

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT, DIVISION FOUR

CHRISTOPHER E. U.,

Petitioner-Appellant,

vs.

PARRIS C. J.,

Respondent.

Court of Appeal No. B313470

Los Angeles County Superior  
Court Case No. 19STFL13412

Appeal from the Superior Court of Los Angeles County  
Hon. Mark Juhas, Judge

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**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE*  
BRIEF and *AMICI CURIAE* BRIEF IN SUPPORT OF  
RESPONDENT; PROPOSED ORDER**

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**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF**

Pursuant to California Rule of Court 8.200(c), *amici curiae*, the Domestic Violence Legal Empowerment and Appeals Project (DV LEAP), Stopping Domestic Violence (SDV), California Protective Parents Association (CPPA), Center for Domestic Peace (CDP), Sanctuary for Families (SFF), The National Family Violence Law Center at George Washington University Law School (NFVLC), The Law Foundation of Silicon Valley (The Law Foundation), California Women’s Law Center (CWLC), Community Overcoming Relationship Abuse (CORA), Los Angeles Center for Law and Justice (LACLJ), and Women Lawyers Association of Los Angeles (WLALA), hereby apply for permission to file the attached *Amici Curiae* Brief.

***DV LEAP.*** DV LEAP is a project of Network for Victim Recovery of DC, whose local and national advocacy on behalf of crime victims spans acute response through litigation. Adding to this broad spectrum of critical services, DV LEAP makes the law work for domestic violence survivors through appellate advocacy, technical training, and policy initiatives. It is the sole national appellate program in the United States providing survivors pro bono representation and advocacy to fight unjust trial outcomes and protect their rights. DV LEAP’s *amicus* briefs in state and federal courts,

including numerous briefs filed in the United States Supreme Court, advance judicial understanding of the law's significant implications for domestic violence litigants.

Coercive control has been a frequent focus of DV LEAP's amicus efforts, particularly considering the dearth of statutory protections that directly address its insidious harm. California leads as one of only a handful of jurisdictions to codify coercive control as a form of a domestic violence; the case below provides critical guidance on the law's proper application to effectively protect survivors as California's legislature intended. DV LEAP's interest in this proceeding is to assist the Court's understanding and application of recent amendments to the Domestic Violence Protection Act (Fam. Code, § 6220 *et seq.*).

**SDV.** With the overall goal of promoting non-abusive behavior in today's world, SDV is a California-based domestic violence victim service organization that provides free, no-cost, wide-ranging services (including shelter, transportation, health care, education, food, clothing, advice, support, guidance, technology, and communication) to all affected by domestic violence.

**CPPA.** CPPA is a 501(c)(3) non-profit organization established in 1998 and is headquartered in Oakland. CPPA's mission is to protect children from incest and family violence through research, education,

and advocacy. The prevalence and impact of domestic violence on children cannot be understated considering the number of children who have been murdered at the hands of a violent parent. CPPA supports efforts to clarify and strengthen protections for victims of domestic violence and believes publication of this case would enhance these protections.

**CDP.** CDP in San Rafael California, mobilizes individuals and communities to create safety, justice, and equality, transforming our world so domestic violence no longer exists. Toward that end, CDP provides a comprehensive approach to supporting the needs of those impacted by domestic violence. From CDP's experience of working with over 6,000 individuals a year, CDP knows that coercive control is a tactic employed by many abusers and must be recognized as equally debilitating as physical abuse. Proving safety and protection for domestic violence victims requires a comprehensive understanding and recognition of the full continuum of tactics used by an abuser to maintain control.

**SFF.** SFF is New York's leading service provider and advocate for survivors of domestic violence, sex trafficking and related forms of gender violence.



**NFVLC.** NFVLC serves as the preeminent home for national research and expert support for the growing movement to better protect children in contested custody cases. It provides pioneering quantitative and qualitative research, training and education, state and federal policy development, and selective litigation.

**The Law Foundation.** The Law Foundation advances the rights of underrepresented individuals and families in our diverse community through legal services, strategic advocacy, and educational outreach. The Law Foundation, Santa Clara County's largest legal services provider, has served people with mental health disabilities, children, individuals in housing crises, and a variety of other residents in its 40 years of existence. Specifically, in its Legal Advocates for Children and Youth program, The Law Foundation offer direct legal services to children and young adult survivors of domestic violence through a client-centered, holistic legal practice that honors the voices of its clients.

**CWLC.** CWLC was founded in 1989 as the first law center in California dedicated solely to addressing the comprehensive and unique legal needs of women and girls. Its mission is to create a more just and equitable society by breaking down barriers and advancing the potential of women and girls through transformative litigation,

policy advocacy, and education. CWLC's work prioritizes the needs of low-income women and families and focuses on four broad areas: Title IX and gender discrimination in schools, women's health and access to reproductive care, violence against women including sexual assault and domestic violence, and women's economic security.

