

**MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

LAW DOCKET NO. AND-22-317

STATE OF MAINE,

Appellee,

v.

JACAB LABBE,

Defendant-Appellant.

On appeal from the Androscoggin County Unified Criminal Docket

**BRIEF OF AMICUS CURIAE MAINE COALITION TO END DOMESTIC
VIOLENCE AND MAINE COALITION AGAINST SEXUAL ASSAULT IN
SUPPORT OF APPELLEES**

Melissa L. Martin, Esq.
Bar No. 5540
Maine Coalition Against Sexual Assault
45 Memorial Circle
Augusta, Maine 04330
(207) 228-4019
martin@mecasa.org

Andrea Mancuso, Esq.
Bar No. 4591
Maine Coalition to End Domestic Violence
101 Western Avenue
PO Box 5188
Augusta, ME 04332
(207) 650-4356
andrea@mcedv.org

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	1
IDENTITY AND STATEMENT OF INTEREST OF <i>AMICI CURIAE</i>	6
SUMMARY OF THE ARGUMENT.....	9
ARGUMENT	12
I. STALKING IS A PATTERN OF BEHAVIOR RECOGNIZED AS A PRECURSOR TO AND HAVING A HIGH CORRELATION WITH PHYSICAL VIOLENCE AND HOMICIDE, AND SO WARRANTS A COMPREHENSIVE PUBLIC SAFETY RESPONSE.	12
A. Stalking is a Systematic Pattern of Behavior	13
B. Stalking has a significant cost to individual victims and to the community	15
C. Stalking behavior often escalates to physical violence and is highly correlated with homicide.....	19
D. Stalking is particularly prevalent and concerning in cases of intimate partner abuse and violence	21
II. STATE v. LABBE IS NOT A “TRUE-THREATS” CASE, AND THE COURT SHOULD NOT APPLY COUNTERMAN’S HOLDING MORE BROADLY	23
A. The applicability of the Counterman holding is limited to “true-threats” prosecutions.....	23
B. In intimate partner stalking cases, content is less important than the frequency and manner in which the defendant pursues their victim.....	24
C. No First Amendment analysis is needed in this case because the content of Labbe’s speech is not at issue.	28
CONCLUSION.....	31
CERTIFICATE OF SERVICE	32
CERTIFICATE OF SIGNATURE AND COMPLIANCE.....	33

TABLE OF AUTHORITIES

Cases

<i>Counterman v. Colorado</i> , 600 U.S. 66, 143 S. Ct. 2106 (2023).....	10, 23, 24, 25
<i>State v. Penley</i> , 2023 ME 7, 288 A.3d 1183	9

Statutes

17-A M.R.S. § 210-A(1)(A) (2022)	29
19-A M.R.S. § 4101 (2023)	29

Other Authorities

Balbir Gurm, Glaucia Salgado, Jennifer Marchbank, & Sheila Early, <i>Making Sense of a Global Pandemic: Relationship Violence & Working Together Towards a Violence Free Society</i> , Kwantlen Polytechnic University: Surrey, BC. Ebook ISBN 978-1-989864-14-2, https://kpu.pressbooks.pub/nevr/	6
Brian A. Reaves, <i>Police Response to Domestic Violence, 2006-2015</i> , Bureau of Justice Statistics Special Report, U.S. Department of Justice (May 2017), https://bjs.ojp.gov/content/pub/pdf/prdv0615.pdf	6
David James & Frank Farnham, <i>Stalking and Serious Violence</i> , <i>Journal of the American Academy of Psychiatry and the Law</i> , 31, 4, 432-439 (2003).	21
Erica R. Fissel & Bradford W. Reynolds, <i>The Aftermath of Cyberstalking: School, Work, Social and Health Costs of Victimization</i> , <i>American Journal of Criminal Justice</i> , 45(1), 70-87 (2020), https://link.springer.com/article/10.1007/s12103-019-09489-1 . . .	16
Jan H. Kamphuis & Paul M.G. Emmelkamp, <i>Traumatic Distress Among Support-Seeking Female Victims of Stalking</i> , <i>The American Journal of Psychiatry</i> , 158: 795-798 (May 2001).	16, 18

Jane Monckton-Smith, Karolina Szymanska & Sue Haile, *Exploring the Relationship between Stalking and Homicide*, University of Gloucestershire, <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=1a6cf4d9-0df5-42be-8b02-4bdbd75fa264> (April 2017)..... 20, 25

Jennifer L. Truman & Rachel E. Morgan, *Nonfatal Domestic Violence, 2003-2012*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (April 2014), <https://bjs.ojp.gov/content/pub/pdf/ndv0312.pdf>.6

Jennifer L. Truman & Rachel E. Morgan, *Stalking Victimization, 2016*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (April 2021), <https://bjs.ojp.gov/content/pub/pdf/sv16.pdf>.14

Judith McFarlane, Jacqueline C. Campbell, Susan Wilt, Carolyn J. Sachs, Yvonne Ulrich & Xiao Xu, *Stalking and Intimate Partner Femicide*, *Homicide Studies* 3(4) 300-316 (November 1999).20

K. Davis, A. Ace, & Michelle Andra, *Stalking Perpetrators and Psychological Maltreatment of Partners: Anger-Jealousy, Attachment Insecurity, Need for Control, and Break-Up Context*, *Violence and Victims*, 15, 4, 407-425 (Winter 2000).22

Kaofeng Lee & Ian Harris, *How to Gather Technology Abuse Evidence for Court: Self Represented Litigant Series*, National Council of Juvenile and Family Court Judges, Resource Center on Domestic Violence: Child Protection and Custody, https://www.ncjfcj.org/wp-content/uploads/2018/02/NCJFCJ_SRL_HowToGatherTechEvidence_Final.pdf (last accessed October 5, 2023).17

Katrina Baum, Shannan Catalano, Michael Rand & Ristina Rose, *Stalking Victimization in the United States*. Bureau of Justice Statistics Special Report, U.S. Department of Justice (January 2009), <https://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>. 12, 16, 19

Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample*

of North American Stalkers, Journal of Forensic Sciences, 51(1): 147-155 (January 2006) 13, 14, 19, 21, 22

