

## 2018 AMICUS BRIEF SUMMARIES

### 1. **Jessica V. v. Douglas M.** (CA Court of Appeal), filed 1/3/18

#### *Domestic Violence*

Author: CWLC, Women's Law Center, Legal Services for Children, Legal Advocates for Children and Youth

The amicus brief addresses and supports two bases on which Appellant claims the decision of the family court below was erroneous when it terminated a DV restraining order issued by the juvenile court ("JVRO") and denied Appellant's request for a new restraining order ("DVRO"). The brief argues that the family court acted in excess of its jurisdiction and in violation of the children's due process rights when it terminated the JVRO, which the juvenile court had included in its custody order as a condition of terminating juvenile dependency proceedings. Family courts are required to treat such orders as final judgments not to be modified absent specific findings. The family court did this *sua sponte* and without making the findings required. Second, the brief argues that the family court abused its discretion by refusing to grant a new DVRO to protect Appellant and her children without any factual basis, despite multiple adjudications finding Appellee to be an abuser and new evidence that he initiated stalking behavior. The brief notes that these public safety issues have not yet been addressed in a published decision by the Court of Appeal.

### 2. **Ann Marie Legg, et al., v. Ulster County, et al.** (Second Circuit), filed 1/11/18

#### *Pregnancy Discrimination*

Author: ACLU, Center for WorkLife Law

The amicus brief argues that the court below acted contrary to the letter and spirit of the Pregnancy Discrimination Act (PDA) when it refused to shift the burden onto Appellee Ulster County to explain how exclusion of pregnancy from its light duty policy is necessary to its business. Instead, the court demanded that Appellant go further by proving that all or mostly all pregnant correctional officers need light duty to continue working. The amicus brief argues that this was an erroneous construction of the disparate impact doctrine, and that the court should only have measured the disparity of the impact here as to those workers in need of the benefit (not all pregnant workers). The brief emphasizes that the PDA was enacted to assure pregnancy does not force women out of the workforce or otherwise impose unequal burdens on them, and that the proper application of the disparate impact doctrine is essential to achieving this. It further argues that pregnancy poses distinct barriers to women in law enforcement, including corrections, warranting close inspection of neutral policies that disadvantage pregnant officers.

### 3. **Joel Doe et al., v. Boyertown Area School District, et al.** (Third Circuit), filed 1/23/18

#### *Transgender bathroom discrimination and Title IX*

Author: Women's Law Project

The amicus brief argues that the Court should affirm the district court's rejection of Appellant-students' argument that the Boyertown Area School District's policy permitting transgender students to use school bathroom and locker rooms aligning with their gender identity creates a hostile environment in violation of Title IX. The brief explains that the presence of transgender students in the locker room or

bathroom is not objectively offensive to reasonable individuals. The brief argues that Appellant-students' argument is based on an inaccurate understanding of "sex," and that gender identity is more important than biology-based sex. Further, it argues that Title IX defines discrimination "on the basis of sex" broadly to include a prohibition on sex stereotyping, and that Title IX requires the School District to continue its current policy because the alternative would discriminate against transgender students by denying them use of facilities in accordance with their gender identity.

**4. Rybolt v. Riley (CA Court of Appeal), filed 1/31/18**

*Domestic Violence*

Author: FVAP

The request for publication argues that this case should be published as important guidance to trial courts and the bar because (1) it provides instruction on how to weigh the "burdens" on the respondent when deciding to renew the petitioner's domestic violence restraining order (DVRO) in ways that are materially different from other published cases (it instructs trial courts to weigh the burden alleged in context, not merely as described by the respondent), and (2) it explains for the first time that using attendance at a child's extracurricular activities as a pretext for harassing, manipulating and controlling the other parent can be "abuse" under the DVPA.

