STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. Ken-24-450

ANDREW ROBBINS, et al.
Plaintiffs-Appellees

v.

STATE OF MAINE
Defendant-Appellant

On Appeal from the Superior Court
Kennebec County

REPLY BRIEF OF DEFENDANT-APPELLANT STATE OF MAINE

Of counsel:
Thomas A. Knowlton
Deputy Attorney General

Paul E. Suitter
Assistant Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 626-8800
paul.suitter@maine.gov

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INTRODUCTION

This appeal focuses solely on the Superior Court's denial of the State of Maine's motion to dismiss Count V of Class Plaintiffs-Appellees' ("Robbins") First Amended Class Action Complaint for Injunctive and Declaratory Relief and Class Action Petition for Habeas Relief (Complaint). As detailed in the State of Maine's opening brief, the Superior Court should have dismissed Count V for three independently sufficient reasons: (1) Sovereign immunity bars it; (2) Robbins lacks a valid cause of action to assert it; and (3) Robbins failed to establish standing.

ARGUMENT

I. Sovereign immunity bars Count V.

A. Robbins fails to adequately address this Court's binding precedent, which holds that Maine's sovereign immunity may only be waived pursuant to specific acts of the Legislature.

As previously explained, "[t]he immunity of the sovereign from suit is one of the highest attributes inherent in the nature of sovereignty, and [it] can only be waived by specific authority conferred by an enactment of the Legislature.'" Blue Br. at 22 (quoting *Knowlton v. Att'y Gen.*, 2009 ME 79, ¶ 12, 976 A.2d 973). Maine's sovereign immunity "extends to actions which purport to assert a

liability against the State other than liability in tort."[1] *Drake v. Smith*, 390 A.2d 541, 543 n.3 (Me.1978).

Therefore, any "claim against the State will be dismissed 'unless the State, acting through the Legislature, has given its consent that the present action be brought against it.'" *Waterville Indus., Inc. v. Fin. Auth. of Me.*, 2000 ME 138, ¶ 21, 758 A.2d 986 (quoting *Drake*, 390 A.2d at 543-44). Importantly, "sovereign immunity is not confined to actions that seek damages from the State; it can also apply to declaratory judgment actions, to actions seeking retroactive welfare benefit underpayments, and it also applies to bar the retroactive recovery of payments." *Bouchard v. Frost*, 2004 ME 9, ¶ 10, 840 A.2d 109 (emphasis added).

Likewise, plaintiffs cannot "avoid dismissal of the action on sovereign immunity grounds" by engaging in the "tactic" of "forego[ing] a judgment adjudicating liability for payment of money" in order to receive "an adjudication deciding only that the [government] was guilty of wrongful action toward plaintiff." *Drake*, 390 A.2d at 541; *see also Poirier v. Mass. Dept. of Corr.*, 558 F.3d 92, 97 (1st Cir. 2009) ("States and their agencies are entitled to

[1] For tort claims, the Legislature has extended a statutory form of sovereign immunity to all governmental entities in Maine, subject to a number of exceptions "expressly provided by statute." 14 M.R.S.A. § 8103(1) (Westlaw Dec. 8, 2025).

sovereign immunity 'regardless of the relief sought.'" (quoting *Kentucky v. Graham*, 473 U.S. 159, 167 n.14 (1985))).

Robbins hardly engages with this unambiguous, binding precedent. He contends *Knowlton* is "irrelevant" to this appeal, asserting that it "merely" analyzed how sovereign immunity may be waived, rather than offering any guidance as to whether it may be asserted as a defense at all. *See* Red Br. at 21-22. He is wrong. *Knowlton* specifically acknowledged that "sovereign immunity is the rule, not the exception." 2009 ME 79, ¶ 21, 976 A.2d 973; *see also id.* ("[W]e start from the premise that immunity is the rule and exceptions to immunity are to be strictly construed." (quoting *New Orleans Tanker Corp. v. Dep't of Transp.*, 1999 ME 67, ¶ 5, 728 A.2d 673)).

