

Opinion No. 55-6123

March 9, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable J. V. Coan, Small Claims Judge, County of Bernalillo, Albuquerque, New Mexico

You have requested the opinion of this office relative to whether or not the Small Claims Judge is a State or a county officer.

After reviewing the applicable sections of our statutes, (§ 16-5-1 through § 16-5-12, N.M.S.A., 1953 Compilation) in relation to your question, it is our opinion that a Small Claims Judge is a county officer.

The important provisions as we view the problem are those concerning jurisdiction of the court. A State officer normally exercises his jurisdiction, duties and powers statewide, and as we view the law creating a Small Claims Court, there is no such statewide authority contained therein. We refer not only to geographical limits but also to the nature and grade of the office.

It is true that a Small Claims Judge is elected for a longer term of office than other county officials, and any vacancy occurring in the office is to be filled by appointment from the Governor. Nevertheless, these factors are not as persuasive as those previously mentioned herein in determining the question herein involved.

In arriving at this conclusion we have considered carefully the discussions on the subject contained in 42 Am. Jur., Section 20, page 895; 49 Am. Jur., Section 52, pages 264-265, and the case of *Ward v. Romero*, 17 N.M. 88.

Hoping this opinion is of service to you, we remain

By J. A. Smith

Assistant Attorney General