

Opinion No. 24-3772

July 15, 1924

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Hon. W. B. Wagner, Deputy for Insurance, Santa Fe, New Mexico.

No Costs Chargeable Against State or County.

OPINION

{*152} Answering your inquiry relative to fees chargeable against plaintiffs where defendants are served with process by your office, we advise as follows:

Under Sec. 2814 Code 1915, your office is required to charge \$ 2.00 for each copy of complaint to be paid by plaintiff and this may be recovered by plaintiff as part of the **costs** in the case. Such sum, as costs, however, is not chargeable or taxable against the State or any County. -- Sec. 1408, Code 1915. We conclude, therefore, that the \$ 2.00 item would not be chargeable against the State as costs. It may be chargeable, however, against any department presenting a case where it has not supplied you with service copies of the papers to be served. If your office is required to make a copy for service, you would be justified in charging for that service. If the State or any County furnishes you with copies sufficient both for the files of your office and for service, then you would not be authorized to charge such plaintiff the \$ 2.00 fee.

A sheriff is not authorized, of course, to charge the State or any County merely for service and return. Such fees are remitted by the sheriff and taxed as costs in the case and no **costs** are chargeable against the State or any County. Sec. 1408, Code 1915 provides:

No costs or allowances shall be charged or taxed by any clerk against the State or any county, * * *.

If the sheriff should incur any expense, however, in connection with service of the papers, he should be reimbursed by the department incurring such expense in conformity with Chap. 42, S. L. 1915.