Maine Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021) 9, 20, 26, 30

Maine Office of the Attorney General, “State Leaders Sound the Alarm About Stalking,” <https://www.maine.gov/ag/news/article.shtml?id=48543> (posted January 10, 2008).12

Matthew C. Johnson & Glen A. Kercher, *Identifying Predictors of Negative Psychological Reactions to Stalking Victimization*, Journal of Interpersonal Violence, 24, 5, 886-82 (May 2009)22

Michele Pathe & Paul Mullen, *The Impact of Stalkers on their Victims*, The British Journal of Psychiatry, 170(1), 12-17 (1997)19

Paul Mullen, Michele Pathe & Rosemary Purcell, *Stalkers and their Victims, Reducing the Impact of Stalking on Victims*. (262-281) Cambridge: Cambridge University Press (2009).18

Patricia Tjadin & Nancy Thoennes, *Stalking in America: Findings From the National Violence Against Women Survey*, National Institute of Justice Centers for Disease Control and Prevention, U.S. Department of Justice (April 1998), <https://www.ojp.gov/pdffiles/169592.pdf>.21

Rachel Morgan & Jennifer Truman, *Stalking Victimization*, Bureau of Justice Statistics, U.S. Department of Justice (February 2022), <https://bjs.ojp.gov/content/pub/pdf/sv19.pdf>.15

Robyn Dumont & George Shaler, *Maine Crime Victimization Report, Informing Public Policy for Safer Communities*, Muskie School of Public Service, University of Southern Maine (2015).8

Ronet Bachman & Linda Saltzman, *Violence against Women: Estimates from the Redesigned Survey*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (August 1995), <https://bjs.ojp.gov/content/pub/pdf/FEMVIED.PDF>.6

Russell Palarea, Michael A. Zona, John C. Lane & Jennifer Langhinrichsen-Rohling, *The Dangerous Nature of Intimate Relationship Stalking: Threats, Violence and Associated Risk Factors*, *Behavioral Sciences and the Law*, 17, 269-283 (July 1999), https://www.researchgate.net/publication/12819267_The_dangerous_nature_of_intimate_relationship_stalking_Threats_violence_and_associated_risk_factors.22

Safety Net Project, *Documentation Tips for Survivors of Technology Abuse and Stalking*, <https://www.techsafety.org/documentationtips> (last accessed October 5, 2023).17

Sharon G. Smith, Kathleen C. Basile & Marcie-jo Kresnow, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 Report on Stalking – Updated Release*, Centers for Disease Control and Prevention (April 2022), <https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvsstalkingreport.pdf>. .. 12, 19

Stalking Prevention, Awareness and Resource Center, *Responding to Stalking: A Guide for Advocates*, (2014), <https://www.stalkingawareness.org/wp-content/uploads/2018/11/Advocate-Guide.pdf>.17

Stuart D.M. Thomas, Rosemary Purcell, Michele Pathe & Paul Mullen, *Harm Associated with Stalking Victimization*, *Australian and New Zealand Journal of Psychiatry*, 42, 800-806 (January 1, 2008).22

TK Logan & Katie Showalter, *Work Harassment and Resource Loss Among (Ex) Partner Stalking Victims*, *Journal of Interpersonal Violence*, 38(1-2), 1060-1087 (January 2023).16

U.S. Department of Justice, Office of Justice Programs, Violence Against Women Office, *Stalking and Domestic Violence: Report to Congress* (May 2001), <https://www.ojp.gov/pdffiles1/ojp/186157.pdf>. 12, 14

Valerie Royzman, “The Maine rampage points to a ‘persistent problem’,” Bangor Daily News, April 23, 2023.9

Violence Against Women Grants Office, *Stalking and Domestic Violence, The Third Annual Report to Congress under the Violence Against Women Act*, U.S. Department of Justice, Office of Justice Programs (July 1998), <https://www.ojp.gov/pdffiles1/ovw/172204.pdf>.13

Wendy Max, Dorothy Rice, Eric Finkelstein, Robert A. Bardwell, & Steven Leadbetter, *The Economic Toll of Intimate Partner Violence Against Women in the United States*. *Violence and Victims*, 19, 3, 259-272 (June 2004).15

IDENTITY AND STATEMENT OF INTEREST OF *AMICI CURIAE*

The Maine Coalition to End Domestic Violence (MCEDV) is a statewide nonprofit organization that works to end domestic violence. MCEDV serves a network of ten member programs, including all eight of Maine’s regional domestic violence resource centers.¹ MCEDV has spent nearly half a century supporting and advocating for domestic violence and stalking victims throughout the state of Maine. MCEDV coordinates with its partners throughout Maine to respond to abuse, inform the public, and pursue policies that will keep victims safe.

One in four women and one in nine men in Maine will experience severe intimate partner violence, intimate partner sexual violence, and/or intimate partner stalking in their lifetime.² Domestic violence accounts for 21% of all reported violent crime.³ Anywhere from 44-70% of all domestic violence crime in our state goes unreported.⁴ In 2022, MCEDV’s member programs collectively provided

¹ Maine’s Domestic Violence Resource Centers are: Caring Unlimited (York); Through These Doors (Cumberland); Safe Voices (Androscoggin, Oxford and Franklin); Family Violence Project (Kennebec and Somerset); New Hope Midcoast (Sagadahoc, Lincoln, Knox and Waldo); Partners for Peace (Penobscot and Piscataquis); Next Step Domestic Violence Project (Hancock and Washington); and Hope and Justice Project (Aroostook). Immigrant Resource Center of Maine and Her Safety Net are member programs of MCEDV providing complementary culturally specific services.

² Jennifer L. Truman & Rachel E. Morgan, *Nonfatal Domestic Violence, 2003-2012*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (April 2014), <https://bjs.ojp.gov/content/pub/pdf/ndv0312.pdf>.