**5. Tessa Farmer v. Kansas State University (Tenth Circuit), filed 2/9/18**

**6. Sara Weckhorst v. Kansas State University (Tenth Circuit), filed 2/9/18**

*Title IX and campus assault*

Author: National Women's Law Center

The amicus brief argues that the Court should affirm the district court's finding that Kansas State University (K-State), in violation of Title IX, was deliberately indifferent to known sexual harassment of two students who were raped at fraternity events. The brief clarifies that K-State's argument on appeal is a misreading of the Supreme Court's decision in *Davis v. Monroe County Board of Education*. K-State claims that the district court erred because the student-victims did not allege that the school's deliberate indifference to their rapes caused them to be harassed by their assailants again. The brief clarifies that this reading is specious and must be rejected. *Davis* does not require plaintiffs to prove anything apart from deliberate indifference to known peer harassment that creates a hostile educational environment. The victim-appellees sufficiently pled a hostile environment that K-State failed to remediate, in violation of their obligation under Title IX. The brief emphasizes the significant role Title IX plays in protecting students from being denied access to educational opportunities as a result of sexual violence.

**7. Harold Lampley and Rene Frost v. Missouri Commission on Human Rights (Missouri Supreme Court), filed 2/27/18**

*LGBTQ employment discrimination*

Author: ACLU, et al.

The amicus brief argues that this Court should hold that sexual orientation discrimination is sex discrimination under the Missouri Human Rights Act ("MHRA"). The appeal involves the Missouri

Commission on Human Rights' refusal to investigate Appellants' charges of sex discrimination solely because Appellant is gay. The amicus brief explains that Missouri courts routinely look to federal case law when interpreting language in the MHRA that is similar to federal law, such as the prohibition against discrimination "because of sex." History of the courts' interpretations of Title VII (federal law banning sex discrimination in the workplace) helps show that discrimination on the basis of sexual orientation is discrimination "because of sex," as employers who take sexual orientation into account necessarily take sex into account.

**8. Nat'l Institute of Family and Life Advocates, et al. v. Xavier Becerra, A.G., et al. (SCOTUS), filed 2/27/18**

*Women's Health*

Author: CWLC

The amicus brief was submitted to counter Petitioners' assertion that California does not have sufficient interest to require the notices that are mandated by the Freedom, Accountability, Comprehensive Care, and Transparency Act ("the FACT Act"). The FACT Act requires (a) pregnancy care centers that are licensed medical providers to post a notice that the State has public programs that can provide, at low or no cost, comprehensive family planning services including all FDA-approved methods of contraception, prenatal care and abortion, and (b) pregnancy centers that are not licensed as medical facilities to disclose that fact. The amicus brief emphasizes that pregnancy care centers target low-income women and women of color, who are most in need of truthful information about where to access low cost or free reproductive health care and family planning services. California has an interest that is sufficient to withstand any level of scrutiny in ensuring that women who have unplanned pregnancies know of these services, and further, that they know that CA provides immediate access to all FDA-approved methods of contraception. The brief emphasizes California's interest in publicly supported contraception and in reducing unplanned pregnancies, which can be dangerous to both the pregnant women and their babies. Lastly, the brief emphasizes that CA has an interest in insuring that women who visit pregnancy care centers that are unlicensed are notified that these centers are not licensed medical facilities, as this is not always clear.

**9. Ashley Sveen and Antone Sveen v. Kaye Melin (SCOTUS), filed 2/28/18**

*Economic Justice*

Author: Women's Law Project, American Association of University Women, et al.

The amicus brief argues that automatic revocation-on-divorce (ROD) statutes, like the Minnesota statute at issue here, disparately harm women, and when applied retroactively, violate the Contracts Clause. These statutes, which automatically revoke an ex-spouse's non-probate assets (including life insurance policies or IRAs) on divorce are facially gender neutral, but disproportionately harm women, who are less likely than men to hold sufficient assets for a stable retirement. Further, when applied retroactively, these statutes substantially impair a pre-existing contractual obligation. The brief argues that there is no significant and legitimate public purpose that justifies applying ROD statutes retroactively; they are based on an inaccurate, outmoded assumption that a divorced party would not want to maintain an ex-spouse as a beneficiary. It also argues that retroactively applying ROD statutes is neither a reasonable nor an appropriate means of effectuating a decedent's intent, and any marginal benefit is outweighed

overwhelmingly by the disparate harm ROD statutes cause to women. The amicus brief concludes that the Court should invalidate retroactive application of revocation-on-divorce statutes.