**CORA.** CORA is the only agency in San Mateo County solely dedicated to helping individuals affected by intimate partner violence. CORA provides free and confidential services to victims and survivors of domestic/dating violence and abuse. CORA's services include a 24-hour hotline, support groups, legal services, emergency and transitional housing, and more. CORA believes that abuse is taking power and control over someone else's life. Everyone has the right to make her or his own choices and decisions. We may not always agree with or understand these decisions, but we must respect them. CORA's support of survivors of domestic violence is unconditional and non-judgmental. In this light, CORA is dedicated to helping survivors help themselves. Consistent with these beliefs, CORA works toward social change through community education and support.

**LACLJ.** LACLJ is a Los Angeles-based nonprofit law firm with a mission to secure justice for survivors of domestic violence, sexual assault, and human trafficking and empower them to create their own

futures. LACLJ provides free legal services, including representation and other extensive services to survivors throughout Los Angeles County. LACLJ represents survivors in family and immigration court, files humanitarian and other forms of immigration relief, advocates for survivors in the criminal justice system, and takes appeals when appropriate. Through LACLJ's integrated service model, LACLJ also provides supportive services such as education, safety planning, accompaniment, and linkages to other service providers as a part of the legal team. Despite the addition of coercive control to the DVPA, courts have routinely ignored this more subtle but just as egregious abuse. Additional case law will provide the courts much needed guidance to recognize these forms of abuse.

**WLALA.** WLALA is a nonprofit organization comprised primarily of lawyers and judges in Los Angeles County. Founded in 1919, WLALA is dedicated to promoting the full participation in the legal profession of women lawyers and judges from diverse perspectives and racial and ethnic backgrounds, maintaining the integrity of our legal system by advocating principles of fairness and equality and improving the status of women by supporting their exercise of equal rights, equal representation, and reproductive choice. WLALA has participated as *amicus curiae* in cases involving the

unequal treatment of women before the California Courts of Appeal and Supreme Court, and the federal district courts, Courts of Appeals and U.S. Supreme Court. WLALA believes that bar associations have a special obligation to protect the core guarantees of our Constitution to secure equal rights for women and girls.

***Amici's Position.*** Counsel for *Amici* have carefully reviewed the briefing before this Court. They are familiar with the arguments presented by the parties. This brief does not repeat the parties' submissions. It presents *Amici's* own perspectives that are of relevance to this case. *Amici* believes the attached brief will assist the Court in deciding this case by providing important information of relevance to the issues before the Court.

***Amici Disclosure Statement.*** Pursuant to Rule 8.200(c)(3), *Amici* state that no party or counsel for a party has authored the proposed *Amici Curiae* brief in whole or in part. Further, no party or counsel for a party has made any monetary contribution to fund the preparation or submission of the *Amici Curiae* brief.

Accordingly, *Amici* respectfully ask that the Court accept and file the attached brief.

Dated: June 2, 2023

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Pejman Moshfegh

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Domestic Violence Legal  
Empowerment and Appeals Project,  
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Foundation of Silicon Valley,  
California Women's Law Center,  
Community Overcoming  
Relationship Abuse, Los Angeles  
Center for Law and Justice, and  
Women Lawyers Association of Los  
Angeles

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**[PROPOSED] ORDER**

GOOD CAUSE APPEARING, the application for leave to file an *amici* brief on behalf of the various amici listed in the application is granted.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Presiding Justice

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**AMICI CURIAE BRIEF IN SUPPORT OF RESPONDENT  
INTRODUCTION AND SUMMARY OF ARGUMENT**

**INTRODUCTION**

*Amici* respectfully ask this Court to affirm the decision of the trial court, including the five-year domestic violence restraining order (DVRO) it issued pursuant to the Domestic Violence Prevention Act (DVPA) (Fam. Code, § 6220 *et seq.*).<sup>1</sup>

The trial court correctly issued the DVRO after finding that Appellant’s pattern of conduct constituted actionable abuse under the several forms of enjoinable “abuse” identified in the DVPA. These include: harassment; disturbing the peace of another; and coercive control. (See § 6320.) The record amply supports each finding. This brief, however, focuses on the recently codified “coercive control” definition.

While coercive control has been studied for decades and recognized by California courts as a form of abuse, this appeal presents the first opportunity for an appellate court to interpret and apply that concept, which was added to the DPVA in 2020. The statute defines “coercive control” as: “a pattern of behavior that in

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<sup>1</sup> All statutory citations refer to the Family Code.

purpose or effect unreasonably interferes with a person’s free will and personal liberty.” (§ 6320(c).) In crafting this definition, the legislature provided five *non-exhaustive* examples of behavior that meets the definition of “coercive control.” (*Id.*, subd. (c)(1) [isolating a victim from sources of support]; (c)(2) [depriving a victim of basic necessities]; (c)(3) [controlling or monitoring a victim’s movements, communications, or finances]; (c)(4) [compelling a victim to engage in conduct or abstain from conduct]; and (c)(5) [reproductive coercion].)