³ *Id.*

⁴ See Ronet Bachman & Linda Saltzman, *Violence against Women: Estimates from the Redesigned Survey*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (August 1995), <https://bjs.ojp.gov/content/pub/pdf/FEMVIED.PDF>; Brian A. Reaves, *Police Response to Domestic Violence, 2006-2015*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (May 2017), <https://bjs.ojp.gov/content/pub/pdf/prdv0615>; Balbir Gurm, Glaucia Salgado, Jennifer Marchbank, &

free and confidential, supportive services to more than 12,000 people experiencing abuse and violence in Maine. On any given day in Maine, our member programs work with more than 600 survivors, including providing refuge in our 13 emergency shelters statewide to more than 280 survivors and their children, and answering and responding to more than 140 calls to our 24/7 helpline.

The Maine Coalition Against Sexual Assault (MECASA) is a statewide 501(c)(3) non-profit organization with over forty years of experience representing and servicing Maine's sexual violence service providers.⁵ MECASA's work includes initiating and advocating for victim-centered public policy; providing support and assistance to Maine's sexual violence service providers and serving as a liaison between the centers and statewide and national partners; reducing common myths and misperceptions about sexual violence through building and sustaining public awareness; and providing expert training, statistics, and resources about sexual violence to organizations, groups and individuals throughout the state.

Sheila Early, *Making Sense of a Global Pandemic: Relationship Violence & Working Together Towards a Violence Free Society*, Kwantlen Polytechnic University: Surrey, BC. Ebook ISBN 978-1-989864-14-2, <https://kpu.pressbooks.pub/nevr/>.

⁵ Maine's sexual assault services providers are: AMHC Sexual Assault Services (Aroostook, Hancock and Washington); Rape Response Services (Penobscot and Piscataquis); Sexual Assault Prevention and Response Services (Androscoggin, Oxford and Franklin, and certain communities in Cumberland); Sexual Assault Crisis and Support Center (Kennebec and Somerset); Sexual Assault Response Services of Southern Maine (York and Cumberland); Sexual Assault Support Services of Midcoast Maine (Sagadahoc, Lincoln, Knox and Waldo, and certain communities in Cumberland); and the Immigrant Resource Center of Maine, providing complementary culturally specific services.

Central to MECASA's mission and work is to ensure ongoing support and quality services for victims and survivors of sexual violence and stalking.

One in five Maine people will experience sexual assault at some point in their lifetime.⁶ Each year, approximately 14,000 Maine people experience sexual assault. Between six and seven thousand of these victims reach out through the MECASA helpline and receive free and confidential, supportive services. Roughly half of these calls are about sexual violence perpetrated against a minor, and many of those calls are from adults who are disclosing their abuse for the first time.

Amici are uniquely positioned to provide this Court with a framework for understanding the dangerous nature and prevalence of stalking and the substantial impact of stalking on victims. As outlined in this brief, stalking is highly linked to intimate partner violence, sexual assault, and homicide. *Amici* regularly educate on the harmful nature of stalking, inform public policy on stalking response, and support victims who have experienced stalking. This contribution will aid the Court's analysis beyond that which the parties' lawyers will provide.

⁶ Robyn Dumont & George Shaler, *Maine Crime Victimization Report, Informing Public Policy for Safer Communities*, Muskie School of Public Service, University of Southern Maine (2015).

SUMMARY OF THE ARGUMENT

Amici respectfully submit this brief pursuant to Rule 7A(e) of the Maine Rules of Appellate Procedure.

Domestic violence is the leading cause and type of homicide in the State of Maine.⁷ Of domestic violence homicides in Maine, at least half of homicide victims were first stalked by the person who ultimately killed them.⁸ This Court recently reviewed such a case in *State v. Penley*. 2023 ME 7, 288 A.3d 1183. In that case, Mark Penley murdered his ex-girlfriend, Heather Bickford, and her current partner Dana Hill, by repeatedly shooting both of them in the presence of Heather’s two young children. *Id.* ¶ 2. The trial court found that, prior to the murders, Heather “was being tormented by various messages and by demands” of Penley. (S. Tr. 27.) This Court did not disturb the trial court’s finding at sentencing that Penley “stalked” Heather via Facebook voice messages prior to murdering her and Hill. *Id.* ¶ 9. Indeed, Penley’s cyberstalking conduct was the best indication of Penley’s premeditation. *Id.* ¶ 19. The underlying facts of the Penley case illustrate how any decision by this Court to overturn Labbe’s

⁷ Maine Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021), p. 7, <https://www.maine.gov/ag/docs/DAHRP-Report-for-Posting-ACCESSIBLE.pdf>; Valerie Royzman, “The Maine rampage points to a ‘persistent problem’,” *Bangor Daily News*, April 23, 2023.

⁸ Maine Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021), p. 17.

conviction in this case will have immediate and significant policy and practice implications in Maine’s homicide prevention efforts.

In *Counterman v. Colorado*, the U.S. Supreme Court evaluated a criminal conviction involving stranger stalking. 600 U.S. 66, 143 S. Ct. 2106 (2023). In that case, the lower court had framed its analysis through the assumption that Counterman could only be prosecuted under the Colorado stalking statute if his actions fell under the “true-threats” exception to the First Amendment’s speech protections.⁹ The State then proceeded to argue that the content of Counterman’s statements to the victim were “true threats” and thus exempted from any First Amendment protection. The Supreme Court disagreed and concluded that, when a court is evaluating criminal liability for speech-based stalking in a true-threats prosecution, a court must find that the defendant had at least a reckless level of intent as to the threatening nature of his statements and how his speech would impact the victim. Based on this holding, the Court remanded that individual conviction for reconsideration. The Court did not find the Colorado statute to be facially unconstitutional.

Implicit in the Counterman decision is there is a line between stalking cases based on a defendant’s *speech* and those based on a defendant’s *conduct*. That distinction arises here. The State has not argued that Labbe’s statements are true-

⁹ *Counterman v. Colorado*, 600 U.S. 66, 143 S. Ct. 2106, 2121 (2023) (Sotomayor, J., concurring).

threats; rather, the State has argued that the totality of the circumstances—a combination of completely non-contact-based conduct and the actions of repeated, relentless contact, at least two of which were direct violations of a protection from abuse order—supported Labbe’s stalking conviction. Neither Labbe’s non-contact-based conduct nor his actions of repeated, persistent contact directed towards the victim are speech entitled to First Amendment protection as outlined in *Counterman*. As a result, *Counterman* is easily distinguished.