Moreover, *Bell v. Town of Wells* expressly recognized that Maine's Declaratory Judgments Act ("DJA") does not constitute waiver of sovereign immunity. 510 A.2d 509 at 510 (Me. 1986). Accordingly, the State of Maine may assert it here as a valid defense. *Id.*; *see also* Blue Br. at 28.

B. Robbins's unsupported reading of the DJA does not abrogate Maine's sovereign immunity.

Robbins tries to avoid *Bell*'s holding by asserting that it does not apply when "seeking a declaration of the State's affirmative obligations under the constitution." Red Br. at 22. He cites no statute or caselaw for this novel theory.

Aside from being unsupported, Robbins's theory collapses under the weight of its purported jurisdictional hook:

In order to sue any defendant, a plaintiff must point to a valid cause of action. *Edwards v. Black*, 429 A.2d 1015, 1016 (Me. 1981). As discussed below in Part II, throughout this litigation Robbins has relied solely on the DJA for supplying Count V's cause of action. *See, e.g.*, Red Br. at 34-41. Therefore, even assuming *arguendo* that he can maintain a valid cause of action against the State of Maine under the DJA,[2] none could have existed prior to the DJA's enactment in 1941. *See* P.L. 1941, ch. 95, §§ 38-50.

In other words, Robbins argues that the Legislature's 1941 enactment of the DJA not only created an entirely new cause of action that civil plaintiffs may use to file suit, but also that the Legislature implicitly did so without any intent of preserving the State of Maine's right to assert a sovereign immunity defense. *See* Red Br. at 18-24. But that argument flouts this Court's starting premise, which is that "immunity is the rule and exceptions to immunity are to be strictly construed." *Knowlton*, 2009 ME 79, ¶ 12, 976 A.2d 973.

Likewise, Robbins's theory that the State of Maine's ancient entitlement to immunity from suit as sovereign in its own courts "does not apply to a

[2] As explained below in Part II, this assumption is incorrect and the absence of a cause of action is independently fatal to Robbins's sole count alleged against the State of Maine.

request for a declaration of constitutional rights," Red Br. at 22, cannot be squared with the fact that the DJA "does not override sovereign immunity when that doctrine is properly applied," *Bell*, 510 A.2d at 515.

C. Robbins misreads the holding of *Welch*.

Much of Robbins's argument for evading sovereign immunity relies on his reading of *Welch v. State*. 2004 ME 84, 853 A.2d 214; *see also* Red Br. at 19-23. *Welch* is the only example that he can muster where this Court concluded that a governmental entity may not assert sovereign immunity based solely upon the substance of a lawsuit's legal claims. Robbins argues that *Welch* bars the State of Maine entirely from a asserting sovereign immunity defense in declaratory actions brought to litigate the scope of a constitutional right. *See* Red Br. at 21.

But as the State of Maine explained in its opening brief, *Welch*'s holding is inextricably linked to its status as a quiet-title action. Blue Br. at 27. Robbins calls this "incorrect," but the Court's own language in *Welch* rebuts him. This Court expressly stated that it was issuing *Welch* to provide an answer to the novel legal question of "whether sovereign immunity prohibits [Maine] courts from resolving disputes over property in which the State holds title." *Welch*, 2004 ME 84, ¶ 5, 853 A.2d 214.

In concluding that it does not apply, the Court focused on the difference between the government engaging in "propriety activity," which sovereign immunity does not traditionally protect, and "governmental activity," which it does. *Id.* ¶ 7. This distinction underlying sovereign immunity doctrine long predates *Welch*. *See Bale v. Ryder*, 286 A.2d 344 (Me. 1972) (noting that the distinction dates back to at least 1842 and that the Law Court had "made clear" by 1935 that "Maine had embraced this distinction").

And the Court has continued to apply the distinction in post-*Welch* caselaw. *See, e.g.*, *Knowlton*, 2009 ME 79, ¶ 17, 976 A.2d 973 (explaining that "for purposes of sovereign immunity, a distinction is properly drawn between" a statute that authorizes an entity to act in its governmental capacity versus "a statute that authorizes the State to enter into contracts in its proprietary role").

