

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 276

H.P. 217

House of Representatives, January 27, 1995

An Act to Adopt the English Rule with Exceptions and Limitations.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.

Cosponsored by Representatives: CAMPBELL of Holden, POVICH of Ellsworth.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 14 MRSA §1502-B, sub-§§4 and 5**, as enacted by PL 1985,
c. 384, §4, are amended to read:

6 **4. Travel expenses.** Reasonable expenses of travel within
the State to the place of trial for the prevailing party or ~~his~~
8 the prevailing party's attorney of record, as provided by rule of
the Supreme Judicial Court, or as directed by court, in the
10 absence of that rule; and

12 **5. Other costs.** Such other costs as the Supreme Judicial
Court may direct by rule; ~~and~~

14 **Sec. 2. 14 MRSA §1502-B, sub-§6** is enacted to read:

16 **6. Attorney's fees.** The reasonable attorney's fees
18 incurred by the prevailing party in prosecuting or defending the
action.

20 A. This subsection does not apply to the following:

22 (1) Class action cases;

24 (2) Cases seeking redress for violations of
26 constitutional rights or cases brought under any civil
rights or human rights law;

28 (3) Tort cases;

30 (4) Cases in which the State or any of its officers or
32 agencies are parties;

34 (5) Cases where attorney's fees are governed by a
separate provision of the laws; and

36 (6) Cases in which the party against whom attorney's
38 fees would be assessed is proceeding in forma pauperis
pursuant to the Maine Rules of Civil Procedure, Rule
40 91, or is otherwise indigent.

42 B. A party seeking attorney's fees pursuant to this
subsection shall file affidavits setting forth the
44 applicable fee arrangement and itemizing the legal services
performed by activity, date and number of hours. Upon
46 motion by the party against whom attorney's fees are to be
assessed, the court shall determine the amount of attorney's
48 fees that are reasonable, but in no case may the amount of
attorney's fees allowed exceed 50% more than the lower of

2 Finally, the bill also preserves and strengthens the offer
of judgment procedure in the Maine Rules of Civil Procedure, Rule
4 68, by providing that a party who declines an offer of judgment
that is equal to or more favorable than the relief actually
6 obtained has to pay the opposing party's attorney's fees from the
date of the offer.