

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)

*Corporation Represented by Attorney
Courts. Requirement of Attorney Representation
Small Claims Court: Attorney Representation*

JOSEPH E. BRENNAN
ATTORNEY GENERAL

14 M.R.S.A. § 7451 et seq.



RICHARD S. COHEN
JOHN M. R. PATTERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 2, 1977

Honorable Charles P. Pray
Senate Chambers
State House
Augusta, Maine

Honorable Stephanie Locke
House of Representatives
State House
Augusta, Maine

Dear Senator Pray and Representative Locke:

You have asked, on behalf of Mr. G. R. Robinson, manager of P. E. Ward and Co., whether it is necessary that a corporation appear through an attorney in a small claims action. My answer is that a corporation may make such an appearance only through an attorney, although the Legislature is free to change this with regard to small claims, or any other kind of action, if it so chooses.

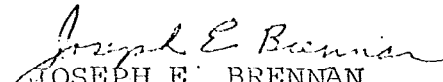
In Land Management, Inc. v. Department of Environmental Protection, et al., 368 A.2d 602 (Me. 1977), the Law Court ruled that the common law principle that a corporation may appear in court only through a licensed attorney is applicable in Maine, notwithstanding the language of 4 M.R.S.A. §§ 807 and 811 which authorize any person (defined to include corporations) to plead or manage his own cause in court. The Maine Small Claims Act, 14 M.R.S.A. §§ 7451 et seq., similarly provides that "a plaintiff or his authorized attorney" may commence an action in small claims court. 14 M.R.S.A. § 7453. There is no reason to believe that Law Court would interpret the word "plaintiff" in the Small Claims Act differently from the word "person" in the statute governing the practice of law, nor is there any legislative history to indicate that the Small Claims Act should be read to abrogate the common law rule.

Senator Charles P. Pray
Representative Stephanie Locke
Page 2
June 2, 1977.

In the absence of such a clear legislative expression, a corporation may not proceed in small claims court without a lawyer. Tuttle v. Hi-land Dairyman's Ass'n, 350 P.2d 616 (Utah, 1960) (fact that corporation is a "person" within the meaning of a small claims act does not mean it may proceed without a lawyer). The common law rule has no constitutional foundation, however; and if the Legislature sought to modify it to authorize a corporation to proceed without a lawyer in small claims court, the courts would be so bound. Knickerbocker Tax Systems, Inc. v. Texaco, Inc., 203 S.E.2d 290 (Ct. App. Ga., Div. 2, 1973); Dixon v. Reliable Loans, Inc., 145 S.E.2d 771 (Ct. App. Ga., Div. 3, 1965); Meyer v. Sarpy, 175 So.2d 387 (Ct. App. La., 4th Cir., 1965).

I hope this answers your question. Please let me know if I can be of any further assistance.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

JEB:mfe

cc: Senator Samuel Collins
Representative Richard A. Spencer
G. E. Robinson