Ultimately, if this Court disagrees, Amici respectfully request that the Court narrowly apply the *Counterman* holding to the facts of this case. Given the significant correlation of stalking with homicide, an improperly expansive application of the *Counterman* holding to Maine statutes will impede homicide prevention efforts. The consequence of Maine’s prosecutors not having a functional stalking statute would be catastrophic for victims of these crimes and our collective ability to attend to the public safety issues we know are at play when perpetrators engage in this dangerous pattern of behavior. Amici respectfully urge the Court to exercise great caution in drawing any conclusions as to the effect of the *Counterman* decision on Maine statutes, except for what may be absolutely and narrowly required to address the present case.

ARGUMENT

I. STALKING IS A PATTERN OF BEHAVIOR RECOGNIZED AS A PRECURSOR TO AND HAVING A HIGH CORRELATION WITH PHYSICAL VIOLENCE AND HOMICIDE, AND SO WARRANTS A COMPREHENSIVE PUBLIC SAFETY RESPONSE.

An estimated 13.5 million people are stalked in a one-year period in the United States.¹⁰ Stalking disproportionately impacts young people, including minors. More than half of all victims of stalking indicated that they were stalked before the age of 25, and nearly 1 in 4 were stalked before the age of 18.¹¹ One in 12 women and one in 45 men will be stalked in their lifetime. Stalking victims are stalked for an average duration of almost two years,¹² and more than 10% of stalking victims are stalked for 5 years or more.¹³ The effect of stalking on victims is immense. As the U.S. Department of Justice noted in its 2001 Report to Congress on Stalking and Domestic Violence, stalking creates a psychological prison that deprives victims of their basic liberty of movement and security in their homes.¹⁴

¹⁰ Sharon G. Smith, Kathleen C. Basile & Marcie-jo Kresnow, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 Report on Stalking – Updated Release*, Centers for Disease Control and Prevention (April 2022), <https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvstalkingreport.pdf>.

¹¹ *Id.*

¹² Maine Office of the Attorney General, “State Leaders Sound the Alarm About Stalking,” <https://www.maine.gov/ag/news/article.shtml?id=48543> (posted January 10, 2008).

¹³ Katrina Baum, Shannan Catalano, Michael Rand & Kristina Rose, *Stalking Victimization in the United States*. Bureau of Justice Statistics Special Report, U.S. Department of Justice (January 2009), <https://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>.

¹⁴ U.S. Department of Justice, Office of Justice Programs, Violence Against Women Office, *Stalking and Domestic Violence: Report to Congress* at vii (May 2001), <https://www.ojp.gov/pdffiles1/ojp/186157.pdf>.

A. Stalking is a Systematic Pattern of Behavior

Two-thirds of stalkers pursue their victims at least once per week, many daily.¹⁵ Almost 1 in 3 of stalkers have stalked before.¹⁶ Research has dispelled the myth that most stalkers are psychotic or delusional.¹⁷ Only 7 percent of the victims report they were stalked because their stalkers were mentally ill or abusing drugs or alcohol.¹⁸

Stalking is pattern of behavior that can take many forms, including, but certainly not limited to: physical or visual closeness, such as waiting for the victim to arrive at certain locations, following the victim, watching them from a distance, repeatedly, “coincidentally” showing up where the victim is going to be; making express threats against the victim or that victim’s family or friends; leaving unwanted notes and gifts; and non-consensual contact, such as repeated phone calls, text messages and emails. It can include vandalism and property damage; collecting information about the victim through friends, family members, coworkers or other acquaintances to use in their continued pursuit of the victim; posting images of or messages about the victim on social media; causing spam to

¹⁵ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

¹⁶ *Id.*

¹⁷ Violence Against Women Grants Office, *Stalking and Domestic Violence, The Third Annual Report to Congress under the Violence Against Women Act*, U.S. Department of Justice, Office of Justice Programs (July 1998), <https://www.ojp.gov/pdffiles1/ovw/172204.pdf>.

¹⁸ *Id.*

be sent to the victim's email address to impede its functionality; engaging in identity fraud, including posting communications as if they are from the victim that are of a sexually explicit nature or bidding in on-line auctions as if they are the victim.

Those who engage in stalking do so in a systematic and intentional manner. 78% of stalkers use more than tactic,¹⁹ and most evolve how and what tactics they use by exploiting or misusing resources that become available to them. For example, the frequency of stalking perpetrators using technology to stalk their victims has only grown as the internet, computers and cellphones have become more and more integral to a person's ability to carry out the functions of their everyday lives.²⁰

In fact, as of 2021, more than twice as many victims were stalked with technology than without.²¹ In response to the 2019 Supplemental Victimization Survey (SVS) to the National Crime Victimization Survey, the U.S Department of Justice reported that, of the 3.4 million crime victims

¹⁹ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

²⁰ *See generally*, U.S. Department of Justice, Office of Justice Programs, Violence Against Women Office, *Stalking and Domestic Violence: Report to Congress* (May 2001), <https://www.ojp.gov/pdffiles1/ojp/186157.pdf>.

²¹ Jennifer L. Truman & Rachel E. Morgan, *Stalking Victimization, 2016*, Bureau of Justice Statistics Special Report, U.S. Department of Justice (April 2021), <https://bjs.ojp.gov/content/pub/pdf/sv16.pdf>.

responding to the survey who reported they were stalked, more than 1.8 million reported having been stalked with unwanted phone calls, voicemail messages, or text messages.²² Approximately, 1.5 million had received unwanted emails or had been sent messages via social media.²³

B. Stalking has a significant cost to individual victims and to the community

Stalking has a significant effect on victims, including financial effects, such as housing and job loss, as well as medical and mental health effects. The aggregate annual cost of intimate partner stalking in the United States is estimated to be \$534 million dollars, accounting for just medical and mental health care for victims and the value of lost productivity,²⁴ before even looking at the costs of the criminal and civil legal system responses, losses eligible for Victims' Compensation reimbursement, or address confidentiality programs. Stalking victims accrue out-of-pocket costs for things such as security enhancements, attorney fees, damage to property, child-care costs, moving expenses, or changing phone numbers.²⁵ At the

²² Rachel Morgan & Jennifer Truman, *Stalking Victimization*, Bureau of Justice Statistics, U.S. Department of Justice (February 2022), <https://bjs.ojp.gov/content/pub/pdf/sv19.pdf>.