This brief demonstrates that the plain language of the coercive control statute and its legislative history establish that the Legislature intended courts to broadly interpret and apply the definition to achieve the DVPA’s stated purposes: preventing domestic abuse (in all forms) and providing the necessary separation from the abuser so the victim may seek help.

Broad application of the coercive control definition is further supported by persuasive research showing how this form of domestic abuse has besieged and victimized more than 50 million persons.<sup>2</sup>

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<sup>2</sup> Leemis R.W., Friar N., Khatiwada S., Chen M.S., Kresnow M., Smith S.G., Caslin, S., & Basile, K.C. (2022). *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, p. 25; available at:



The trial court correctly decided that Appellant abused Respondent through his pattern of coercive behavior including, among other things, isolating her from friends, relatives, and other sources of support; controlling and monitoring her movements, communications, and finances; and maintaining a life insurance policy naming Appellant as beneficiary. This Court should reject Appellant’s attempt at narrowing the scope of statutory protection that the Legislature deliberately crafted in broad fashion.

## ARGUMENT

### **I. The 2020 Amendments to the DVPA Codify Protections for Victims of Domestic Abuse and Continue the Regime of Broad Protection for Victims.**

The breadth and scope of the DVPA’s definition of “coercive control” is well-illustrated by examining the limitations that Appellant erroneously seeks to impose. In contesting the trial court’s coercive control findings against him, Appellant excavates into an early Senate Committee analysis of Senate Bill (SB) 1141—a precursor to what the Legislature eventually codified as § 6320. Appellant argues that the Legislature built into the definition of “coercive control”—without using any express language—several “limitations” borrowed from tort law

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[https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV\\_2022.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV_2022.pdf) (last accessed June 1, 2023).

that would restrict protection. These include: “a mental state, objective unreasonableness, causation, foreseeable harm, actual harm.” (AOB, p. 39.) Appellant’s arguments fail for several reasons.

*First*, Appellant ignores that, from its inception, the arc of the DVPA has widened to become *more protective* of those persons targeted by the kinds of abuse covered by the statute. Throughout its history, the DVPA has never included, and does not now include, the “limitations” Appellant proposes.

*Second*, Appellant’s arguments are defeated by the unambiguous language of § 6320. The codified definition provides a clear, readily understandable standard for courts to apply and includes none of the “limitations” mentioned in the materials Appellant cites.

*Third*, Appellant’s arguments misread SB 1141’s legislative history and ignore that the Legislature’s successive revisions clearly rejected the elements of tort law that Appellant would have this Court superimpose.

**A. The Enactment of DVPA in 1979 was Intended to Empower and Protect Survivors of Domestic Abuse.**

The Legislature enacted the DVPA in 1979 in response to a lengthy, 1978 report of the Advisory Commission on Family Law. The report detailed shortcomings in existing laws addressing domestic

abuse. *Oriola v. Thaler* (2000) 84 Cal.App.4th 397, 405. Among these, the Advisory Commission found, “[g]iven the many problems that interfere with the execution and enforcement of protective orders, it is not surprising that a widely held attitude among attorneys, law enforcement officers and batterers is protective orders are not worth the paper they are printed on.” *Oriola*, 84 Cal.App.4th at 405 (quoting Advisory Com. on Family Law, First Report to Sen. Subcom. on Admin. of J. (Oct. 23, 1978) p. 10.)

The 1979 version of the DVPA Act sought to remedy these shortcomings by adding to the Family Code “elaborate provisions” that would give teeth to the law and empower victims of domestic abuse. *Oriola*, 84 Cal.App.4th at 405–406. The Legislature further codified the DVPA’s purpose: to protect against “acts of domestic violence, abuse, and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.” (Fam. Code, § 6220.)

Since the DVPA’s enactment, the courts have repeatedly confirmed that the statute’s “protective purpose is broad both in its stated intent and its breadth of persons protected.” *Caldwell v. Coppola* (1990) 219 Cal.App.3d 859, 863; *In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1498 (“[T]he Legislature intended that the DVPA

be broadly construed in order to accomplish the purpose of the DVPA.”) Moreover, when courts have unduly narrowed the DVPA’s reach, the Legislature has swiftly responded with statutory amendments to confirm and underscore the statute’s breadth.

For example, in *Oriola*, the Court interpreted a “dating relationship”—a precondition for a DVPA restraining order—more narrowly as a “serious courtship:”

[A] social relationship between two individuals who have or have had a reciprocally amorous and increasingly exclusive interest in one another, and shared expectation of the growth of that mutual interest, that has endured for such a length of time and stimulated such frequent interactions that the relationship cannot be deemed to have been casual.

