
RICHARD G. BOOK
JOSEPH S. CORTESE II

JOHN J. MONTGOMERY
LINDA L. HOFFMANN

AREA CODE 515
TELEPHONE 243-4148

January 2, 1987

Greg A. Egbers
Attorney at Law
600 Union Arcade Building
111 East Third Street
Davenport, Iowa 52801-1550

RE: Betty Haynes vs. Witco Chemical Corp. and
Home Insurance Company

Dear Greg:

Enclosed please find copies of correspondence from Witco Chemical Corporation and copies of documents pertinent to questions raised by your client at the time of hearing. I believe these documents should fully satisfy the concerns of Mrs. Haynes regarding the safety of her future workers' compensation benefits. I would especially call your attention to the $200,000 bond provision. If there is further information which you require, prior to withdrawing the application for full commutation, please advise.

Very truly yours,

Dorothy L. Kelley

DOROTHY L. KELLEY

DLK/dc
Enclosures

cc: Larry Walshire
Deputy Industrial Commissioner

James P. Richmond
Attorney at Law
Box 148, 900 - 6th Ave.
DeWitt, Iowa 52742

VIA AIRBORNE

Witco

Witco Corporation, 520 Madison Avenue, New York, NY 10022-4236 Telephone 212-605-3800

December 30, 1986

Ms. Dorothy L. Kelley
Jones, Hoffman & Davison
1000 Des Moines Building
Des Moines, Iowa 50309-2462

Re: Betty Haynes, widow of Carroll Haynes v.
Witco Corporation and Southwest Petro-Chem, Inc.
D/E: 8/19/83

Dear Ms. Kelley:

Confirming our telephone conversation on 12/30/86, I am enclosing copies of Insurance Department of Iowa Employer's Release form for the periods 7/1/83-6/30-84, 7/1/84-7/31/85, 8/1/85-7/31/86, and 8/1/86-7/31/87, and copies of our excess insurance certificates for the years 5/1/83-84, 5/1/84-85, 5/1/85-86 and 5/1/86-87. Also enclosed is a copy of Witco's 1985 Form 10-K Report. I refer you to Exhibit 22 which shows Southwest Petro-Chem, Inc. as a wholly owned subsidiary of Witco.

As we discussed, the financial health of Witco should not be a concern to the claimant. The State of Iowa reviews the financial health of any company applying for self-insurance privilege. In addition, Witco has a $200,000 bond on file with the State to ensure that Witco and Southwest will be able to pay for their liabilities for workers compensation claims.

We would anticipate that the claimant would be provided with confirmation of our self-insurance privilege, our bond, and the guaranty by Witco of Southwest's workers compensation liabilities (on file with the Insurance Department of Iowa) if the claimant contacted the State Insurance Department.

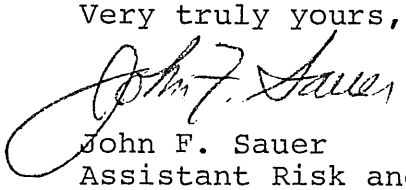
We hope the enclosed will provide you with the information you need. Please let us know if you have any questions.

.....2/

Jones, Hoffman & Davison
Des Moines, Iowa

Attention: Ms. Dorothy L. Kelley

Very truly yours,



John F. Sauer
Assistant Risk and
Insurance Manager

JFS:mg
cc: Susan Gardner
The Home Ins. Co.
P.O. Box 10916
Overland Park, Kansas 66210
File: 6830-431-51
Enc.: copies of release and insurance certificate

FILED

JAN 13 1987

INDUSTRIAL SERVICES

BEFORE THE IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, widow of CARROLL D. HAYNES, deceased, Claimant, v. WITCO CHEMICAL CORP., Employer, HOME INSURANCE COMPANY, Insurance Carrier, Defendants.	FILE NO. 777622 NOTICE OF APPEAL

COME NOW the above-named Defendants and being aggrieved by an Arbitration Decision of the Deputy-Commissioner, filed in the above matter December 31, 1986, do hereby appeal from each and every finding, conclusion and ruling contained therein, pursuant to Section 86.24, The Code, 1985. Defendants request that a time and date be set for an appeal hearing thereon.

JONES, HOFFMANN & DAVISON

Dorothy L. Kelley

DOROTHY L. KELLEY
1000 Des Moines Building
Des Moines, IA 50309
515 243 4148

ATTORNEY FOR EMPLOYER AND INSURER

Copy to:

Greg A. Egbers
Betty, Neuman & McMahon
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

Mr. James P. Richmond
900 Sixth Avenue
P. O. Box 148
DeWitt, IA 52742

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa on the 13th day of January 19 87

Betty J. Andersen

FILED
JAN 13 1987
INDUSTRIAL SERVICES

BEFORE THE IOWA INDUSTRIAL COMMISSIONER

BETTY HAYNES, widow of CARROLL D. HAYNES, deceased, Claimant, v. WITCO CHEMICAL COMPANY, Employer, HOME INSURANCE COMPANY, Insurance Carrier, Defendants.	FILE NO. 777622 AFFIDAVIT OF ORDERING TRANSCRIPT

STATE OF IOWA :
: ss
COUNTY OF POLK :

The undersigned, Dorothy L. Kelley, being first duly sworn deposes and states that on the 13th of January, she directed a letter to Huney & Associates, ordering transcripts of the proceedings before the Deputy Industrial Commissioner for the arbitration proceedings December 29, 1986, which proceedings were reported by Huney & Associates, 616 Kahl Building, Davenport, Iowa 52801.

