

COURTS OF RECORD: CLERKS, CLERKS' OFFICES AND RECORDS.

Seamen may file suit in courts of United States without prepaying fees or costs. Federal definition of "court of the United States" does not include various state courts. Federal law does not excuse plaintiff from paying requisite filing fee and service costs for pursuing suit in circuit court and does not prohibit clerk from collecting such fee from seaman.

The Honorable Albert Teich Jr.

Clerk, Circuit Court of the City of Norfolk

October 19, 1998

You ask whether the provisions of 28 U.S.C. § 1916 prohibit your collection of a filing fee from a seaman who files a motion for judgment in the Circuit Court of the City of Norfolk.¹

Section 1916 of Title 28 provides:

In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor.^[2]

Section 451 defines "court of the United States," as that term is used in Title 28, to include "the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the Court of International Trade and any court created by Act of Congress the judges of which are entitled to hold office during good behavior."³

It is clear from the definition of "court of the United States" in § 451 that the term "courts of the United States" in § 1916 does not include state courts.⁴ A principle of statutory construction requires that where the language of a statute is clear and unambiguous, effect must be given to its plain and ordinary meaning.⁵

Accordingly, it is my opinion that the provisions of § 1916 do not excuse a plaintiff from paying the requisite filing fee and service costs for pursuing his suit in the Circuit Court of the City of Norfolk and do not prohibit your collection of a filing fee from the seaman.

¹The Motion for Judgment enclosed with your opinion request alleges a claim under § 33 of the Merchant Marine Act of 1920, 46 U.S.C. § 688.

²28 U.S.C.A. § 1916 (West 1994) (providing for seamen's suits).

³*Id.* § 451 (West 1993).

⁴See *Cartolano v. Tyrrell*, 421 F. Supp. 526, 531 n.3 (N.D. Ill. 1976) ("court of the United States" does not include various state courts).

⁵*Ambrogi v. Koontz*, 224 Va. 381, 297 S.E.2d 660 (1982).