



MAINE JUDICIAL BRANCH

SUPREME JUDICIAL COURT

Matthew Pollack

Executive Clerk

Clerk of the Law Court

205 Newbury St Rm 139, Portland ME 04330

Phone: 207-822-4146

September 11, 2023

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55 Lisbon St 2nd Floor  
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**Re: State of Maine v. Jacob R. Labbe Sr.**  
**Law Court docket number And-22-317**

Dear Counsel:

The Law Court has decided to request additional briefing from the parties and to invite amicus briefs from any interested amici. The public notice inviting amicus briefs is available at [www.courts.maine.gov/labbe](http://www.courts.maine.gov/labbe).

The Court requests that the parties file supplemental briefs addressing the same issues that amici are invited to address:

1. What effect, if any, does the U.S. Supreme Court's holding in *Counterman* have on Labbe's case and especially on the State's burden of proof, if any, with respect to the defendant's subjective awareness that his conduct could cause one of the effects enumerated in 17-A M.R.S. § 210-A?
2. In light of principles of issue preservation and retroactivity as set forth in *Griffith v. Kentucky*, 479 U.S. 314 (1987) and similar cases, can and should the Law Court address in this appeal the issues raised by *Counterman*?

The parties must file supplemental briefs on these issues on or before **October 10, 2023**. The cover of your briefs should be the same color as your initial briefs (blue for Labbe, red for the State). The supplemental briefs must not exceed twenty pages and



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should be titled "Supplemental Brief" (followed by the identification of the party filing the brief, as usual).

The parties may each file a reply brief in response to the amicus briefs and each other's supplemental briefs. *See* M.R. App. P. 7A(e)(1)(B). The reply briefs are due by **October 24, 2023**.

If you have any questions, please let me know. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Pollack", is written over the typed name.

Matthew Pollack