

**Opinion No. 36-1301**

February 11, 1936

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. Juan N. Vigil, State Comptroller, Santa Fe, New Mexico.

{\*103} Pursuant to my conversation yesterday with Mr. C. R. Sebastian your assistant, I have looked into the question of whether or not the \$ 2.50 fee imposed by Chapter 14, Laws of 1934, applies to Workman's Compensation claims filed pursuant to Section 156-113, 1929 Compilation. It seems to me that claims filed pursuant to this section and heard by the District Court constitutes civil actions within the meaning of that term as used in Chapter 14, Laws of 1934. For authority on this proposition I refer you to my previous opinions on the same subject relating to the filing of petitions by taxpayers for the correction of assessment rolls.

Although the section above referred to provides that no costs shall be charged, taxed or collected by the clerk, etc., in such cases, I have previously held that this \$ 2.50 fee or tax is not a part of the costs. Consequently, it is my opinion that the fee referred to must be paid by those filing Workman's Compensation claims under said section.

With reference to the application of this fee to appeals from the Justice of the Peace Courts, I refer you to the following language in Opinion No. 768, written by this office on the 2nd day of June 1934:

"It is my opinion that the \$ 2.50 fee imposed by this act does not apply to appeals from Justice of the Peace Courts or from Probate Courts. Section 4 of Chapter 14, supra., provides that the fee shall be in addition to the fee imposed by Section 34-343 of the 1929 Code. This leads me to believe that the fee is to be charged only in such cases as are contemplated by said Section 34-343. Of course, it would not apply to the docketing of Transcripts of Judgments of Justice of the Peace Courts either."

By: QUINCY D. ADAMS,

Asst. Atty. General