**10. B.A. v. Dallin H. (CA Court of Appeal), filed 2/28/18**

*Domestic Violence*

Author: FVAP

The request for publication argues that this case, if published, would provide needed guidance about the right to continuances under Section 245. This is important because many courts grant multiple continuances almost as a matter of course, even when there is no good cause, protracting litigation and causing substantial emotional, physical, and financial harm to survivors of abuse who are petitioning the court for protection. The request also argues that the case should be published because it would be the first published opinion to clarify how threats from unknown phone numbers or threats against a child, even years after the relationship ended, constitute "abuse" under the DVPA. "Separation assault" is common and this opinion could bring clarification to the issue.

**11. Laryssa Jock et al., v. Sterling Jewelers Inc. (Second Circuit), filed 3/14/18**

*Sex Discrimination and Class Action*

Author: National Women's Law Center

The amicus brief emphasizes the importance of class action litigation in enforcing Title VII's ban on sex discrimination. The brief argues that the district court's decision to vacate the arbitrator's class certification of approximately 70,000 women who are current and former employees of Sterling Jewelers should be reversed. It differentiates this case from *Oxford Health*, explaining that the possibility that class members will be aggrieved by a liability determination in these proceedings is remote because their rights are fully protected by the opt-out procedure the arbitrator authorized and the claims at issue are only for declaratory and injunctive relief. Further, litigating the claims individually in this case would be prohibitively costly, and the class-wide relief would be unavailable.

**12. Mark Horton v. Midwest Geriatric management, LLC (Eighth Circuit), filed 3/14/18**

*LGB discrimination and Title VII*

Author: ACLU

The amicus brief argues that this Court should hold that sexual orientation discrimination is sex discrimination prohibited by Title VII. It argues that since Title VII's enactment, courts have increasingly adopted an expansive interpretation of what constitutes discrimination "because of sex" and that Title VII protects all employees from sex discrimination, including lesbian, gay, and bisexual people. Discrimination because of sexual orientation is sex discrimination under the plain meaning of the term "sex" because it involves impermissible sex-role stereotyping. It is also associational discrimination. The brief also argues that this is an opportunity for the Court to correct the outdated interpretation of Title VII in *Williamson* (which stated that discrimination on the basis of sexual orientation is not sex-based discrimination), which is inconsistent with the Supreme Court's expansive interpretation of what constitutes discrimination "because of sex."

**13. Seeleevia Yousif v. Superior Court of the State of California (Supreme Court of CA), filed 3/26/18**

*Domestic Violence*

Author: CWLC

The amicus brief argues that the Court should grant the petition of review because courts routinely misapply the standard in California Family Code section 3044. Section 3044 creates a rebuttable presumption that awarding custody to the perpetrator of DV is not in the child's best interest. Section 3044(b) lays out seven factors that are all to be considered when making the determination of whether it is in the best interest of the child to rebut the presumption and award the abuser custody. Courts consistently misapply the presumption to the detriment of children of abusers. This review is an opportunity for the Court to provide much-needed guidance. The brief emphasizes that clarity on this subject is particularly important because many DV victims are not represented by attorneys and need guidance as to how to advocate for themselves to gain custody.

**14. Daisy B. Purcell v. Mark C. Purcell (CA Court of Appeal), filed 4/2/18**

*Domestic Violence*

Author: UC Davis Family Protection and Legal Assistance Clinic

The amicus brief supports an appeal by Daisy Purcell ("Daisy") that seeks to overturn the lower court's denial of a domestic violence restraining order ("DVRO"). The court refused to grant Daisy a DVRO despite the years of sexual, financial, and emotional abuse she suffered at the hand of her husband. The brief argues that the lower court's decision is based on a misunderstanding of the nature of DV and is rooted in the problematic history of legal refusal to recognize marital rape. Further, the brief argues that the court erred in its refusal to admit evidence of abuse that it thought was not included in the DVRO application because there are many valid reasons that an abused woman might not disclose all of the trauma she faced, and because of the difficulty navigating the DVRO application process. This amicus brief explains the nuances of DV and the reasons why an abused woman may not come forward with information.