The distinction likewise applies here, where even Robbins cannot reasonably dispute that his legal challenge relates to the State of Maine's governmental activity and not its potential status as a property owner.

D. Foreign caselaw is irrelevant.

As he did below, Robbins asks the Court to ignore binding, applicable Law Court precedent in favor of law developed in a smattering of other states, *see* Red Br. at 25-31, whose constitutions, statutes, and body of caselaw are all necessarily unique from Maine's.

The State of Maine explained in its opening brief why it is not appropriate to rely on foreign law when Maine law provides an unambiguous answer to the legal question at hand. *See* Blue Br. at 29. It likewise detailed why each of the types of foreign cases Robbins now cites, *id.* at 25-30, are either unpersuasive, materially distinguishable from this type of action, or both. *See id.* at 29-31.

A common thread that runs through the foreign caselaw cited by Robbins and the Superior Court is the principle that sovereign immunity should not foreclose an individual's ability to obtain declaratory relief for constitutional violations. *See id.* at 29-30. Here, applying sovereign immunity to the State of Maine would not prevent Robbins from obtaining prospective declaratory relief under Maine's DJA against state officials regarding the nature and scope of his Sixth Amendment right to counsel, so long as he is able to prove his claims at trial. Thus, to the extent that the foreign decisions cited by Robbins were motivated by a desire to provide substantive relief to an otherwise irredressible legal controversy, *see id.*, such concerns are not at play under Maine law.

E. Federalism favors the State of Maine as sovereign in its own courts.

Robbins argues that if the State of Maine were to prevails here, it would create "significant federalism concerns," implying that Robbins would be left

with fewer avenues for relief to vindicate his constitutional rights in state court than in federal court. Red Br. at 24-25. Not so.

In reality, the State of Maine seeks only to assert the same affirmative defense in its own courts (where it is sovereign) that it has an unambiguous right to assert in federal court (where it is not sovereign). *See Scott v. Androscoggin Cty. Jail*, 2004 ME 143, ¶ 23, 866 A.2d 88 ("absent a waiver, the State of Maine retains its privilege to assert sovereign immunity in its own courts"). In federal court, the Eleventh Amendment of the United States Constitution bars lawsuits "against unconsenting states" unless Congress has validly abrogated a state's immunity in "unmistakably clear terms." *See Davidson v. Howe*, 749 F.3d 21, 27-28 (1st Cir. 2014); *see also Seminole Tribe of Fla v. Fla*, 517 U.S. 44, 55-56 (1996) (same).

If Robbins filed suit in federal court against the "State of Maine" under 42 U.S.C. § 1983 and sought the exact declaratory relief he seeks here, there is no question that his action would be dismissed.

> Section 1983 provides a federal forum to remedy many deprivations of civil liberties, but it does not provide a federal forum for litigants who seek a remedy against a State for alleged deprivations of civil liberties. The Eleventh Amendment bars such suits unless the State has waived its immunity or unless Congress has exercised its undoubted power under § 5 of the Fourteenth Amendment to override that immunity."

Will v. Michigan Dep't of State Police, 491 U.S. 58, 66 (1989); *see also Wyman v. Sec'y of State*, 625 A.2d 307, 310 (Me. 1993) (acknowledging that claims against states cannot be maintained in federal court under § 1983).

Robbins has identified no precedent or rationale that could explain why the State of Maine would enjoy fewer defenses in its own courts than in those controlled by the United States government.

II. The Declaratory Judgments Act does not provide a cause of action to maintain Robbins's suit against the State of Maine.

A. Robbins fails to adequately address this Court's binding precedent, which holds that the DJA creates no independent cause of action.

As the State of Maine outlined in its opening brief, this Court has held repeatedly and consistently that the DJA does not provide a cause of action to initiate suit. Rather, more than five decades of caselaw instructs that it merely provides "a more adequate and flexible remedy in cases where jurisdiction already exists." *Colquhoun v. Webber*, 684 A.2d 405, 411 (Me. 1996); *see also* Blue Br. at 35-36.

