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FVAP survey identifies top legal problems facing CA domestic violence survivors

**“OUR CLIENTS GO BROKE TRYING
TO DEFEND THEMSELVES AGAINST
THE CONSTANT LEGAL ATTACKS.”**

90%
of domestic violence
attorneys and advocates
in California report
LITIGATION ABUSE as a
significant problem*

Abusers use the legal process to continue abuse
harassing, intimidating, subduing,
purposefully burdening their target
with unnecessary legal costs

 **FVAP**
Family Violence Appellate Project

*ACCORDING TO FAMILY VIOLENCE APPELLATE PROJECT'S 2016 SURVEY OF CALIFORNIA
DOMESTIC VIOLENCE SERVICE PROVIDERS. MORE INFORMATION AT FVAPLAW.ORG

Last week, FVAP published the results of our first-ever [statewide survey](#) of domestic violence service providers, which reveals the **top legal problems California abuse survivors currently face in civil courts**, as well as the top legal challenges they face in different regions of the state.

Based on our survey of more than 100 California domestic violence attorneys and advocates, we found the following:

- **89%** of respondents said courts in their region issue **improper custody and visitation orders**, which often leaves children at risk of ongoing abuse.
 - “Courts [are] not considering histories of documented child abuse/domestic violence when making visitation/custody orders,” wrote one DV attorney.
- **77%** identified problems **obtaining restraining orders after hearings**.
 - This **dangerous statewide trend** often includes multiple continuances, repeated court dates, and/or a reluctance to apply and enforce the Domestic Violence Prevention Act.
- **80%** report an **inability or difficulty obtaining attorneys’ fees orders**, which would help level the playing field by enabling DV survivors to hire a lawyer.
 - Respondents in multiple regions say this leads to a **power imbalance** in the courtroom.

[Click here](#) for the full report of survey results, and learn about the top legal problems identified in **your region**.

We hope this information will lead to collaborative efforts to create positive change in our court system that will help domestic violence survivors throughout California, and in every region of the state.

Domestic Violence Awareness Month

3 ways you can raise awareness



1. Care. Survivors' stories are too often drowned out; their voices subdued; their needs ignored. This month, join us in **amplifying survivors' voices** every way we can, sharing their stories, and making sure their needs are heard. Raising awareness is the first step toward creating real change.

2. Share FVAP's social media posts throughout October, as we continue to reveal statistics from our recent [survey of CA domestic violence service providers](#) on [Facebook](#), [LinkedIn](#), and [Twitter](#). Together, we can improve our court system and make California safer for survivors and their kids.

3. Wear purple tomorrow, Oct. 20, for [Purple Thursday](#), a nationwide effort to raise awareness about domestic violence. You can also turn your social media profile picture purple using FVAP's "**Attorneys for Domestic Violence Awareness**" Twibbon. [Click here](#).

FVAP's latest legal victories

Changing California law, one appeal at a time

FVAP closed the summer with **3 major legal victories** that will help countless abuse survivors across California. By quickly obtaining publication of all 3 cases, we ensured that the cases can immediately begin changing California law by setting new legal precedent at the trial court level, which will help abuse survivors throughout the state.

1. Expanding protection for 21st-century dating relationships

[*Phillips v. Campbell*](#), published Aug. 23, is crucial for CA survivors seeking restraining orders against their abusers when the abusive relationship does not fit traditional/outdated definitions of a “dating relationship.” **21 legal aid and domestic violence agencies** joined FVAP in requesting the publication of this case, which addresses the definition of a “dating relationship” as one of the qualifying relationships that allows a person to request a Domestic Violence Restraining Order.

This is the first case to address the issue since 2001, when the CA legislature last revised the legal definition of “dating relationship.” *Phillips* holds that, even if the parties themselves didn’t call their relationship “dating,” the trial court may draw its own conclusions from the evidence. In this case, the evidence, including multiple text messages, showed “frequent intimate associations primarily characterized by the expectation of affection,” which is the exact definition of a “dating relationship” under the Domestic Violence Prevention Act.

FVAP believes this case is particularly important because **21st-century relationships often do not fall within strict parameters of traditional definitions of “dating,”** and yet all survivors of dating abuse should have access to protection under the DVPA. Read a *Bloomberg BNA, Family Law Reporter* article about this case [here](#).

2. Clarifying 50/50 timeshare is joint custody

We are proud to announce success in an important domestic violence custody case. In [*Celia S. v. Hugo H.*](#), our client’s **abuser was granted a 50% timeshare of their children** by the trial court, even after documented abuse against our client. The trial court circumvented California’s presumption against awarding joint custody to an abuser by calling this arrangement “sole custody” to our client, with “visitation” to the abuser. But on August 26, the Court of Appeal held that a **50/50 timeshare is necessarily a joint custody order**, and it is therefore an abuse of discretion and a subversion of California law that is meant to protect children from abusive parents to order a 50/50 “timeshare” without applying the custody presumption. Thanks to **Gibson, Dunn & Crutcher LLP** and the **Legal Aid Society of Orange County** for co-counseling and referring this case. Read the Court of Appeal’s published opinion [here](#).

3. Out-of-state abuse findings must be considered in CA custody hearings

On Aug. 11, FVAP successfully obtained publication of [*Ellis v. Lyons*](#), the **first California case** to clarify that another state’s finding of domestic violence triggers California’s presumption against granting custody to an abuser. Importantly, the case also holds that if a trial court relied, at all, on a preference that both parents have “frequent and continuing contact” with their children to rebut the custody presumption, the decision is “infected with legal error” and must be sent back to the trial court for a new custody hearing. This is because the preference that both parents have “frequent and continuing contact” with their children is not a permissible basis for rebutting the presumption against custody to an abuser, since **California recognizes that domestic violence is detrimental to the health, safety, and welfare of children**. Thanks to our **14 co-signers** for supporting the publication of this crucial case.

FVAP launches Central Valley Project

In September, FVAP launched a new project that aims to determine the most pressing legal needs of domestic violence survivors living in California's **underserved Central Valley**, and then strategically work to meet those needs.



The Central Valley Project will use targeted outreach to work closely with DV attorneys, service providers, and advocates in the Central Valley — especially **advocates working in shelters** and other community-based organizations — to determine the region's greatest unmet needs. Then we will develop and implement a targeted training program, create targeted materials, and take other necessary steps to address the area's most significant needs.

October announcements

- FVAP recently was awarded **2 government grants** to fund our life-saving services. Thanks to (1) the federal Victims of Crime Act Fund, distributed by the **California Governor's Office of Emergency Services**; and (2) the Legal Assistance for Victims Grant from the **U.S. Office on Violence against Women**. FVAP will use this funding to continue our crucial appellate legal services for California survivors and their children, and to expand the reach of our work to areas of California in dire need of our services.
- Congratulations to FVAP Executive Director and Co-Founder **Erin Smith**, who has been appointed to a 3-year term on the **State Bar of California's Committee on Appellate Courts**. Erin is looking forward to bringing the voices of domestic violence survivors and low-income Californians to this committee, which reviews and comments on appellate court rules and performs other important functions.
- FVAP is a proud new member of W.O.M.A.N Inc's **Domestic Violence Information and Referral Center (DVIRC)**, an online interactive community network that provides a safe space for member domestic violence service providers to share, network, and access updated information on services available in the greater Bay Area. The DVIRC aims to ensure effective and appropriate resources and referrals are offered to domestic violence survivors, and their friends and families.

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