

MAINE STATE LEGISLATURE

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ATTORNEY GENERAL



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

March 3, 1981

Honorable Walter W. Hichens
Maine State Senate
State House
Augusta, Maine 04333

Dear Senator Hichens:

This will respond to your letter of February 25, 1981 in which you seek our interpretation of the Maine Supreme Judicial Court's opinion in Land Management, Inc. v. Department of Environmental Protection, Me., 368 A.2d 602 (1977). In Land Management, supra, the Maine Law Court held that a corporation may appear in court only through an attorney duly licensed to practice law. In your opinion request, you have raised the following questions:

"Was it the intent of [the Law Court's] decision to prohibit a corporation that is solely owned from being represented by the owner? If he were not incorporated, he could legally represent himself.

If in fact this was [the Law Court's] intent, can the owner represent himself in behalf of the corporation and himself because of his obvious interest and benefit of same?"

Prior to addressing your precise questions, we should point out that following the Law Court's decision in Land Management, Inc. v. Department of Environmental Protection, supra the Legislature enacted legislation to permit corporations to appear in small claims proceedings without the necessity of obtaining legal counsel. See 4 M.R.S.A. §807 (1980-1981); 14 M.R.S.A. §7252; 14 M.R.S.A. §7463(2) (1980-1981). Accordingly, with respect to small claims proceedings, the decision in Land Management, Inc. v. Department of Environmental Protection, supra has been modified by legislative action.

Outside the context of small claims proceedings, however, the Law Court's decision continues to represent the law of Maine. With respect to your first question, we do not believe that a corporation which is solely owned may be represented in court by its owner who

is not a licensed attorney. While it is true that the owner could legally represent himself, he cannot legally represent the corporation. As stated by the Law Court:

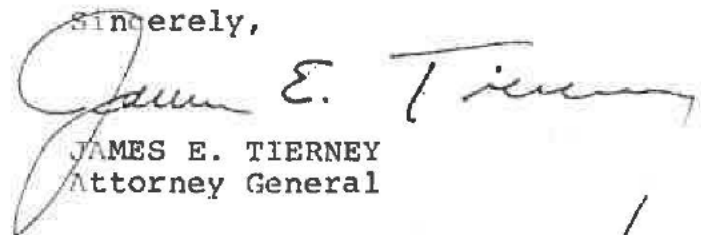
"A natural person may represent himself and present his own case to the court although he is not a licensed attorney. A corporation is not a natural person. It is an artificial entity created by law and as such it can neither practice law nor appear or act in person. Out of court it must act in its affairs through its agents and representatives and in matters in court it can act only through licensed attorneys. A corporation cannot appear in Court by an officer who is not an attorney and it cannot appear in propria persona."

Land Management, Inc. v. Department of Environmental Protection, 368 A.2d at 603 quoting Paradise v. Nowlin, 86 Cal.App. 2d 897, 195 P.2d 867 (1943).

Our response to your first question also applies to your second inquiry. An individual who is not an attorney is perfectly free to represent himself in court but he is not permitted to provide legal representation on behalf of a corporation, except in the limited context of small claims proceedings. The fact that the owner of a corporation and the corporation itself have identical interests does not alter the fundamental principle of law that a corporation must be represented in court by licensed attorneys.

I hope this information is helpful to you. Please feel free to call upon me if I can be of further assistance.

Sincerely,


JAMES E. TIERNEY
Attorney General

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