

# MAINE STATE LEGISLATURE

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June 8, 1966

David H. Stevens, Chairman

Highway

George C. West, Deputy

Attorney General

**Payment of Judgments in Land Damage Cases**

**FACTS:**

When a property owner is represented by an attorney in matters of highway right-of-way acquisition before the Land Damage Board or Superior Court, the State Highway Commission vouchers payment by check inserting the names of the owner, the attorney, and mortgagees, if any, as joint payees on the check. Certain property owners have objected to this practice and have demanded that the attorney's name be excluded from the check.

**QUESTION:**

Is the State Highway Commission required to delete the attorney's name as a joint payee when requested to do so by the property owner?

**ANSWER:**

No, unless the attorney consents or releases any claim thereto.

**OPINION:**

The practice which is followed by insurance companies, the State, and private enterprise is undoubtedly based on the common law concept of "attorneys charging liens." Under this concept the attorney has a lien not only on all property coming into his hands, but also on any judgment which results in part from and represents the fruit of his labors. In many States this has been covered by legislation. However, in Maine it has not. Those States which have enacted legislation on the subject have held to the concept but, in some instances, made it more stringent. For reference see 7 Am. Jur. 2d § 281 et seq; 7 C.J.S. § 211 et seq.

GCW:H

George C. West  
Deputy Attorney General