²³ *Id.*

²⁴ Wendy Max, Dorothy Rice, Eric Finkelstein, Robert A. Bardwell, & Steven Leadbetter, *The Economic Toll of Intimate Partner Violence Against Women in the United States*. Violence and Victims, 19, 3, 259-272 (June 2004).

²⁵ Katrina Baum, Shannan Catalano, Michael Rand & Kristina Rose, *Stalking Victimization in the United States*. Bureau of Justice Statistics Special Report, U.S. Department of Justice (January 2009), <https://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>.

one end of the spectrum, 10% of victims have out of pocket costs \$250 or less, while at the other end, 13% of victims spend \$1,000 or more.²⁶

Many employed stalking victims lose time from work as a result of their victimization, and more than half of victims who reported losing time from work lost 5 days of work or more.²⁷ Among victims who experienced cyberstalking, 48% reported negative employment consequences, which were exacerbated depending on frequency and whether the stalking also occurred offline.²⁸ Among victims stalked by an ex intimate partner, nearly half report job losses as a result, with most job losses occurring during the process of the victim separating from their abusive partner.²⁹ In addition, a significant portion of stalking victims relocate as a result of their victimization,³⁰ which causes disruption to multiple aspects of their daily lives.

Stalking victims, by necessity, apply a vigilance in their everyday functioning that any reasonable person would understand as seriously inconvenient

²⁶ *Id.*

²⁷ *Id.*

²⁸ Erica R. Fissel & Bradford W. Reynolds, *The Aftermath of Cyberstalking: School, Work, Social, and Health Costs of Victimization*, *American Journal of Criminal Justice*, 45(1), 70–87 (2020), <https://link.springer.com/article/10.1007/s12103-019-09489-1>.

²⁹ TK Logan & Katie Showalter, *Work Harassment and Resource Loss Among (Ex) Partner Stalking Victims*, *Journal of Interpersonal Violence*, 38(1-2), 1060-1087 (January 2023).

³⁰ Katrina Baum, Shannan Catalano, Michael Rand & Kristina Rose, *Stalking Victimization in the United States*. Bureau of Justice Statistics Special Report, U.S. Department of Justice (January 2009), <https://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf> (more than 14% of stalking victims relocated); Jan H. Kamphuis & Paul M.G. Emmelkamp, *Traumatic Distress Among Support-Seeking Female Victims of Stalking*, *The American Journal of Psychiatry*, 158: 795-798 (May 2001) (30% of stalking victims relocated).

and emotionally distressing. Stalking victims typically exercise a high level of caution before providing their contact information to anyone, giving it to only those they trust, and, even then, needing to share with those people the full picture of what is happening to them to underscore the importance of that person not sharing it further. They have to password protect accounts with unique passwords that are changed with a high frequency; check the status of their credit cards daily; sign up for paid credit monitoring services; regularly google themselves to evaluate whether any new information has been posted about them. Most stalking victims in today's cyber-world will come to a point where they feel the need to change their contact information entirely to try and start fresh – both phone numbers and email addresses. Many will also change the location of their regular activities: where they bank, where they grocery shop, where they socialize, and in some cases, where they work or live.

In responding to stalking, victims will be advised to engage in further burdensome activities:³¹ to save all communications from and with the person stalking them, to specifically include printing out a hard copy of every

³¹ See generally, Kaofeng, L., & Harris, I., *How to Gather Technology Abuse Evidence for Court: Self Represented Litigant Series*, National Council of Juvenile and Family Court Judges, Resource Center on Domestic Violence: Child Protection and Custody, https://www.ncjfcj.org/wp-content/uploads/2018/02/NCJFCJ_SRL_HowToGatherTechEvidence_Final.pdf (last accessed on October 5, 2023); Safety Net Project, *Documentation Tips for Survivors of Technology Abuse and Stalking*, <https://www.techsafety.org/documentations tips> (last accessed October 5, 2023); Stalking Prevention, Awareness and Resource Center, *Responding to Stalking: A Guide for Advocates*, (2014), <https://www.stalkingawareness.org/wp-content/uploads/2018/11/Advocate-Guide.pdf>.

communication; to file complaints in internet service providers and companies that the stalker may have used in their relentless pursuit of the victim and to keep hard copies of all of these complaints; to report what is happening to law enforcement, documenting each report and what was provided to law enforcement to support that report. Following through with each and every step recommended, not only to better protect themselves from the effects of stalking activities that can be damaging to their finances, credit or reputation, but also to try and help build a case that holds the perpetrator accountable, often amounts to a separate part-time, and sometimes full-time unpaid job. And this is just the practical, time-spent considerations, without accounting for the significant psychological impact of stalking.

Clinical and epidemiological studies demonstrate the destructive effect of stalking on those who are stalked – being stalked is associated with severe and protracted suffering.³² Stalking can induce depression, anxiety and chronic stress, amongst other maladies.³³ One study of 100 stalking victims found 83% of respondents reported increased anxiety, more than half experienced intrusive

³² Jan H. Kamphuis & Paul M.G. Emmelkamp, *Traumatic Distress Among Support-Seeking Female Victims of Stalking*, *The American Journal of Psychiatry*, 158: 795-798 (May 2001) (finding similar clinical results amongst several studies conduct in the United States, Australia and the Netherlands).

