

2016 AMICUS BRIEFS SUMMARY

1. Zubik v. Burwell (U.S. Supreme Court) filed 2/16/16

Reproductive rights

Author: National Women's Law Center (NWLC)

The amicus brief supported affirmance of the appellate court's decision that the accommodations at issue did not violate the Religious Freedom Restoration Act (RFRA). The case was brought by religious non-profits and schools that challenged the Affordable Care Act's (ACA) accommodation offered to employers that object to complying with the ACA's birth control mandate. The accommodation allows the insurance company to step in and provide the coverage directly to their employees. The employers argued the act of filing the form required to set this shift in action violated their religious freedom under the RFRA. Eight of nine circuit courts to consider the issue found that the accommodation did not violate the RFRA.

2. Doe v. University of Southern California (CA Supreme Court) dated 5/31/16

Campus sexual assault

Author: California Women's Law Center

CWLC authored a letter in support of the grant of a petition for review to the California Supreme Court as to the appropriate standard to be applied in Title IX campus sexual assault investigations at private universities. In its opinion, the California Court of Appeal overturned the disciplinary sanctions that USC had imposed on John Doe for his involvement in a sexual assault. The Court of Appeal held that USC had violated Doe's rights, but left uncertainty because the Court failed to harmonize its ruling with standing Title IX administrative guidance.

3. EEOC v. Scott Medical Center (W.D. Penn.) filed 6/10/16

4. Christiansen v. OmniCom (Second Circuit) filed 6/28/16

5. Hively v. Ivy Tech Community College (Seventh Circuit) filed 8/25/16

Sexual orientation employment discrimination

Author: ACLU

The amicus filed in each of the above cases makes the same legal argument, that discrimination because of sexual orientation should be considered discrimination based on "sex" under Title VII, the federal employment discrimination statute.

6. De la Luz Perez v. Torres-Hernandez (CA Court of Appeal) filed 6/29/16

Domestic violence and child abuse

Author: Family Violence Appellate Project (FVAP)

CWLC signed on to this Request for Publication of a California Court of Appeal decision at the request of the Family Violence Appellate Project (FVAP). The request argues that the opinion should be published because it provides substantial guidance to trial courts on Domestic Violence Prevention Act (DVPA) restraining order cases that involve allegations of child abuse.

7. Phillips v. Campbell (CA Court of Appeal) filed 7/8/16

Dating violence

Author: FVAP

CWLC signed onto this Request for Publication of a California Court of Appeal decision at the request of the Family Violence Appellate Project (FVAP). The request argues that the opinion should be published because it provides substantial guidance on what constitutes a “dating relationship” under the Domestic Violence Prevention Act (DVPA).

8. Neal v. Colorado State University (District of Colorado) filed 7/19/16

Campus sexual assault

Author: Equal Rights Advocates

This amicus brief supports the school’s motion to dismiss the complaint. The motion to dismiss argues that the 2011 Dear Colleague Letter that sets guidelines for schools handling campus sexual assault or harassment complaints under Title IX, was a violation of the Administrative Procedures Act (APA). The amicus brief argues that the Dear Colleague Letter is an interpretive rule and therefore is not subject to the APA’s notice and comment requirements.

9. Jameson v. Desta (CA Supreme Court) filed 7/27/16

Domestic violence/women in poverty

Author: FVAP

This brief argued to overturn the lower court’s decision holding that Government Code section 68086(b) did not mandate that the trial court provide indigent litigants with a court reporter services if no official court reporter is provided. The amici argued that victims of domestic violence are particularly vulnerable because appeals from trial court decisions are heavily fact specific and transcripts from the trial court level are necessary to ensure accuracy and justice on appeal.

10. University of California v. John Doe (CA Court of Appeal) filed 8/2/16

Campus sexual assault/sexual violence

Author: CWLC, CCADV, NAESD

CWLC filed this brief as amici together with the California Coalition Against Domestic Violence (CCADV) and the National Alliance to End Sexual Violence (NAESD) in support of reversing the trial court's decision to vacate UCSD's suspension of John Doe for sexual assault. The amicus brief was narrowly focused on arguing that post-assault sexual contact has no relevance to whether the victim consented to the activity that occurred during the assault.

11. Ellis v. Lyons (CA Court of Appeal) filed 8/3/16

Domestic violence

Author: FVAP

At the request of FVAP, CWLC signed on as amici to request publication of the portion of the opinion of the Court of Appeal applying the rebuttable presumption against granting custody to a domestic abuser. This case would be the first to discuss what effect California courts should give to a finding of domestic violence made by another state's court when applying the rebuttable presumption.

12. KGO Television v. Superior Court (CA Court of Appeal) filed 8/29/16

13. Castro-Ramirez v. Dependable Highway Express, Inc. (CA Supreme Court) dated 10/27/16

Disability discrimination in workplace

Author: LAS-ELC (now Legal Aid at Work)

Both briefs argue that disability discrimination protections in housing and employment under California law should also apply to those perceived to have a disability or those associated with a person who has a disability, such as a caretaker. The *Castro-Ramirez* brief asks the Supreme Court to deny review of the Court of Appeal's decision holding the same.

14. Erotic Service Provider Legal, et al. v. George Gascon et al. (Ninth Circuit) filed 10/7/16

LGBTQ discrimination and prostitution

Author: ACLU

This brief addresses how prostitution and lewdness offenses have been, and continue to be, discriminatorily enforced against women and those who are gender non-conforming. The brief asked the court to take this discrimination into consideration in determining whether to leave intact a person's ability to move to dismiss their criminal charge and bring as-applied discrimination challenges to Cal. Penal Code 647(b) and other laws commonly used to prosecute people for prostitution-related activity.

15. Tuscaloosa v. Hicks (Eleventh Circuit) filed 10/14/16

Pregnancy discrimination in workplace

Author: ACLU

This brief argues for the appellate court to uphold the finding of pregnancy discrimination due to the employer's failure to implement breastfeeding accommodations in the plaintiff's workplace under the Pregnancy Discrimination Act and the Family Medical Leave Act.

16. In re M.G. (CA Court of Appeal) dated 11/9/16

Domestic violence

Author: FVAP

Amici, at the request of FVAP, supported a Request for Publication of the Court of Appeal's opinion because the appellate court had considered the father's abusive reaction to his son's sexual identity in affirming the trial court's judgment and because the appellate court cited abuse against the mother as a reason to support dependency jurisdiction.

17. In re Marriage of Fregoso (CA Court of Appeal) dated 11/10/16

Domestic violence

Author: FVAP

Amici, at the request of FVAP, supported a Request for Publication of the California Court of Appeal decision clarifying that the testimony of one witness, which could be the DV survivor herself, is enough evidence to support a finding of abuse for a Domestic Violence Restraining Order (DVRO). The Court of Appeal also clarified that evidence of gifts and sex did not undermine the issuance of the DVRO, as they were part of the parties' repeated cycle of violence.

18. Ramirez v. Mercado (CA Court of Appeal) filed 11/14/16

Domestic violence/child custody

Author: FVAP

The amicus brief, drafted by FVAP, supports appeal of a grant of joint custody to a parent who had been found to have perpetrated domestic violence against the other parent. The brief focuses on the history and reasoning behind the rebuttal factors in Family Code section 3044, and the inherent dangers of joint custody to survivors of abuse and their children if joint custody is granted without properly applying those rebuttal factors.