Robbins puzzlingly argues that "this Court's recognition that a DJA plaintiff must have standing and a ripe claim for relief in no way suggest the DJA is solely a tag-along to other causes of action." Red Br. at 35. A mountain of this court's caselaw says otherwise. *See* Blue Br. at 35-36.

Robbins argues that the State of Maine's position would be "flatly inconsistent with the text of the DJA, which states that a declaratory judgment may be issued 'whether or not further relief is or could be claimed.'" Red Br. at 35. There is no inconsistency. Although a "declaratory judgment action cannot be used to create a cause of action that does not otherwise exist," *Sold Inc. v. Town of Gorham*, 2005 Me 24, ¶ 10, 868 A.2d 172, in some circumstances the DJA's "more adequate and flexible remedy" may be the only meaningful relief available to a plaintiff in a suit brought pursuant to a valid cause of action "where jurisdiction already exists," *Colquhoun*, 684 A.2d at 411.

B. The DJA's text instructs that it should be read in harmony with federal declaratory judgment law, which likewise provides parties with no independent cause of action to file suit.

Maine's DJA states expressly that "as far as possible" it should be read in harmony "with federal laws and regulations on the subject of declaratory judgments and decrees." 14 M.R.S.A. § 5951 (Westlaw Dec. 8, 2025); *see also Me. Broad. Co. v. East. Trust & Bank. Co*., 14 Me. 220, 223, 49 A.2d 224, 225 (1946) (same). The State of Maine's position regarding the DJA's absence of an independent cause of action is identical to federal courts' interpretation of the federal declaratory judgment statute.

For example, in *Colonial Penn Group, Inc. v. Colonial Deposit Co.*, 834 F.2d 229, 232 (1st Cir. 1987), the First Circuit confirmed that the "'operation of the

[federal] Declaratory Judgment Act is procedural only.'" *Id.* at 232 (quoting *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 240 (1937)). It explained that although "Congress enlarged the range of remedies available in the federal courts" through its passage, it nevertheless "did not extend their jurisdiction." *Id.* (quoting *Skelly Oil v. Phillips Petr. Co.*, 339 U.S. 667, 671 (1950)). As with Maine's DJA, the federal "Act merely expands the relief available through litigation; it does not affect parties' substantive rights." *Id.* (citing *Franchise Tax Board of Cal. v. Constr. Laborers Vacation Trust for So. Cal.*, 463 U.S. 1, 15–17 (1983)); *see also Akins v. Penobscot Nat'n*, 130 F.3d 482, 490 n.9 (1st Cir. 1997) (noting that the federal declaratory judgment act does not create a "substantive cause of action" and that potential plaintiffs therefore "must rely on an independent source for the claims").

Robbins fails to offer any valid rationale for this Court to read Maine's DJA differently from its federal corollary, especially in light of the Legislature's command to read them in harmony "as far as possible." 14 M.R.S.A. § 5951.

C. Robbins's caselaw does not provide any support for his theory that the DJA can supply the requisite cause of action to maintain Count V.

Robbins encourages the Court to ignore the foregoing relevant precedent, pointing instead to a series of declaratory judgment decisions that do not address the statute's relationship to the cause-of-action requirement. Red Br.

at 36-38. He echoes the Superior Court's theory that *Parker v. Department of Inland Fisheries & Wildlife*, 2024 ME 22, 314 A.3d 208, and other similar cases have implicitly acknowledged an independent cause of action under the DJA. Red Br. at 35-38.

Both Robbins and the Superior Court reason that if the State of Maine could have successfully mounted such a defense in cases like *Parker*, then this Court would have decided *Parker* in the State of Maine's favor on that basis, rather than proceeding to the more difficult task of engaging its merits. *See* App. at 81-82; Red Br. at 36-38. But cases like *Parker* are materially distinguishable from this appeal in several crucial respects.