**15. Nicole Ramser v. University of San Diego (Ninth Circuit), filed 4/30/18**

*Title IX Campus Assault*

Author: CWLC, Legal Voice, Women's Law Project, Gender Justice, Southwest Women's Law Center

The amicus brief argues that the court below erred in granting summary judgment in favor of University of San Diego (USD) on the issue of whether it was "deliberately indifferent" to Appellant's sexual assault because the court failed to take into account the record as a whole in making this determination. The court found that each of USD's failures on its own did not rise to the requisite level of indifference. The brief argues that these failures should have been reviewed as a whole and that USD's response was clearly unreasonable. The brief emphasizes that this case is indicative of the need for guidance regarding analysis of "deliberate indifference" in the Title IX context. It argues that the Court should find that the "deliberate indifference" question is a fact-intensive inquiry that requires consideration of the totality of the circumstances underlying a school's response to a complaint of sexual harassment and should generally be left to the jury.

**16. The People of the State of California v. Superior Court of the State of California (CA Court of Appeal), filed 5/11/18**

*Housing*

Author: CWLC

The amicus brief urges the Superior Court to grant the People's Petition for Writ Review and rule in the People's favor because the decision below incorrectly and unnecessarily creates instability and uncertainty for women and working families. The brief argues that the Superior Court's Order will incentivize landlords to convert existing housing, including rent stabilized housing, into vacation rentals because they can make a larger profit. The brief argues that in Los Angeles there is already a housing crisis that disproportionately impacts women and families, and that this decision will exacerbate the problem.

**17. The State of California et al., v. Alex M. Azar II et al. (Ninth Circuit), filed 5/29/18**

*Women's Health*

Author: CWLC, Center for Reproductive Rights, Lawyers' Committee for Civil Rights Under Law

The amicus brief argues that the Religious Exemption rule and Moral Exemption rule ("Rules") violate the Equal Protection guarantee of the Fifth Amendment. The Rules violate Equal Protection by imposing discriminatory burdens against those who exercise the fundamental constitutional right to procreative choice and against women. 1) They discriminate against employees and students who exercise their fundamental right to reproductive decision-making by using contraception 2) The Rules discriminate against women by singling out health care services predominantly used by women as a lesser form of care that employers and universities are free to exclude from comprehensive coverage. 3) The brunt of these constitutional violations will be borne by women of color, who are disproportionately low-income, and their families. People living at the intersection of multiple forms of oppression face cumulative and distinct harms. The brief argues for strict scrutiny to be applied or at least heightened scrutiny. Lastly, the rules are not sufficiently tailored to advance a compelling or important government interest, and in fact undermine the government's compelling interest.

**18. Commonwealth of Pennsylvania v. Kasey Rose Dischman (Superior Court of Pennsylvania), filed (6/4/18)**

*Women's Health*

Author: Women's Law Project

The amicus brief urges the court to affirm the ruling of the Court of Common Pleas which correctly held that the nonliability provision applies where a pregnant woman engages in conduct alleged to harm her own pregnancy. The brief argues there is no legal basis for prosecution of Plaintiff's for alleged conduct affecting her pregnancy. State legislature has specifically limited liability for allegedly unhealthy conduct. The language is plain and even if it were not, statutory construction supports affirming the ruling.

**19. Fischer v. Fischer (CA Court of Appeal), filed 6/12/18**

*Domestic Violence*

Author: FVAP

The amicus brief requests that the Court depublish the Court of Appeal's opinion because it creates a new, judge-made rule not written into statute. Furthermore, this new law is reflective of the four decades of legislative history surrounding passage and successive amendments of the Domestic Violence Prevention Act. The brief argues the opinion creates a mens rea requirement where none exists in statute, undermining the legislature's mandate to provide protection to domestic violence survivors, and secondly the opinion will have unintended and deleterious consequences for survivors of domestic violence.