³³ Paul Mullen, Michele Pathe & Rosemary Purcell, *Stalkers and their Victims, Reducing the Impact of Stalking on Victims*. (262-281) Cambridge: Cambridge University Press (2009).

recollections and flashbacks.³⁴ The criteria for a post-traumatic stress diagnosis was met for 37% of participants, and 24% experienced suicidality.³⁵

C. Stalking behavior often escalates to physical violence and is highly correlated with homicide

Nationwide 69% of female and 80% of male stalking victims were threatened with physical harm.³⁶ Weapons are used to harm or threaten victims in 1 out of every 5 cases.³⁷ Stalkers are equally likely to use a knife, blunt instrument, or other object, and 23% of the weapons used are handguns.³⁸ Of the 279,000 stalking victims who were injured in an attack in 2009, nearly all (99%) of these victims sustained minor bruises and other injuries.³⁹ About a fifth sustained serious injuries, including gunshot or knife wounds, internal injuries, or broken bones.⁴⁰

³⁴ Michele Pathe & Paul Mullen, *The Impact of Stalkers on their Victims*, *The British Journal of Psychiatry*, 170(1), 12-17 (1997).

³⁵ *Id.*

³⁶ Sharon G. Smith, Kathleen C. Basile & Marcie-jo Kresnow, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 Report on Stalking – Updated Release*, Centers for Disease Control and Prevention (April 2022), <https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvstalkingreport.pdf>.

³⁷ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

³⁸ Katrina Baum, Shannan Catalano, Michael Rand & Kristina Rose, *Stalking Victimization in the United States*. Bureau of Justice Statistics Special Report, U.S. Department of Justice (January 2009), <https://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>.

³⁹ *Id.*

⁴⁰ *Id.*

The 13th Biennial Report of the Maine Domestic Abuse Homicide Review Panel identified stalking as one of five high-risk tactics of abuse used by perpetrators of homicide in Maine.⁴¹ Over the past twenty years, perpetrators of domestic abuse homicide had previously stalked their victims in at least 50% of cases based on information apparent from the law enforcement investigation.⁴² Other studies suggest that the 50% data point is low with regard to the prevalence of stalking in homicides of women, with one national study finding as many as 94% of intimate partner femicide victims over a three year period had been stalked by their intimate partner.⁴³

Where we know that more than twice as many stalking victims are stalked with technology than without, and more than half of all domestic abuse homicide victims in Maine are stalked prior to their death, we can conclude that a substantial proportion of Maine's domestic abuse homicide victims each year are perpetrated by individuals who used technology to stalk their victims prior to their death. The

⁴¹ Maine. Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021), p. 17.

⁴² *Id.*

⁴³ See Judith McFarlane, Jacquelyn C. Campbell, Susan Wilt, Carolyn J. Sachs, Yvonne Ulrich & Xiao Xu, *Stalking and Intimate Partner Femicide*, *Homicide Studies* 3(4) 300-316 (November 1999) (finding 76% of intimate partner femicide victims have been stalked by their intimate partner; See also, Jane Monckton-Smith, Karolina Szymanska & Sue Haile, *Exploring the Relationship between Stalking and Homicide*, University of Gloucestershire, <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=1a6cf4d9-0df5-42be-8b02-4bdbd75fa264> (April 2017) (stalking behaviors were present in 94% of the homicides examined over a three-year period).

State's response to stalking, to importantly include stalking perpetrated with and through technology, is a critical part of the State's homicide prevention efforts.

D. Stalking is particularly prevalent and concerning in cases of intimate partner abuse and violence

If the generalized statistics about the types and prevalence of stalking were not concerning enough, data further shows that intimate partner stalkers in particular are the most likely to approach, threaten, and harm their victims.⁴⁴ There is a strong link between stalking and other forms of violence in intimate relationships: 81 percent of women who were stalked by a current or former husband or cohabiting partner were also physically assaulted by that partner, and 31 percent were also sexually assaulted by that partner.⁴⁵

Compared to non-intimate partner stalking cases, those who stalk current or former intimate partners are more likely to:

- Assault their victims.⁴⁶
- Threaten with, or actually use weapons on their victims.⁴⁷

⁴⁴ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

⁴⁵ Patricia Tjadin & Nancy Thoennes, *Stalking in America: Findings From the National Violence Against Women Survey*, National Institute of Justice Centers for Disease Control and Prevention, U.S. Department of Justice (April 1998), <https://www.ojp.gov/pdffiles/169592.pdf>.

⁴⁶ David James & Frank Farnham, *Stalking and Serious Violence*, *Journal of the American Academy of Psychiatry and the Law*, 31,4, 432-439 (2003).

⁴⁷ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

- Contact and approach their victims more frequently.⁴⁸
- Be insulting and interfering/intrusive in the victim's life.⁴⁹
- Use the widest range of stalking tactics.⁵⁰
- Escalate in frequency and intensity of pursuit more often.⁵¹
- Follow through on their threats of violence.⁵² For instance, one study found that 71% of the partner stalking victims who were threatened were actually assaulted compared to 33% of the non-intimate partner stalking victims who were threatened.⁵³

The prevalence of stalking, and what research tells us about its role as a precursor to serious violence, to include homicide, particularly in cases involving intimate partner violence, means that public safety requires the state to have a thoughtful and effective response. Maintaining the integrity of a statute that

⁴⁸ K. Davis, A. Ace, & Michelle Andra, *Stalking Perpetrators and Psychological Maltreatment of Partners: Anger-Jealousy, Attachment Insecurity, Need for Control, and Break-Up Context*, *Violence and Victims*, 15, 4, 407-425 (Winter 2000).

⁴⁹ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

⁵⁰ Matthew C. Johnson & Glen A. Kercher, *Identifying Predictors of Negative Psychological Reactions to Stalking Victimization*, *Journal of Interpersonal Violence*, 24, 5, 886-82 (May 2009).

⁵¹ Kris Mohandie, J. Reid Meloy, Mila Green McGowan & Jenn Williams, *The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers*, *Journal of Forensic Sciences*, 51(1): 147-155 (January 2006).

⁵² Russell Palarea, Michael A. Zona, John C. Lane & Jennifer Langhinrichsen-Rohling, *The Dangerous Nature of Intimate Relationship Stalking: Threats, Violence and Associated Risk Factors*, *Behavioral Sciences and the Law*, 17, 269-283 (July 1999), https://www.researchgate.net/publication/12819267_The_dangerous_nature_of_intimate_relationship_stalking_Threats_violence_and_associated_risk_factors.