First, the State of Maine never asserted a defense based on the absence of a cause-of-action in *Parker*, rendering it irrelevant to the legal controversy here. *See also* Blue Br. at 25. Second, the *Parker* plaintiffs asserted that they desired to engage in activity prohibited by statute that they (incorrectly) believed the Legislature had no authority to limit under Maine's Constitution. *Parker*, 2024 ME 22, ¶¶ 5-6, 314 A.3d 208. Although the plaintiffs were ultimately unsuccessful on the merits of their challenge to Maine's Sunday hunting prohibition, the Commissioner did not press sovereign immunity as a defense, given the material differences in that case's procedural posture and those present here.

Anticipatory or pre-enforcement actions allow parties to establish justiciability by relying upon the imminent threat of injury from an allegedly unconstitutional statute, rather than first requiring litigants to violate the statute and risk suffering the consequences of government enforcement. *See Virginia v. Am. Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988) ("We are not troubled by the pre-enforcement nature of this suit. . . . We conclude that plaintiffs have alleged an actual and well-founded fear that the law will be enforced against them. Further, the alleged danger of this statute is, in large measure, one of self-censorship; a harm that can be realized even without an actual prosecution."). In these types of challenges, the Supreme Court has acknowledged a federal anticipatory cause of action where declaratory relief is available. *Medtronic, Inc. v. Mirowski Family Ventures, LLC*, 571 U.S. 191, 197 (2014). But in continuing to underscore the principle that the "Declaratory Judgment Act does not 'extend' the 'jurisdiction' of the federal courts," the Supreme Court emphasized that the cause of action emanates not from the federal declaratory judgment act itself, but rather from some potential "coercive action" brought by "the declaratory judgment defendant." *Id.* (quoting *Franchise Tax Bd.*, 463 U.S. at 19).

Here, there is no coercive statute that Robbins seeks to violate. Nor does Robbins's DJA claim challenge the validity of a Maine criminal statute, as in

Parker. Because Robbins's DJA claim differs substantially from the circumstances outlined in either *Franchise Tax Board* or *Parker*, there is no analogous cause of action available to him here.[3]

III. Robbins has not established standing to pursue Count V against the State of Maine.

A. Because a declaration running against the "State of Maine" offers Robbins no legal redress, he lacks standing to Pursue Count V.

In response to the State of Maine's redressability argument, Robbins underscores the serious nature of his alleged injuries to emphasize his view that this action is not "symbolic," referring to the State of Maine's legal position as a "glaring derogation of responsibility." Red Br. at 45, 46. But the State of Maine did not refer to the entire litigation as symbolic. Blue Br. at 40. Rather, Robbins seems to conflate the gravity of his alleged injuries—which the State of Maine does not dispute for purposes of this appeal—and the legal implications (or lack thereof) from issuing a declaratory judgment against the "State of Maine."

[3] *Parker* is consistent with the State of Maine's position. *Parker* provided substantial analysis as to why that case presented a justiciable "controversy," 2024 ME 22, ¶¶ 12-15, 314 A.3d 208, which the State of Maine did not challenge when it moved to dismiss the action in Superior Court. Rather, the State of Maine's theory for dismissal was that plaintiffs were incorrect regarding the hunting ban's constitutionality. The Department's position was not that plaintiffs failed to establish a legal controversy, but rather that their desired relief could not be granted given that they sought an erroneous declaration of law. In such circumstances, dismissal may be appropriate if the trial court sufficiently explains its decision. *See id.* ¶ 15 n.3; *see also Calnan v. Hurley*, 2024 ME 30, ¶ 23, 314 A.3d 267 (affirming Superior dismissal of unsuccessful DJA challenge to agency interpretation of law). But because there was no substantive order on review from the Superior Court in *Parker*, this Court was not able to affirm on that basis. *Id.*

Citing to *Drake*, Robbins argues that "a declaration running against the State provides meaningful relief where it will 'serve to govern' the relationship between Plaintiffs and [Defendants] moving forward." Red Br. at 46 (quoting *Drake*, 390 A.2d at 544). But *Drake* actually states something different—that if a declaration "will not serve to govern, or assist, the plaintiff and the [Defendant] in any relations likely to exist between them in the immediate future," then such a declaration "would serve no useful purpose, and the case would lose justiciability." 390 A.2d 544. This is especially true where

> the issues involved are capable of being adjudicated in other litigation to provide guidance for official conduct and lack the kind of public importance which might otherwise induce this Court, on public interest grounds, to strain to find justiciability as a basis for rendering a merely declaratory adjudication.