**20. Seeleevia Yousif v. Omar Matti (CA Court of Appeal), filed 6/18/18**

*Domestic Violence*

Author: CWLC, National Housing Law Project, Public Law Center, San Diego Volunteer Lawyer Program

The amicus brief argues that the grant of custody to Respondent should be overturned because the Family Code section 3044 presumption was improperly rebutted. The brief asks the court to provide clear instructions for lower courts to follow when rebutting the section 3044 presumption, including (a) to consider all the factors listed in the statute, and (b) to do so without inserting additional irrelevant factors. The brief argues that misapplication of the rebuttable presumption in this way is damaging to the best interest of the children in such cases, who are vulnerable to further abuse if abusive parents are given custody. It further argues that because domestic violence victims are often unrepresented in such proceedings, consistent application of the section 3044(b) factors are essential if courts are to provide adequate legal protection for victims of abuse.

**21. Seeleevia Yousif v. Superior Court of San Deigo County (CA Court of Appeal), filed 6/18/18**

*Domestic Violence*

Author: Bet Tzedek

The amicus brief argues that the court should enforce the Family Code section 3044 presumption against awarding custody to abusers without considering comparative English language proficiency between the abuser and victim. The brief emphasizes that discrimination based on the ability to speak English is a form of national origin discrimination and argues against permitting illegal discrimination to factor in to the custody decision making process. The brief highlights similarly detrimental implications for guardianship proceedings under the Probate Code if such considerations are permitted.

**22. Katherine Moussouris, et al., v. Microsoft Corporation (Ninth Circuit), filed 7/26/18**

*Sex Discrimination and Class Action*

Author: Impact Fund, Equal Rights Advocates

The amicus brief emphasizes the importance of class action litigation in enforcing Title VII's ban on sex discrimination. The brief urges the Court to grant the petition for permission to appeal, as the District Court denied class certification by mistakenly applying a mechanical, mathematical standard to evaluate the anecdotal evidence and erroneously ignored substantial evidence illustrating the kind of biased decision-making challenged in the suit. The brief further argues that immediate review of the district

court's order is warranted to clarify the proper role of anecdotal evidence, and the District Court's erroneous analysis of anecdotal evidence will imperil efforts to combat systemic gender discrimination.

**23. Liu v. Lee (CA Court of Appeal), filed 8/6/18**

*Domestic Violence*

Author: FVAP

The amicus brief requests *Liu v. Lee* be published because (1) it would be the first published case to explain that a trial court abuses its discretion when it relies on speculative reasoning to make a credibility determination in denying a Domestic Violence Restraining Order ("DVRO") request; (2) there is only one published case reversing the denial of an initial DVRO on the basis that the trial court's ruling exceeded all bounds of reason, but that case is 15-years old and differs substantially from *Liu*; (3) it clarifies for the first time that harassing behavior as defined under Family Code section 6320, subdivision (a) does not require an "intent to harass"; and (4) as the protection of domestic violence survivors is an issue of utmost public importance, this case also advances a legal issue of continuing public interest. Accordingly, *Liu* meets at least five of the standards for publication.

**24. Jessica V. v. Douglas M. (CA Supreme Court), filed 9/12/18**

*Domestic Violence*

Author: CWLC

The amicus brief urges the Court to grant the Petition to clarify how a family court should evaluate whether to terminate the JVRO by confirming to family courts that juvenile court exit orders are entitled to deference and must not be altered absent strict compliance with the factual findings mandated by section 302(d). The brief argues that the Court should grant review because (1) stalking should be given serious judicial consideration in determining whether to issue a DVRO; (2) social science research shows that stalking behavior is a lethality indicator in intimate partner violence; (3) research shows that restraining orders are effective at preventing domestic violence; and (4) clarity is needed regarding the proper procedures for a family court to terminate a juvenile restraining order.