⁵³ Stuart D.M. Thomas, Rosemary Purcell, Michele Pathe & Paul Mullen, *Harm Associated with Stalking Victimization*, *Australian and New Zealand Journal of Psychiatry*, 42, 800-806 (January 1, 2008).

provides sufficient flexibility to evaluate the nature and circumstances of an individual pattern of conduct is critical to that end.

II. STATE v. LABBE IS NOT A “TRUE-THREATS” CASE, AND THE COURT SHOULD NOT APPLY COUNTERMAN’S HOLDING MORE BROADLY

A. The applicability of the Counterman holding is limited to “true-threats” prosecutions.

The two issues before the Court in *Counterman* were: (1) whether the First amendment required proof of a defendant’s subjective mindset *in a true-threats case*; and (2) if so, what *mens rea* standard was sufficient. *Counterman v. Colorado*, 600 U.S. 66, 143 S. Ct. 2106, 2113 (2023). The Supreme Court conducted a narrow analysis to conclude that the State had to prove that Counterman had at least a reckless subjective intent with regard to the effect of his speech on the victim where the State was pursuing a “true-threats prosecution.” The Court limited its holding to what the State had to prove in a “true-threats” case: “We ... hold[] that the State must prove *in true-threats cases* that the defendant had some understanding of his statements’ threatening character.” *Id.* (emphasis added).⁵⁴

⁵⁴ The limiting phrase “true-threats prosecution,” specifically in connection to the applicability of the Court’s analysis, is found throughout the Opinion of the Court. *See Counterman*, 600 U.S. 66, 143 S. Ct. 2106, 2116, 2117, 2118 (2023).

The Court limited “true-threats” to “‘serious expression[s]’ conveying that a speaker means to ‘commit an act of unlawful violence’”. *Id.* at 2110. The Court carefully noted that the question before it was whether the State had to prove that the defendant understood that others would find “the content of the words” threatening in order to succeed in their true-threats prosecution. *Id.* at FN 2. Counterman’s holding is clear that a “true-threats prosecution” only arises where the State relies on the *content* of a defendant’s expression.

A threshold question for this Court is whether the State relied on the content of Labbe’s contacts with the victim to secure a conviction, and the State did not. Where the State did not rely on the content of Labbe’s contacts, this is not a “true-threats prosecution,” and the Court should not apply Counterman.

B. In intimate partner stalking cases, content is less important than the frequency and manner in which the defendant pursues their victim.

As noted above, stalking can escalate to the point of homicide. The majority of those killed by intimate partners did, in fact, experience stalking first. Stalking, even stalking that ultimately leads to homicide, does not always include expressed threats of harm, and we should not only be concerned about stalking patterns that involve expressed threats of harm. In fact, research suggests that the patterns of stalking conduct for communities to be most concerned about in considering their public safety response are those involving frequency, persistence, and escalation,

rather than focusing solely on the severity.⁵⁵ Evaluation of whether any given course of conduct involves behavior that is frequent, persistent or escalating, is one that can, and often will be, undertaken entirely without consideration of the content of a perpetrator's contacts with the victim.⁵⁶

Observations from Maine's Domestic Abuse Homicide Review Panel, in reflecting on commonalities amongst stalking cases that have led to homicides, lends further support to the need take seriously and focus available interventions on non-threatening cyberstalking behaviors. It has specifically found that internet communication was used not solely to communicate specific threats, but as a comprehensive way to maintain a constant presence in the victim's life.

The Panel observes that people who commit stalking use social media to maintain a presence in the victims' lives, to share shaming images, to harass and intimidate, and create false narratives about themselves and the victims. People who manipulate through social media may further isolate victims away from other people, including service providers. Email and texting are also prevalent forms of misusing technology to commit abuse including stalking.⁵⁷

⁵⁵ See generally, Jane Monckton-Smith, Karolina Szymanska & Sue Haile, *Exploring the Relationship between Stalking and Homicide*, University of Gloucestershire, <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=1a6cf4d9-0df5-42be-8b02-4bdbd75fa264> (April 2017).

⁵⁶ The ability to dissociate persistence of communication from the content of communication in a stalking prosecution was explicitly noted by Justice Sotomayor in her concurring opinion in the *Counterman* case. In reflecting her disagreement with the lower courts having framed the State's prosecution of *Counterman* as requiring a true threats analysis, she observed, "Stalking can be carried out through speech but need not be The content of the repeated communications can sometimes be irrelevant, such as persistently calling someone and hanging up, or a stream of "utterly prosaic" communications. Repeatedly forcing intrusive communications directly into the personal life of 'an unwilling recipient' also enjoys less protection." *Counterman*, 600 U.S 66, 143 S. Ct. 2106, 2121 (2023) (Sotomayor, J., concurring).

⁵⁷ Mainee. Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021), p. 17.

Amici have collectively worked with thousands of stalking victims in Maine who experienced pervasive, relentless contact from their former spouse or partner. International, national and in-state research all confirm what these victims regularly communicate to systems and service providers: it often does not matter what a particular message or call from the perpetrator says, the very fact that the perpetrator sent the message or made the call, particularly after being told not to, causes alarm, distress and fear, and rightfully so.

As Justice Stewart aptly noted at Labbe's sentencing, the State and the Court were focused on the persistent manner in which Labbe inserted himself into the victim's life through his repeated contact, and not any particular content: "when there has been an ongoing, longstanding history of being told to stop, and then also even having another court order, it still happens," even a "pretty benign statement," rises to the level of "enough is enough" and violates Maine's stalking statute. (S. Tr. 8.) Regardless of the content of any single message, it is the frequency and the persistence of often seemingly benign communications that leave a victim understanding the perpetrator is not going to stop and they'll never be free. It is objectively reasonable for victims of this type of stalking to have that understanding. All too often, perpetrators follow through to the eventual death of the victim.

The internet and use of personal cell phones has become integral to functionally participating in American life, creating constant, instant accessibility. With this evolution, where 25 years ago, to maintain a pervasive presence in the life of a victim, perpetrators of stalking used to have to get into their cars and go find a victim, physically wait at a particular location they knew to expect the victim, or know that a victim was home to be able to answer their landline, that is no longer the case. Perpetrators today can rely on the fact that any given person has their cell phone within arms' reach and turned on to conduct their everyday business functionally around the clock. They can perpetrate a constant intrusion into their victim's life without leaving their couch.

