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PHOENIX, ARIZONA

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DEPARTMENT OF LAW LETTER OPINION NO. 66-3-L (R-30)

REQUESTED BY: The Honorable Norman Green
Pima County Attorney

QUESTION: May a party be awarded as a legitimate court cost a minimum mileage fee of one dollar (\$1) in the situation where he hires a private process server to perform the duties incidental to the Office of Constable?

ANSWER: No.

The pertinent statute reads as follows:

" . . . A private process server may charge such fees for his services as may be agreed upon between him and the party engaging him. However, a party adjudged entitled to recover his costs of suit in any civil action shall be awarded in any such judgment or order for the costs of service made by a private process server only the amount actually charged the party by such private process server or the amount which a sheriff or constable would have been authorized to charge the party for the same service, whichever is less . . ."
(Emphasis supplied). A. R. S. Sec. 11-445(F), as amended.

It is our understanding that certain private process servers performing the duties of Constable are charging the minimum mileage of one dollar (\$1) allowable to the Sheriff, and that certain Justice Courts are allowing this as a legitimate court cost. The law allows a sheriff the minimum mileage fee of one dollar (\$1), A. R. S. Sec. 11-445(B), as amended, and accords the Constable no minimum mileage fee, A. R. S. Sec. 11-445(E), as amended.

Opinion No. 66-3-L
R-30
November 23, 1965
Page Two

Each word, phrase, clause and sentence of a statute must be given meaning so that no part will be void, inert, redundant, or trivial. City of Phoenix v. Yates, 69 Ariz. 68, 208 P. 2d 1147. Therefore, we are of the opinion that when the Legislature inserted the words "amount which a sheriff or constable would have been authorized to charge the party for the same service", it intended that the successful party be awarded as a court cost the one dollar (\$1) minimum mileage fee only when the private process server performed the duties of a sheriff, and that he was to be awarded no minimum mileage fee when the responsibilities of a constable were exercised by the process server.

This is not to say, however, that a private process server, performing the duties of a constable, may not charge a minimum mileage fee of one dollar (\$1) or some other amount. A. R. S. Sec. 11-445(F), as amended, expressly states in part that:

"A private process server may charge such fees for his services as may be agreed upon between him and the party engaging him."

Our opinion is limited to the "recovery of court costs" question only.

Respectfully submitted,


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The Attorney General

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