**25. Commonwealth of Massachusetts v. Department of Health & Human Services, et al. (First Circuit Court of Appeals), filed 9/21/18**

*Women's Health*

Author: Center for Reproductive Rights, Lawyers' Committee for Civil Rights Under Law, CWLC

The amicus brief argues that the Religious Exemption rule and Moral Exemption rule ("Rules") violate the Equal Protection guarantee of the Fifth Amendment. The Rules violate Equal Protection by imposing discriminatory burdens against those who exercise the fundamental constitutional right to procreative choice and against women. The Rules (1) discriminate against employees and students who exercise their fundamental right to reproductive decision-making by using contraception; (2) discriminate against women by singling out health care services predominantly used by women as a lesser form of care that employers and universities are free to exclude from comprehensive coverage; and (3) the brunt of these constitutional violations will be borne by women of color, who are disproportionately low-income, and their families. People living at the intersection of multiple forms of oppression face cumulative and



distinct harms. The brief further argues for strict scrutiny to be applied or at least heightened scrutiny. Furthermore, the Rules are not sufficiently tailored to advance a compelling or important government interest, and in fact undermine the government's compelling interest.

**26. G.(L.) v. B.(M.) (CA Court of Appeals), filed 9/24/18**

*Domestic Violence*

Author: FVAP, CWLC,

The amicus brief urges the Court to grant review because the decision breathed new life into the so-called “divorce proviso”—an exception to the absolute litigation privilege afforded by Civil Code section 47—which this Court likely viewed as “an unnecessary anachronism” back in 1990. The brief argues that review is warranted to prevent widespread harm to domestic violence victims who are in an abusive marriage; to prevent the imposition of different litigation privileges in different counties depending on the differing filing practices of superior court clerks; to correct a statutory interpretation that conflicts with this Court’s decision in *Silberg v. Anderson* and with decisions of every other panel of the Court of Appeal that has considered the issue. The brief argues that the decision of the Court of Appeal contradicts the purpose, intent, and legislative history of the divorce proviso by (a) the history and context of the divorce proviso favor construing that obsolete exception narrowly; and (b) depriving domestic violence victims of the absolute litigation privilege would weaken the DVPA and thwart its purposes.

**27. Good v. Iowa Department of Human Services (Supreme Court of Iowa), filed 9/27/2018**

*Sex Discrimination*

Author: Impact Fund, NWLC

Iowa District Court’s ruling that Iowa Administrative Code 441-78.1(4) does not violate the Iowa Civil Rights Act’s (“ICRA”) prohibition against sex discrimination relied almost entirely upon *Sommers v. Iowa Civil Rights Commission*. The brief argues that the Court should overturn *Sommers v. Iowa Civil Rights Commission* because (1) the cases upon which it relied are no longer good law; (2) after *Sommers*, the U.S. Supreme Court subsequently interpreted sex discrimination to prohibit discrimination based on sex stereotyping and gender nonconformity; (3) virtually all federal courts to consider the question have held that federal prohibitions on sex discrimination protect transgender people; (4) there is no need to parse between discrimination based on gender identity and that based on Sex; and (5) Price Waterhouse and Its progeny have led to greater protections for lesbian, gay, bisexual, and transgender people.

**28. Great Philadelphia Chamber of Commerce v. City of Philadelphia (Third Circuit), filed 9/28/18**

*Sex Discrimination/Employment*

Author: Women’s Law Project

The Philadelphia ordinance is a traditional employment law that makes employers’ reliance on a specific characteristic illegal, and then provides the means for the reliance provision’s meaningful enforcement. The amicus brief argues that the District Court’s choice to apply intermediate scrutiny is erroneous because the city’s Inquiry Provision regulates unprotected commercial speech related to the illegal activity of relying on wage history in making employment decisions, and the Court also erred in its

application of intermediate scrutiny to the inquiry provision because the city's ordinance directly advances its substantial interest in reducing pay discrimination. The brief argues that the District Court erred by rejecting Philadelphia's reasonable inferences based on solid evidence that establish how the Inquiry Provision directly advances the City's substantial interest in addressing discriminatory pay gaps. The brief asks the Court to reverse the District Court's decision on the Inquiry Provision and affirm the decision on the Reliance Provision.

