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### You Can Help Us Fill Gaps for Survivors



[Our year-end campaign](#) runs through December 31. This year we're focusing on the ongoing work to fill gaps in legal support for survivors of domestic violence. And we're asking for your support to help us keep it up.

Hear about the campaign from FVAP co-founders Erin Smith and Nancy K.D. Lemon. [You can donate to the campaign here.](#)

### Legal Victories Fill Gaps for Survivors



#### *Noble v. Superior*

In [Noble v. Superior Court](#), the **survivor got a ten-year domestic violence restraining order** against her ex-partner after he threatened her with physical violence. She was in Utah with their children and her ex was in California. The ex-partner had physically abused our client before and admitted to some of this abuse in an email. In California, the family court that decided on the custody of their two children knew there was a restraining order and there was other evidence of domestic violence. Despite this knowledge, it repeatedly failed to tell the parents about – or to apply – the **legal standard for granting custody to a parent who has been abusive**. We represented the survivor with co-counsel [Morgan, Lewis & Bockius, LLP](#) in challenging the custody orders through a fast-track appeal, also known as a writ petition. At first the Court of Appeal denied our petition, but we went to the California Supreme Court and it agreed with us. The Supreme Court sent the case back to the Court of Appeal and ordered it to explain why our client's request should not be granted. We filed new briefs and went to oral argument. **The Court of Appeal issued an opinion agreeing with our client. We asked for publication of the case, and the Supreme Court agreed, so it is now binding legal precedent throughout the state.**

The court’s opinion explains:

- First, that getting a domestic violence restraining order from another state in most cases (here, Utah), within the last five years, clearly activates the legal standard for granting custody to an abusive parent.
- Second, trial courts must tell the parents about this law *before* sending them to custody mediation. The trial court must prove they told parents by putting it in the record, such as by adding to the minutes or saying it in a transcript.
- Third, if the record has evidence of domestic violence, trial courts have to apply California’s legal standard *before* deciding any request for custody, even if no one testifies or the custody order is only temporary.
- Fourth, trial courts have to apply this law when the record has any evidence of domestic violence, even if the evidence was raised in a related proceeding outside of the custody case.

We believe this case will help to make sure more trial courts clearly fulfill their requirements under the laws on custody and domestic violence and apply the correct standard each time, ensuring that children are not placed in abusive environments and helping to end the intergenerational cycle of abuse.

### Legal Victories with FVAP as Friend-of-the-Court



Economic Justice: *Doe v. Damron*

In *Doe v. Damron*, a survivor appealed a trial court’s decision that California did not have the authority to make a decision on whether civil damages (money compensation) for domestic violence should be given to the survivor because the **abusive spouse did not live in California**. The court made this decision despite the fact that domestic violence happened in California and the abusive spouse told the court he committed the abuse. FVAP filed a friend-of-the-court brief with our co-counsel [Hinshaw & Culbertson, LLP](#).

FVAP along with 19 co-signers, argued that California’s law allowing civil damages for domestic violence must apply to cases where the abuse took place in California and especially where the abuse resulted in a criminal case in California. FVAP argued that to allow non-residents who commit domestic violence in California to be protected from paying civil damages is harmful to survivors, who commonly suffer economic hardship as a result of abuse. FVAP also argued that it would undermine California’s commitment to prevent domestic violence. The survivor was represented by [ADZ Law, LLP](#). In its published opinion, the Court of Appeal agreed that there is no exception to the civil damages law for an abusive person who lives out of state. **FVAP is glad that this case creates binding authority that can help survivors who have been abused in California even if they or the abusive party lives out of state**, helping to ensure **economic justice for survivors**.

*A.S. v. Superior Court*

In a recent case, a survivor represented by the [Law Offices of Seth Goldstein](#) argued that an attorney’s confidential investigative interview about a **child’s report of abuse should not be disclosed automatically to the party being investigated** for the abuse. The trial court did not review the interview and ordered the confidential investigation to be released to all parties and a child custody evaluator.

The fast-track appeal (also known as a writ) of the trial court’s ruling was denied, but the survivor then went to the California Supreme Court. In support of the survivor, FVAP and California Protective Parents Association filed a friend-of-the-court brief explaining the dangers to survivors of domestic violence, protective parents and their children if courts did not protect attorney investigative reports. The California Supreme Court reversed the Court of Appeal’s decision and ordered it to explain why the investigative report should be turned over. FVAP and our community partners then filed an expanded friend-of-the-court brief to the Court of Appeal.

The Court of Appeal later issued an unpublished opinion saying the trial court should have reviewed the interview first and made sure that no confidential attorney work product would be given to the other party and evaluator. We are glad California’s higher courts recognized the significance of protecting investigative reports of child abuse.

### Senator Rubio Invites FVAP to Speak at Hearing on Domestic Violence & Child Welfare





At the invitation of California State Senator Rubio's office, Anya Emerson, an attorney on FVAP's dependency advisory panel and former FVAP attorney, presented at a recent hearing on domestic violence and child welfare for the California Senate Select Committee on Domestic Violence, also attended by Senators Skinner and Caballero.

**Anya presented expert information to the select committee on nonphysical forms of abuse including coercive control, and on common issues survivors face in child welfare cases in the juvenile dependency court system.** For instance, survivors too often face a catch-22. If the survivor calls law enforcement or otherwise reports the domestic violence in the home, the survivor risks having their children taken away because of the abuse they are reporting, dissuading them from reporting in the first place. But if the survivor doesn't call law enforcement or report the abuse, and someone else does, the survivor risks having their children taken away for failing to report in the first place.

FVAP will continue to work with legislators like these senators to improve the child welfare system to safely keep more children with survivor parents.

*Washington Corner*

**FVAP Washington & Partner Release Case Law Guide on Protection Orders**



FVAP Washington, in partnership with [Legal Voice](#), just released 2021 updates to the only Washington case law guide specific to domestic violence protection orders. You can access the updated Guide on our [Washington Legal Resources](#) page under “**What is the law on domestic violence protection orders in Washington?**” Thank you to [Legal Voice](#) for partnering with FVAP on this important legal resource for survivors.

**FVAP is Hiring**



We are hiring for a [Deputy Director](#) and [Philanthropy Officer](#) to join our outstanding team.

FVAP is an equal opportunity employer and is committed to maintaining a diverse staff and providing culturally responsive services. Individuals of all races, ethnicities, national origins, religions, ages, sexes, sexual orientations, and gender identities, as well as people with disabilities, survivors of domestic violence, candidates from traditionally underrepresented communities and historically

oppressed groups, multilingual and multicultural candidates, and those who are the first in their family to complete college or graduate school, are encouraged to apply.

Our Contact Information

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