With the ability to spoof phone numbers to appear however a perpetrator wants, it is not feasible (as demonstrated in this case) for a victim to merely block the phone number known to be the perpetrator's in order to avoid persistent, unwanted contact (or even phone numbers of a perpetrator's known associates). The solution presented to victims of this type of constant, pervasive, and yet non-threatening, electronic and telephone contact, so commonly experienced by victims of domestic abuse and violence, cannot be to just discontinue their engagement with these digital tools. To do so would mean pulling themselves out of any ability to functionally participate in today's society. Our legal systems must have

appropriate tools available to intercede and respond to this type of relentless conduct as the potential lethality predictor that it is.

C. No First Amendment analysis is needed in this case because the content of Labbe's speech is not at issue.

Frequency and persistence of contact, and not the content of any particular message or call, is precisely what the present case is based on. Labbe persistently contacted the victim, despite the victim's: repeated requests to stop, blocking his accounts on social media (Tr. 180, 16-23), blocking the telephone numbers of the relatives whose devices he was using to contact her (Tr. 178, 5-16; 183, 12), changing her phone number multiple times (Tr. 183, 18-19), having obtained and having served him with a protection from abuse order which required him to not contact her (Tr. 141, 15-24), and consistently reporting the contact to law enforcement (Tr. 157, 8-14; 183, 12-13). The State's argument in this case focused on that persistent nature of the contact: the "relentless" nature of the contact (Tr. 302, 15), his "constant messaging" (Tr. 303-4), and "calling her nonstop, messaging her dozens of times." (Tr. 303, 20-21.)

Additionally, the fact that Labbe was convicted of two violations of a protection order independently supports his conviction for stalking as a course of conduct without looking to any of the other conduct. The act of his knowing

contact with the victim was a violation of the valid and served court order prohibiting contact, regardless of the content of any message or call.

That we do not examine the content of the communication in assessing whether a person is guilty of a violation of protection order for a contact violation is eminently supported by the purposes of the protection from abuse process.⁵⁸ The very existence of the protection order tends to prove that there will be one of the effects listed in Maine's stalking statute,⁵⁹ particularly that the protected person will experience fear or distress if the person subject to the protection order continues to have contact. The petitioner has usually declared in a sworn affidavit, as part of their complaint, that they are afraid of the person they are filing to get the order against – an affidavit that is served together with the temporary order and the summons. When there is a violation of a protection order, particularly a contact violation, it demonstrates that this initial intervention was not enough to cease the abusive conduct. Where the protected person obtained an order, for which they had to name at least one prior act of abuse by the person subject to the order, the very fact of contact after that person has been served, regardless of content, is escalating conduct and should be a red flag to the system. Our statutory response

⁵⁸ *See generally*, 19-A M.R.S. § 4101 (2023).

⁵⁹ 17-A M.R.S. § 210-A(1)(A) (2022).

of requiring an arrest for any violation of a protection order, to include those involving prohibited contact, is homicide prevention.

In fact, in its last biennial report, Maine’s Domestic Abuse Homicide Review Panel specifically recommended that Maine prosecutors, “Charge stalking when a person repeatedly violates conditions of release or violates protection orders by contacting the victim.”⁶⁰ This is because the very fact of violating a protection order by contacting the protected person, regardless of the content of that communication, can be expected to cause any reasonable protected person emotional distress or serious inconvenience, having already documented their fear and/or a desire to have no contact with the subject of the order.

⁶⁰ Maine Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021), p. 27.

CONCLUSION

For these reasons, *Amici* respectfully request this Court decline to find that Counterman applies to the conduct-based conviction in this case and affirm the conviction.

Respectfully submitted,

/s/Melissa L. Martin, Esq.

Melissa L. Martin, Esq.

Bar No. 5540

Maine Coalition Against Sexual Assault

45 Memorial Circle

Augusta, Maine 04330

(207) 228-4019

martin@mecasa.org

/s/Andrea Mancuso, Esq.

Andrea Mancuso, Esq.

Bar No. 4591

Maine Coalition to End Domestic Violence

PO Box 5188

Augusta, ME 04330

(207) 650-4356

andrea@mcedv.org

CERTIFICATE OF SERVICE

I, Andrea Mancuso, Esq., hereby certify that two copies of the Brief of Amicus Curiae of Maine Coalition to End Domestic Violence and Maine Coalition Against Sexual Assault were served upon counsel at the address set forth below by email and first-class mail, postage prepaid on October 10, 2023:

Katherine Hudson MacRae, Esq.
Assistant District Attorney
State's Attorney on Appeal
55 Lisbon Street, 2nd Floor
Lewiston, ME 04240
katherine.macrae@maineprosecutors.com

Verne Paradie, Esq.
217 Main Street, Suite 400
Lewiston, ME 04240
vparadie@lawyers-maine.com

Dated: October 10, 2023

/s/Andrea Mancuso Esq.
Andrea Mancuso, Esq.
Bar No. 4591
Maine Coalition to End Domestic Violence
PO Box 5188
Augusta, ME 04332
(207) 650-3456
andrea@mcedv.org

STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court
Docket No. AND-22-317

STATE OF MAINE
Appellee

v.

JACOB LABBE,
Defendant-Appellant.

**CERTIFICATE OF SIGNATURE
AND COMPLIANCE**

I am filing the electronic copy of a brief with this certificate. I will file the paper copies as required by M.R. App. P. 7A(i). I certify that I have prepared (or participated in preparing) the brief and that the brief and associated documents are filed in good faith, conform to the page or word limits set by Order of this Court (dated July 10, 2023), and conform to the form and formatting requirements of M.R. App. P. 7A(g).

Name of party for whom the brief is filed: Maine Coalition to End Domestic Violence and Maine Coalition Against Sexual Assault

Attorney's name: Andrea Mancuso

Attorney's Maine Bar No.: 4591

Attorney's email address: andrea@mcedv.org

Attorneys mailing address: 101 Western Ave., PO Box 5188, Augusta, ME 04332

Attorney's business telephone number: (207) 650-4356

Date: October 10, 2023