

**Opinion No. 20-2509**

March 5, 1920

**BY:** N. D. MEYER, Assistant Attorney General

**TO:** Mr. Frank G. Casados, County Clerk, Clayton, New Mexico.

District Clerk to Charge Fees for Filing Confession of Judgment.

**OPINION**

We have your letter in which you ask an opinion of this office as to whether or not in a confession of judgment in accordance with the provisions of Sections 3071 to 3077 of the 1915 Code any fee is to be charged in view of Chapter 149 of the Laws of 1919.

It would appear from Section 3071 that a confession of judgment as provided for therein is a proceeding which is not considered as a suit or an action because said section reads that a judgment by confession **without action** may be entered by the clerk, etc.

Section 3077 prescribes the fee to be charged in a proceeding of this nature and we are of the opinion that this section is not repealed by Chapter 149 of the laws of 1919 because, first, there is no conflict between Section 3077 and Chapter 149, since the latter law provides for the fees to be charged where a suit is filed -- the confession of judgment under Section 3071 is not in the nature of a suit. Second, because Chapter 149, in Section 4, only prohibits the clerk from receiving any additional or further fees for services required of them in **civil actions**.

Therefore, I am of the opinion that in a confession of judgment under Sections 3071 to 3077 fees should be charged in accordance with Section 3077, as said confession of judgment is not a proceeding in the nature of a civil action.