



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1068

S.P. 391

Received by the Secretary, March 8, 1991

Referred to the Committee on Judiciary and 1400 ordered printed pursuant to Joint Rule 14.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator HOLLOWAY of Lincoln Cosponsored by Representative COTE of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-ONE

An Act to Permit Collateral Source Evidence in Civil Actions.

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	Be it enacted by the People of the State of Maine as follows:
2	14 MRSA c.6 is enacted to read:
4	<u>CHAPTER 6</u>
б	COLLATERAL SOURCE EVIDENCE
8	COMMIRAL SOURCE RUIDENCE
10	<u>§121. Definitions</u>
12	As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
14	<u>1. Claimant. "Claimant" means any person who brings a civil action. If a civil action is brought through or on behalf</u>
16 18	<u>of an estate, "claimant" includes the decedent. If a civil action is brought by or on behalf of a minor, "claimant" includes the minor's parent or quardian.</u>
20	2. Collateral source. "Collateral source" means a benefit paid or payable to the claimant or on the claimant's behalf
22	under, from or pursuant to a contract, agreement or plan executed, renewed or implemented on or after the effective date
24	of this chapter, including:
26	<u>A. Accident, health or sickness insurance; income or wage replacement insurance; income disability insurance; workers'</u>
28	compensation insurance; casualty or property insurance, including automobile accident and homeowner's insurance
30	<u>benefits; or any other insurance benefits, except life</u> insurance benefits;
32	B. A contract or agreement of a group, organization,
34	partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care
36	services or provide similar benefits;
38	<u>C. A contractual or voluntary wage continuation plan or payments made pursuant to such a plan provided by an</u>
40	employer or otherwise or any other system intended to provide wages during a period of disability; or
42	· · · ·
44	D. A governmentally sponsored or initiated program such as Medicare, Medicaid or Social Security providing benefits paid or payable to the claimant for the claimant's expenses
46	<u>or losses, without consideration of the program's effective</u> <u>date of execution, renewal or implementation.</u>
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50	<u>3. Damages. "Damages" means economic losses incurred by or</u> on behalf of the claimant for which that party is claiming recovery through a civil action.
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<u>§122. Collateral source payment consideration</u>

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Pursuant to this chapter, the trier of fact in any civil action may determine the actual amount of the prevailing party's pecuniary loss before determining an award of damages.

In any civil action, whether in tort or in contract, in which damages for personal injury are sought to be recovered or evidence of the damages for personal injury is otherwise introduced by the claimant, evidence of collateral source payments is admissible for consideration by the trier of fact. The trier of fact, in its discretion, may consider such available benefits or payments and the cost of those benefits or payments, but may not be directed to reduce an award of damages accordingly.

STATEMENT OF FACT

20 Under Maine case law, if a plaintiff is compensated in whole or in part for damages by some source independent of the
22 defendant, the plaintiff is still permitted to recover the same damages against the defendant. Unless a right of subrogation
24 exists on behalf of the person, company or agency making the collateral payment, a double recovery takes place giving the
26 plaintiff a windfall. Under present procedure, evidence of the collateral source payment is not admissible at trial.

This bill permits the trier of fact to take into 30 consideration during its deliberations on awarding an amount of damages evidence of collateral source payments. The bill does 32 not require a decrease of an award by the amount of the collateral source payments, but leaves the use of that information to the sound discretion of the trier of fact. 34