

**Opinion No. 31-225**

July 30, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** State Labor Commissioner, Santa Fe, New Mexico.

{\*93} In accordance with your request of July 29, 1931, I am herewith enclosing form for assignment of wages to the Labor Commissioner.

You also inquire as to the duty of Districts Attorney in regard to prosecution of wage claims. Section 9 of ch. 9 Laws of 1931 provides that the District Attorney shall prosecute wage claims referred to him by the Labor Commissioner, after the Commissioner has determined that the claim is just, valid and enforceable and the employee is financially unable to employ counsel. The language of this statute is plain and hardly susceptible of misconstruction.

In regard to the payment of court costs and service fees in such cases, there appears to be no provision of law whereby such expenses are to be borne by the state or any political sub-division thereof. When such costs must be paid, it would necessarily follow that the claimant should pay them. This should involve no great hardship since such costs are taxable against the losing party.

The manner of prosecuting such claims in the courts should, of course, be left to the judgment of the District Attorney. Some claims might be enforced by fore-closure of liens, where they exist, such as Mechanic's liens (Sec. 82-202, 1929 Code), Artisans' liens (Sec. 82-401, 82-403), etc. With the method of collection you are not concerned, so long as such claims are efficiently prosecuted.

Trusting that the above fully answers your inquiries, I am

By: Quincy D. Adams,

Asst. Attorney General