**29. Kollaritsch v. Mich. State Univ. Bd. Of Trs. (Sixth Circuit), filed 10/8/18**

*Title IX Campus Sexual Assault*

Author: NWLC

The amicus brief argues that the District Court's decision should be affirmed as they correctly held that plaintiffs pled sufficient facts to state Title IX claims because MSU was deliberately indifferent to their reported sexual assaults and the resulting hostile educational environment that denied them educational opportunities. The brief argues that MSU's argument that it is not liable because plaintiffs did not suffer further assaults or harassment must be rejected, and as the District Court properly concluded, plaintiffs adequately pleaded a hostile educational environment that denied them the benefits of an education at MSU. The brief further argues that Title IX's requirement that schools address sexual harassment is essential to ensuring a safe learning environment free of sex discrimination.

**30. Marriage of Maria and Luis C. (CA Court of Appeal), filed 10/16/18**

*Domestic Violence*

Authors: FVAP

The amicus brief requests certification for publication of the opinion in *Marriage of Maria and Luis C.* The brief argues that this case should be certified for publication because (1) it would be the first published case clarifying the Trial Court's Section 6305 fact-finding duties; (2) it would clarify the circumstances under which the destruction of personal property may constitute abuse; (3) it would be only the second to apply the substantial-evidence standard in a mutual restraining order case, and the facts here are significantly different from those in the only other such published case; (4) it is the first to hold that a finding of domestic abuse constitutes a change of circumstances justifying review of a final custody order; and (5) domestic violence is a prevalent issue of continuing public interest, and this case contributes to the body of case law interpreting the DVPA while reinforcing the safeguard of deliberate decision-making.

**31. In re Bruno M. et al., (CA Court of Appeal), filed 10/30/18**

*Domestic Violence*

Author: FVAP

The amicus brief argues that *In re Bruno M. et al.* should be certified for publication because it makes three significant contributions to the current body of law regarding domestic violence generally, and juvenile-court-ordered restraining orders ("JVROs") in particular. The brief argues that the opinion addresses an issue of first impression by clarifying the definition of "disturbing the peace" under

Welfare and Institutions Code section 213.5.1. The brief argues it clarifies that a JVRO is warranted when an abusive parent makes a credible threat to take a child away from a non-abusive parent, applying the law to a unique set of facts not addressed by published case law. The brief further argues this case concerns the legal and psychological consequences of domestic violence—issues of continuing public interest—and it would aid courts in effectuating the legislature’s directives to protect children who repeatedly witness domestic abuse.

**32. Gordon v. United States (U.S. Court of Appeals), filed 10/31/18**

*Sex Discrimination/Employment*

Author: ACLU

The amicus brief urges the Court to grant rehearing en banc to correct its erroneous precedent interpreting the Equal Pay Act. The brief argues that the Petition for Rehearing ably demonstrates how *Yant*’s engrafting an extra requirement onto the prima facie case for an EPA violation contravenes the statute, the Supreme Court’s governing interpretation, and the positions of five other circuits. These flaws alone warrant rehearing en banc. The brief further argues that *Yant* is unclear and unmanageable and *Yant* erroneously raises the burden on Equal Pay Act plaintiffs.

**33. Ashley Judd v. Harvey Weinstein (Central District of CA), filed 12/17/18**

*Sexual Harassment*

Author: CWLC

The amicus brief urges the Court to deny Defendant’s Motion to Dismiss the Second Cause of Action of Plaintiff’s First Amendment Complaint. The brief argues that the Plaintiff and Defendant’s relationship falls within the scope of Civil Code section 51.9 in that it was an ongoing professional relationship, one not easily terminated; and the 2018 amendment to Civil Code section 51.9 clarifies the various relationships that section 51.9 encompasses, bolstering the Plaintiff’s claim. The brief argues the Defendant’s conduct was unwelcome and pervasive or severe, creating a hostile environment, and was therefore not a one-time act of harassment. The brief emphasizes that the public policy behind section 51.9 affirms applicability to the instances and acts of sexual harassment alleged against the Defendant in this matter.