*Oriola*, 84 Cal.App.4th at 412. Based on that definition, the Court determined that the plaintiff was not entitled to a restraining order because a “dating relationship” had not existed. *Id.*

The Legislature stepped in to reject this narrowed interpretation of a “dating relationship.” The “*Oriola* decision resulted in the fact that anyone who was involved in a dating relationship short of ‘serious courtship’ [was] excluded from the protections of California’s excellent Domestic Violence Prevention Act.” *Phillips v. Campbell* (2016) 2 Cal.App.5th 844, 849 (quoting Senate Judiciary

Committee analysis of Assembly Bill No. 362.) In enacting into law Assembly Bill 362, in 2001, the Legislature nullified *Oriola's* definition and replaced it with a broader one. (*See*, § 6210.)

Just as the Legislature has repudiated judicial decisions that unduly narrow the protections against domestic abuse, it has codified judicial interpretations with which it agrees. Before the 2020 amendment to the DVPA, Courts of Appeal had recognized that certain types of conduct could be enjoined. *See, e.g., Rodriguez v. Menjivar* (2015) 243 Cal.App.4th 816, 821–22 [finding “acts of isolation, control, and threats were sufficient to demonstrate the destruction of [the survivor]’s mental and emotional calm” supporting the issuance of a DVRO]; *N.T. v. H.T.* (2019) 34 Cal.App.5th 595, 602–603 [“The trial court erred in ruling that evidence of mental abuse and controlling behavior was not relevant to DVRO analysis. [Citation]”]; *McCord v. Smith* (2020) 51 Cal.App.5th 358, 365–66 [“The trial court’s findings that [abuser’s] statements and actions were a means of exercising control and dominion over [survivor] and threatening her . . . were sufficient to constitute a disturbance of her peace”].

When § 6320 was amended in 2020 to define “coercive control,” the Legislature was to some extent codifying and following a path marked by prior California precedent.

**B. The Statutory Definition of “Coercive Control” Provides a Clear, Unambiguous Standard to Evaluate Abusive Conduct under the DVPA.**

The limitations that Appellant seeks to impose on the definition of “coercive control” are inconsistent with the unambiguous language of the statutory definition. When the text of a statute is clear, courts should stop there and apply the language. *J.A. Jones Construction Co. v. Superior Court* (1994) 27 Cal.App.4th 1568, 1575 (“Courts should start ... with the actual language of the statute, and if the text is clear as applied to a given case, and it does not fall into any of the exceptions, stop there.”); *Burquet v. Brumbaugh* (2014) 223 Cal.App.4th 1140, 1145 (Looking to the plain language of the statute, courts must “presume the lawmakers meant what they said.”); *In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1497 (“If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs.”)

Section 6320(c) unambiguously states that “coercive control” is (1) a pattern of behavior that, (2) unreasonably interferes (in purpose or effect) with (3) a person’s free will or personal liberty. The Legislature underscored the breadth of this definition by including a

*non-exhaustive* list of five examples of behavior that constitutes coercive control:

- 1) Isolating the other party from friends, relatives, or other sources of support.
- 2) Depriving the other party of basic necessities.
- 3) Controlling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services.
- 4) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.
- 5) Engaging in reproductive coercion, which consists of control over the reproductive autonomy of another through force, threat of force, or intimidation, and may include, but is not limited to, unreasonably pressuring the other party to become pregnant, deliberately interfering with contraception use or access to reproductive health information, or using coercive tactics to control, or attempt to control, pregnancy outcomes.

“If the Legislature has provided an express definition of a term, that meaning is binding on the courts.” *O’Kane v. Irvine* (1996) 47 Cal.App.4th 207, 211; *Delaney v. Superior Court* (1990) 50 Cal.3d 785, 804 (“It is bedrock law that if ‘the law-maker gives us an express definition, we must take it as we find it.’”). These definitions leave no

room for the restrictions that the Appellant seeks to add to the concept of coercive control.

**C. Appellant Mischaracterizes the Legislature’s Intent Regarding the Requirements for Establishing “Coercive Control.”**

While resort to legislative history is unnecessary given the clarity of the statutory language at issue, the history leaves no question that the trial court properly applied the DVPA.

Appellant mistakenly argues that SB 1141’s legislative history—the bill that eventually codified “coercive control”—demonstrates that the Legislature limited the scope of coercive control by adopting tort law restrictions as part of the coercive control definition. (AOB, pp. 38-39.) Appellant cites a May 6, 2020, Judiciary Committee Report, which suggests that a person’s conduct constitutes coercive control only if it meets several tort law requirements:

- the defendant intentionally, or with reckless disregard of the consequences, engaged in a pattern of behavior that interferes with the will of the victim;
- the defendant intended to cause the victim severe emotional distress, or a reasonable person would know that



the conduct would be likely to cause the victim severe emotional distress;

- the victim suffered severe emotional distress; and
- the defendant’s conduct was not reasonable under the circumstances.