Id.

That is precisely the case here. Robbins is already litigating the constitutionality of Maine's public defense system in his civil rights actions against members of the MCPDS. He can—and did—obtain declaratory relief against those state officials at trial.[4]

[4] The State of Maine joined MCPDS officials' legal position related to Robbins's Sixth Amendment claims in their appeal of the Superior Court's trial decision in *Robbins v. Maine Commission on Public Defense Services*, KEN-25-137. However, the fact that defendant parties disagree with the Superior Court's analysis does not undercut that Robbins has not been prevented from pursuing lawful prospective declaratory relief against any Maine official whom he validly alleges violated his constitutional rights through their acts or omissions.

Under Count I, Robbins asked the Superior Court to declare that certain officials—acting on behalf of the State of Maine—violated his rights under the Sixth Amendment of the United States Constitution. App. at 52. Additionally, he sought under Count V a "declaratory judgment that Defendant State of Maine has unlawfully failed to furnish counsel to [him] when commencing prosecutions against those individuals."

Yet Robbins fails to explain how such a declaration could serve to redress his injuries beyond any lawful declaration that he could obtain against a specific Maine official. All he can assert is that "it should be assumed that any declaration that the State is violating the state and federal Constitutions will in fact lead to action to redress that violation." Red Br. at 46. But *Drake* rejected this theory as a basis for justiciability when it pilloried attempts to "obtain a declaration of the state's duty to refund or pay money, not for the purpose of executing the judgment, which is not under the law possible, but merely to obtain an adjudication of legal rights." 390 A.2d at 544 (quoting *Lister v. Bd. of Regents of the Univ. of Wisc. Sys.*, 240 N.W.2d 610, 625 (Wisc. 1976)).

Regardless of any laudable goals for pursuing the relief, "such a proceeding is not sustainable." *Id.* (quoting *Lister*, 240 N.W.2d at 625). This is doubly the case when considered in light of the consequences discussed below.

B. Permitting Robbins to pursue Count V against the State of Maine could lead to litigation chaos, underscoring his lack of standing under Maine's prudential standing doctrine.

Maine's standing doctrine "is prudential, rather than constitutional." *Lindemann v. Comm'n on Gov. Ethics & Election Practices*, 2008 ME 187, ¶ 8, 961 A.2d 538. Therefore, the Court may "limit access to the courts to those best suited to assert a particular claim." *Id.* (quoting *Roop v. City of Belfast*, 2007 ME 32, ¶ 7, 915 A.2d 966). Standing "is significantly affected by the unique context of the claim." *Id.* (quoting *Roop*, 2007 ME, ¶ 7, 915 A.2d 996).

The gravest logistical consequences relate to the identity of the "State of Maine" in this action. Specifically, Robbins has provided no indication as to which State of Maine officials or agencies he is suing. Presumably, it cannot be the Governor or Attorney General, as they have already been named as parties to the litigation and were granted respective motions to be dismissed. Count V seeks a declaration stating that "Defendant State of Maine has unlawfully failed to furnish counsel to [Robbins] when commencing prosecutions." App. at 138. But the state officials tasked with providing "representation" and "the delivery of indigent legal services" (MCPDS) are already parties to this suit. *See* 4 M.R.S.A. § 1801 (Westlaw Dec. 8, 2025). While the official tasked with "coordinating all criminal investigations and prosecutions" in Maine (the

Attorney General) was already dismissed. *See* 5 M.R.S.A. § 200-A (Westlaw Dec. 8, 2025).

