



NEW COURT ORDER ALERT

New Supreme Court Order Removes Hurdles to Getting a Domestic Violence Restraining Order

In re Marriage of L.R. & K.A. (2021) 66 Cal.App.5th 130 (filed published July 27, 2021, D077533, ordered not to be published November 10, S271047)

How Could This New Order Help?

After the Court of Appeal opinion in *In re Marriage of L.R. & K.A.* was published on July 27, 2021, we heard that some trial courts used the opinion to deny requests for domestic violence restraining orders, and to say that abuse did not happen. At FVAP's request, on November 10, the California Supreme Court ordered that this opinion be "depublished," which means the opinion can no longer be used by any trial court to deny someone's restraining order request or to say abuse didn't happen. (The Court of Appeal opinion and Supreme Court order are attached.)

However, there was a three-and-a-half month period between July 27 and November 10, 2021, where trial courts could have used this opinion against survivors. If that happened to your client, they may be able to ask the trial court to make their decision again, without using the opinion from *In re Marriage of L.R. & K.A.* to decide whether there was abuse.

To ask the trial court to decide something again usually requires filing what is called a "post-trial motion." Examples include a motion for reconsideration or a motion for a new trial. There are different things that need to be proved for each type of post-trial motion, and they have different deadlines. FVAP's website has free resources on post-trial motions, including a video training and cheat sheets about some different kinds of post-trial motions. The password to access these resources on our website is FVAPtrainings6. (Attached are the post-trial motion sheets.)

Summary of the Case

In *In re Marriage of L.R. & K.A.*, the trial court granted Father a domestic violence restraining order against Mother for disturbing his peace by violating custody orders, taking the child outside of her professionally supervised time, and yelling at and recording Father during custody exchanges with police present. The Court of Appeal said the trial court got it wrong and removed Father's restraining order. In doing so, the Court of Appeal added two new hurdles for survivors to pass over to show abuse. First, the survivor would need to prove the abuser's actions were "unreasonable." Second, the survivor would have to show their reactions were "reasonable." Now, with the opinion "depublished," these hurdles for survivors to get protection no longer exist.

For questions, contact Family Violence Appellate Project at info@fvaplav.org or (510) 380-6243. Thank you!