(AOB, pp. 39-40, citing Sen. Judiciary Comm., Analysis of Sen. Bill 1141, May 6, 2020, p.7.) Appellant cites the same analysis and makes the same argument in his reply brief. (See Appellant’s Reply Brief at pp. 21-22.)

The legislative history belies Appellant’s argument. It is a well-recognized “principle of statutory construction that when the Legislature has carefully employed a term in one place and has excluded it in another, it should not be implied where excluded.” *Suman v. BMW of North America, Inc.* (1994) 23 Cal.App.4th 1, 10–11 (internal quotation and citation omitted). Under the DVPA, the Legislature has done just that, limiting the roles of the “intent” and “reckless disregard” in defining coercive control.

Thus, as to the first of the four general categories of “abuse” described under § 6203(a), the Legislature included, “[t]o *intentionally* or *recklessly* cause or attempt to cause bodily injury.” (Emphasis

added). The Legislature could have—*but did not*—incorporate similar language as part of the definition of “coercive control” under § 6320. Under the rules of statutory construction, the scienter requirements of intent and reckless disregard may not be read into parts of the statutory scheme where the Legislature left them out.

Appellant further errs by omitting from his brief the point that the requirements mentioned in the Senate Judiciary Committee relate to an early amendment to SB 1141 that the Legislature discarded.

Thus, on May 6, 2020, an amendment to the SB 1141 added to a newly proposed § 6204 each of the tort elements cited by Appellant.

(See,

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1141)

920200SB1141.) Toggling the “Version” to “05/06/20 – Amended

Senate” displays the Senate-amended version of the bill, which shows

the following language in blue text under what would have been a

newly-created § 6204(a):

A person’s conduct constitutes coercive control if the person intentionally, or with reckless disregard of the consequences, engages in a pattern of behavior that interferes with the will of the victim with the intent to cause the victim severe emotional distress or that a reasonable person would know would be likely to cause the victim severe emotional distress, the victim does suffer severe emotional distress, and the person’s conduct is not reasonable under the circumstances.

However, the Legislature subsequently dropped this language in response to stakeholder concerns that “*limiting the bill’s application to unreasonable, intentional, or reckless conduct is insufficient to protect victims of coercive control.*” Senate Judiciary Committee analysis (hearing date, May 22, 2020),

[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB1141](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB1141). *Id.* at p. 8 (emphasis added). On July 27, 2020, the Legislature struck § 6204 in its entirety, and created a revised definition of “coercive control” under § 6320. (See,

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB1141](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1141).<sup>3</sup>) The key provisions of the July 27, 2020 amendment to § 6320—which omit the tort elements discussed in Appellant’s briefs—is what the Legislature ultimately adopted as the definition of coercive control.

This history shows that the Legislature considered and affirmatively rejected a scienter requirement under § 6320. *See e.g., Nick v. Department of Alcoholic Beverage Control* (2014) 233 Cal.App.4th 194, 205–206 (holding a statutory amendment to delete

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<sup>3</sup> Toggling the “Version” to “07/27/20 – Amended Assembly” displays the Assembly-amended version, which shows § 6204 stricken *in its entirety* with red strike-through, and an amended § 6320(c) shown in blue text.

the Department of Alcohol Beverage Control’s obligation to make a “public convenience or necessity determination” established the Legislature’s intent to eliminate the Department’s obligation to make such a finding); *see also*, *City of Irvine v. Southern California Assn. of Governments* (2009) 175 Cal.App.4th 506, 522 (“[u]nder the rules governing statutory construction, when the Legislature enacts an amendment, we presume it indicates that it thereby intended to change the original act by creating a new right or withdrawing an existing one.”)

Any doubt that the Legislature intended that the courts broadly apply the “coercive control” definition is put to rest by legislative materials published after the Legislature struck the entirety of § 6204. The Senate Floor Analysis prepared on August 30, 2020 notes that the Legislature set forth criteria in the eventually enacted statute for “disturbing the peace of others and coercive control”; it did so to make “clear that *judges should broadly recognize* instances of disturbing the peace of others as what it is—domestic violence that can be prevented through issuance of a protective order.” (Senate Floor Analysis, August 30, 2020, p.6 (emphasis added); available at: [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB1141](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB1141).) The Senate Floor Analysis further notes that the

eventually enacted legislation “sets forth a *non-exhaustive list of examples of coercive control that should help courts recognize coercive control* when hearing [] cases and *in no way limit what a court may consider* coercive control to just these instances.” *Id.* (emphasis added). Counter to Appellant’s argument that the 2020 amendments imposed “limitations,” the whole of the legislative history shows the Legislature intended for the courts to broadly interpret “coercive control.”