Allowing Count V to proceed would raise far more questions than it could answer. Is Count V against the State of Maine aimed only at officials within the Executive Branch, or is Robbins also intending to sweep the Legislative and Judicial Branches under the State of Maine's "umbrella" as it relates to their roles in formulating Maine's indigent defense system? Can a judgment against the entire "State of Maine" be upheld on appeal if it purports to bind state officials from multiple agencies, even if not all departments were afforded the opportunity to participate? Can decisions apply to officials from multiple branches of government under Maine's strict separation of powers doctrine? Who should be expected to sign interrogatory answers on behalf of the State of Maine during discovery?

Each of these questions is thornier than the next, and they only balloon in complexity when considering Robbins's request for injunctive relief against the State of Maine pursuant to Count V, App. at 54, and the forthcoming "Phase II" litigation envisioned by the Superior Court, which has yet to commence. The resulting chaos of allowing Count V to proceed against an amorphous "State of Maine" will create confusion, exhaust unnecessary resources from all parties as

well as the courts, which will only operate to protract the length of this litigation.

Despite being eclipsed by higher-profile counts litigated at trial, Count V represents a buried fuse of jurisdictional complexities. Thankfully, there is still time for this Court to resolve Robbins's lack of standing before the powder keg ignites.

CONCLUSION

The Superior Court's order denying the State of Maine's Motion to Dismiss should be vacated, and this matter should be remanded with instructions to enter judgment in favor of the State of Maine on Count V.

Dated: December 8, 2025

Respectfully submitted,

Paul E. Suitter
Paul E. Suitter (Me. Bar No. 5736)
Assistant Attorney General
Office of the Attorney General
6 State House Station
Augusta, ME 04333-0006
(207) 626-8800
paul.suitter@maine.gov

Counsel for State of Maine,
Defendant-Appellant on Count V

CERTIFICATE OF COMPLIANCE WITH RULE 7A(f)(1)

I, Paul E. Suitter, Assistant Attorney General, hereby certify that that the foregoing Reply Brief of the State of Maine complies with the requirements of Rule 7A(f)(1) of the Maine Rules of Appellate Procedure because it contains—as calculated by the Microsoft Office Word 365 word processing software used to prepare this brief—4,402 countable words as set forth by that Rule.

Dated: December 8, 2025

/s/ Paul E. Suitter
Paul E. Suitter
Assistant Attorney General

CERTIFICATE OF SERVICE

I, Paul E. Suitter, Assistant Attorney General, hereby certify that on December 8, 2025, I served the foregoing Reply Brief of the State of Maine upon all counsel of record in this appeal:

Zachary L. Heiden, Esq. (via e-mail: zheiden@aclumaine.org)
Carol Garvan, Esq. (via e-mail: cgarvan@aclumaine.org)
Anahita Sotoohi, Esq. (via e-mail: asotoohi@aclumaine.org)
Kevin P. Martin, Esq. (via e-mail: KMartin@goodwinlaw.com)
Jordan Bock (via e-mail: JBock@goodwinlaw.com)
Sam Jandl (via e-mail: SJandl@goodwinlaw.com)
Andrea Goodman (andigoodman@goodwinlaw.com)
Matthew S. Warner (via e-mail: MWarner@preti.com)
Alex Harriman (via e-mail: AHarriman@preti.com)
Assistant Attorney General Jason Anton (via email: jason.anton@maine.gov)
Assistant Attorney General Valerie Wright (via email: valerie.a.wright@maine.gov)
Erica Johanson, Esq. (via email: ejohanson@jensenbaird.com)
Michael Lichtenstein, Esq. (via email: MLichtenstein@wheelerlegal.com)
Peter Marchesi, Esq. (via email: peter@wheelerlegal.com)
John Hamer, Esq. (via email: jhamer@rudmanwinchell.com)
Tyler Smith, Esq. (via email: tsmith@lokllc.com)

Dated: December 8, 2025

/s/ Paul E. Suitter
Paul E. Suitter
Assistant Attorney General