This Affidavit is made pursuant to Section 86.24, Code of Iowa, 1985.

Further the deponent saith not.

JONES, HOFFMANN & DAVISON

Dorothy L. Kelley

DOROTHY L. KELLEY
1000 Des Moines Building
Des Moines, IA 50309
515 243 4148

ATTORNEYS FOR EMPLOYER AND INSURER

COPY TO:

Greg A. Egbers
Betty, Neuman & McMahon
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

Mr. James P. Richmond
900 Sixth Avenue
P. O. Box 148
DeWitt, IA 52742

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa on the 13th day of January 19 87

Betty J. Anderson

LAW OFFICES OF

JONES, HOFFMANN & DAVISON

1000 DES MOINES BUILDING

DES MOINES, IOWA 50309-2462

W.C. HOFFMANN
BURNS H. DAVISON II
JAMES C. HUBER
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JOHN J. MONTGOMERY
LINDA L. HOFFMANN

AREA CODE 515
TELEPHONE 243-4148

COPY

January 13, 1987

FILED

JAN 13 1987

INDUSTRIAL SERVICES

Huney & Associates
Certified Shorthand Reporters
616 Kahl Building
Davenport, IA 52801

RE: Hearing Transcript
Betty Haynes, widow of Carroll D. Haynes, deceased v.
Witco Chemical Corp., and Home Insurance Company,
Before the Industrial Commissioner
File No. 777622

Dear Sir or Madam:

On December 29, 1986, you transcribed the proceeding in the above captioned matter. In that the Employer and Insurance Carrier intend to appeal the decision, we would ask that you commence preparation as soon as possible and forward the same to us with your statement.

Thank you.

Very truly yours,

D. Kelley

DOROTHY L. KELLEY

DLK:bja

CC: Iowa Industrial Commissioner
507 10th Street
Des Moines, IA 50319
File No. 777622

LPW

LAW OFFICES OF

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January 9, 1987

FILED

JAN 09 1987

INDUSTRIAL SERVICES

Larry P. Walshire
Deputy Industrial Commissioner
507 10th Street
Des Moines, IA 50319

RE: Betty Haynes, widow of Carroll Haynes v.
Witco Chemical and Home Insurance Co.
Your File No. 777622

Dear Mr. Walshire:

Please go forward and issue your opinion as to the Application for Full Commutation of Benefits.

Very truly yours,

Dorothy L. Kelley

DOROTHY L. KELLEY

DLK:bja

CC: Greg A. Egbers
Attorney at Law
600 Union Arcade Building
111 East Third Street
Davenport, IA 52801-1550

James P. Richmond
Attorney at Law
Box 148
900 6th Avenue
DeWitt, IA 52742

LPW

LAW OFFICES

BETTY, NEUMAN & MCMAHON

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MARK A. WOOLLUMS
THERESE M. BOTTS

HARRY B. BETTY 1874 - 1953
FRANK F. BETTY 1880 - 1974
HENRY N. NEUMAN 1905 - 1986
THOMAS F. DALEY, JR. 1930 - 1979

5 January 1987

FILED

JAN 08 1987

INDUSTRIAL SERVICES

Deputy Larry P. Walshire
Iowa Industrial Commissioner
507 Tenth Street
Des Moines, Iowa 50319

RE: Betty Haynes, Widow of Carroll D. Haynes, Claimant, vs. Witco Chemical, Employer, Self-Insured. File No. 777622

Dear Deputy Walshire:

I have received and thank you for the Decision filed on December 31, 1986. I would like to note that there is a typographical error on Page Two of the Decision wherein you indicate that the base salary was $625 per month. I think the exhibits reflect that the base salary was $1,625 per month. However, that typographical error did not come into play in your analysis of the gross weekly wage because you correctly used the figure of $1,625 per month in your calculations.

I have discussed Mr. Voegtlin's testimony with my client and, based upon his testimony, she is agreeable to withdrawing her Application for Full Commutation of her benefits at this time. The Claimant therefore feels that a decision on the commutation issue is not necessary and we appreciate the way you handled this at the time of the hearing.

Very truly yours,

BETTY, NEUMAN & McMAHON

Greg A. Egbers

sps
cc: Dorothy Kelley
James P. Richmond
Betty Haynes