Lastly, the codified definition of coercive control includes a “purpose or effect” standard that is incompatible with adopting the tort law requirements Appellant advocates. “Coercive control” is defined as a “pattern of behavior” that in “purpose” or “effect” “unreasonably interferes with a person’s free will and personal liberty.” (§ 6320(c).) Accordingly, a person found to have engaged in a pattern of behavior that has the “effect” of interfering with another person’s free will or personal liberty would meet the statutory requirements without any showing of their intent or “purpose.”

For all these reasons, Appellant’s arguments that the Legislature sought to impose tort requirements through its codification of “coercive control” is wrong, misleading, and exactly the opposite of what the Legislature sought. Indeed, the amendments

further “the Legislature’s goal of reducing domestic violence and its recognition that ‘[i]t is virtually impossible for a statute to anticipate every circumstance or need of the persons whom it may be intended to protect. Therefore, the courts must be entrusted with the authority to issue necessary orders suited to individual circumstances, with adequate assurances that both sides of the dispute will have an opportunity to be heard before the court.’ [Citation.]” (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1498.)

**II. SB 1141’s Amendments to the DVPA Respond to the Reality That Coercive Control is a Pervasive, Highly Dangerous Form of Domestic Abuse.**

In broadly defining “coercive control,” the Legislature addressed a dangerous problem that is well-documented in the academic literature. But “[e]ven when state statutes are well-written and recognize the realities of domestic violence, it is very important for judges who preside over orders of protection to understand these realities to see the ‘wrecking ball in motion.’”<sup>4</sup> Over the last several decades, research has

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<sup>4</sup> See, Stark & Choplin, *Seeing the Wrecking Ball in Motion: Ex Parte Protection Orders and the Realities of Domestic Violence* (2017) 32 Wis. J. L. Gender, & Soc’y 13, 28; available at: <https://repository.law.uic.edu/facpubs/671/> (last accessed June 1, 2023) (noting that judges “need to understand the cycle of violence, the likely escalation of abuse, and the use of multiple forms of abuse to coercively control the Target of Abuse, causing that person to become highly dependent on the Abusive Partner.”)

clearly established the danger—including increased lethality risks—of coercive controlling abuse.<sup>5</sup>

**A. Coercive Control is a Pervasive Form of Domestic Abuse Based on Power Imbalance.**

More than 40 percent of people experience at least one form of coercive control in their lifetime.<sup>6</sup> The Centers for Disease Control and Prevention’s (CDC) Report on Intimate Partner Violence estimates that more than 50 million persons are victimized by coercive control during their lifetimes.<sup>7</sup> “Coercive control” is a widely-recognized form of domestic violence that “refers to a systematic pattern of behavior that establishes dominance over another person through intimidation,

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<sup>5</sup> Myhill, A. and Hohl, K. (2016). The “Golden Thread”: Coercive Control and Risk Assessment for Domestic Violence, *Journal of Interpersonal Violence*, pp. 15-16.

<sup>6</sup> Facts about Domestic Violence and Psychological Abuse; available at: [https://assets.speakcdn.com/assets/2497/domestic\\_violence\\_and\\_psychological\\_abuse\\_ncadv.pdf](https://assets.speakcdn.com/assets/2497/domestic_violence_and_psychological_abuse_ncadv.pdf) (last accessed June 1, 2023.)

<sup>7</sup> Leemis R.W., Friar N., Khatiwada S., Chen M.S., Kresnow M., Smith S.G., Caslin, S., & Basile, K.C. (2022). *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, p. 25; available at: [https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV\\_2022.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV_2022.pdf) (last accessed June 1, 2023.)

isolation, and [other methods].”<sup>8</sup> A power imbalance between the abuser and abused is a key factor in coercive control.

Coercion “attempts to rob an individual of liberty in vulnerable domains [and] the perpetrator does not allow for negotiation or resistance.”<sup>9</sup> The tools of control can take many forms, all aimed at destroying the sense of identity, agency, and self-worth. “Through systematic restrictions on freedom and independence, individuals experiencing coercive control are often isolated from friends, family, or other support systems; entrapped within the relationship due to financial, logistical, social, or emotional barriers to escaping; and fearful for not only their own safety but that of family members and other people in their network.”<sup>10</sup>

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<sup>8</sup> Dichter et al., *Coercive Control in Intimate Partner Violence: Relationship with Women’s Experience of Violence, Use of Violence, and Danger* (2018) 8 *Psychol. Violence* 596, 597; available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/pmc6291212/> (last accessed June 1, 2023.)

<sup>9</sup> Kaplenko et al., *Relationships Between Shame, Restrictiveness, Authoritativeness, and Coercive Control in Men Mandated to a Domestic Violence Offenders Program* (2018) vol. 33, No. 2, *Violence and Victims* 296.

<sup>10</sup> Dichter et al., *Coercive Control in Intimate Partner Violence: Relationship with Women’s Experience of Violence, Use of Violence, and Danger* (2018) 8 *Psychol. Violence* 596, 597, citations omitted; available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/pmc6291212/> (last accessed June 1, 2023); see generally, Evan Stark, *Coercive Control: The Entrapment of Women in Personal Life* (2007); Samantha



Coercive control may but often does not include physical violence. Despite lacking physical violence as a hallmark, a survivor’s experience of coercive control puts them at the highest risk of physical harm and death from their abuser. (Dichter, figure 2). Indeed, lethality risk assessment tools used by law enforcement as part of the Lethality Assessment Program (LAP) in 32 states include questions about the perpetrator’s use of control and isolation.<sup>11</sup>

**B. Abusers Use Varied Tactics to Control Victims.**

Coercive control includes a wide range of behaviors. Common tactics include monitoring, isolation, financial deprivation, threats, and emotional abuse. Destroying a person’s sense of self-worth by verbally degrading them—a subset of emotional abuse—is another common form of coercive control.<sup>12</sup> The most recent data from the CDC on women’s

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Jeffries, *In the Best Interests of the Abuser: Coercive Control, Child Custody Proceedings and the “Expert” Assessments That Guide Judicial Determinations*, 5 *Laws* 1 (2016); see also, National Domestic Violence Hotline; available at: <https://www.thehotline.org/resources/types-of-abuse/> (last accessed June 1, 2023.)

<sup>11</sup> See National Sexual Violence Resource Center, <https://www.nsvrc.org/sarts/toolkit/5-7> (last accessed June 1, 2023.)

<sup>12</sup> Barnett A., (Dec. 2017). ‘*Greater than the mere sum of its parts*’: *coercive control and the question of proof*, *Child and Family Law Quarterly*, p. 3 (“Abusers may degrade, humiliate and shame women to establish their moral superiority, by, for example, swearing at them, ordering them around, putting them down, enforcing rules and

lifetime experience of coercive controlling behavior by an intimate partner shows: demanding to know their location and activities (28.6%), making decisions that they should have made for themselves (26.2%), destroying cherished property (25.4%), isolating them from family or friends (21.0%), and not allowing them to have their own money (13%).<sup>13</sup>

Manipulating access to financial resources is often integral to an abuser’s campaign of coercive control. Financial abuse “seeks to control a person’s ability to acquire, use, or maintain economic resources, and threatens their self-sufficiency and financial autonomy.<sup>14</sup> Following the United Kingdom’s codification of coercive control as a crime in 2015, the statutory guidance on implementation of the new law expressly included financial abuse as a “feature of controlling or coercive behavior” and directs that “[a]n assessment of the power dynamics in

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activities which humiliate or dehumanise the victim, or through visible marking.”)

<sup>13</sup> Leemis R.W., Friar N., Khatiwada S., Chen M.S., Kresnow M., Smith S.G., Caslin, S., & Basile, K.C. (2022). *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, p. 6; available at: [https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV\\_2022.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV_2022.pdf) (last accessed June 1, 2023.)

<sup>14</sup> *Financial Abuse Fact Sheet*, National Network to End Domestic Violence (July 2019); available at: <https://nnedv.org/resources-library/financial-abuse-fact-sheet/> (last accessed June 1, 2023.)

a relationship should consider the control and access to finances as this can be a feature of controlling or coercive behaviour.”<sup>15</sup> Some form of financial abuse occurs in more than 99% of domestic violence cases and can include: “harassing a partner at work; controlling how money is spent; withholding money or basic living resources; giving a partner an ‘allowance’; stealing money, credit, property, or identity from a partner; and/or forcing a partner to ... overspend on credit cards.”<sup>16</sup>

The record below illustrates the many ways Appellant used his money to control Respondent. Most notably, Appellant weaponized payment for the parties’ wedding expenses and the North Carolina apartment (8RT.2783–2784.) Respondent also described Petitioner pressuring her to lease a more expensive car than she was comfortable paying for; insisting that she open new credit cards with him as an authorized user, then using them and creating substantial debt; and

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<sup>15</sup> Surviving Economic Abuse (June 2017). *Coercive or Controlling Behavior: How It Relates to Economic Abuse*.

<sup>16</sup> *Financial Abuse Fact Sheet*, National Network to End Domestic Violence (July 2019); available at: <https://nnedv.org/resources-library/financial-abuse-fact-sheet/> (last accessed June 1, 2023); see also, *Financial Abuse Is Domestic Violence*, Forbes. (Jul. 2021); available at: <https://www.forbes.com/sites/patriciafersch/2022/07/21/financial-abuse-is-domestic-violence/?sh=67dee60482f1> (last accessed June 1, 2023.)

berating her when she asked to be reimbursed for expenses she paid on his behalf. And, after establishing Respondent in an apartment that he paid for, located across the country from Respondent's home and family (4RT.1687–1689), Appellant sent a disparaging letter to Respondent's employer, while subject to a restraining order, that could have served no purpose other than to get Respondent terminated. (2RT.1058–63; Ex.225.) Had he succeeded, it would have further limited Respondent's ability to achieve financial independence from him.<sup>17</sup>

Technology has become an increasingly powerful tool for coercive control, referred to in the research as “Digital Coercive Control” or “Technology-Assisted Coercive Control.”<sup>18</sup> In response to the unique and pervasive risks technology poses for survivors, the National Network to End Domestic Violence created The Safety Net Project, which provides

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<sup>17</sup> “The Legislature clearly contemplated financial independence is a paramount concern for domestic violence victims.” (*In re Marriage of J.Q. & T.B.* (2014) 223 Cal.App.4th 687, 703.)

<sup>18</sup> Bridget A Harris, Delanie Woodlock, Digital Coercive Control: Insights From Two Landmark Domestic Violence Studies, *The British Journal of Criminology*, Volume 59, Issue 3 (May 2019), pp. 530–550; available at: <https://doi.org/10.1093/bjc/azy052> (last accessed June 1, 2023); Molly Dragiewicz, Jean Burgess, Ariadna Matamoros-Fernández, Michael Salter, Nicolas P. Suzor, Delanie Woodlock & Bridget Harris (2018) Technology facilitated coercive control: domestic violence and the competing roles of digital media platforms, *Feminist Media Studies*, 18:4, pp. 609-625; available at: [10.1080/14680777.2018.1447341](https://doi.org/10.1080/14680777.2018.1447341) (last accessed June 1, 2023.)

training and technical assistance to law enforcement and survivor services agencies on the intersection of technology and domestic and sexual violence.<sup>19</sup> “The spaceless feature of technology, the heavy presence of technology in women’s lives and surveillance practices create a sense of the perpetrator’s ‘omnipotence and omnipresence’ [citation].”<sup>20</sup> In particular, “mobile phones are being used by male perpetrators as a tool for coercive control within domestic abuse. . . . Perpetrators use or used mobile phones creatively to isolate their partners from family and friends. . . . general monitoring and control of the women’s access to and use of mobile phones, whom they could speak to, when, and for how long was most common.”<sup>21</sup>

The record demonstrates how Appellant leveraged technology to control Respondent. After accusing Respondent of cheating,

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<sup>19</sup> See National Network to End Domestic Violence, The Safety Net Project; available at: <https://nnedv.org/content/technology-safety/> (last accessed June 1, 2023.)

<sup>20</sup> Harris & Woodlock, *Digital Coercive Control: Insights from Two Landmark Domestic Violence Studies* (2019) 59:3 British J. Criminology 530, 538; available at: <https://doi.org/10.1093/bjc/azy052> (last accessed June 1, 2023.)

<sup>21</sup> See Havard & Lefevre, *Beyond the Power and Control Wheel: How Abusive Men Manipulate Mobile Phone Technologies to Facilitate Coercive Control* (2020) 4:2 J. of Gender-Based Violence, pp. 223–239; available at: <https://doi.org/10.1332/239868020X15850131608789> (last accessed June 1, 2023.)

Appellant repeatedly threatened, pressured, and/or offered to pay her expenses to access to her private text messages (8RT.2785; Respondent’s Declaration, pp. 550-554; 6RT.2276–2277; 2RT.970, 972–977.) Appellant’s behavior illustrates how, in the case of cell phone surveillance, abusers exploit expectations of trust in the relationship to influence a survivor’s decision to turn over private messages.<sup>22</sup> Appellant also took Respondent’s laptop, then taunted her with the information he had obtained about her mental health treatment. (2RT.1067–1069; Ex.213, p.3; Ex.212, p.2; Ex.211, p.16.) Beyond the profound invasion of privacy and resulting vulnerability and feelings of powerlessness, technology-facilitated abuse poses significant safety risks to survivors, enabling domestic abusers to “micro-regulate

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<sup>22</sup> See Hand, Chung, & Peters. *The Use of Information and Communication Technologies to Coerce and Control in Domestic Violence and Following Separation* (2009), Australian Domestic & Family Violence Clearinghouse, p. 4; available at: <https://ipvtechbib.randhome.io/pdf/Hand2009TheUO.pdf> (“where a woman hesitates to ‘volunteer’ the phone for checking, the notion of ‘trust in relationships’ is employed to undermine the woman’s decision. In this situation, a woman is often told that she ‘must have something to hide’; that is, that she cannot be trusted [(citation)]. The woman is not viewed as having any right to privacy. This has the effect of making her the ‘difficult one’ in the couple. This form of coercive control over a women causes anxiety and can promote a woman’s self blame that she is not more accommodating in the relationship.”) (Last accessed June 1, 2023.)

women’s everyday behaviour (in private and public places) and restrict their access to supports, via spaceless means.” (*Ibid.*)<sup>23</sup>

Finally, intimidation is a recognized core pillar of coercive control.<sup>24</sup> Its primary components include surveillance, threats, and degradation. The latter, degradation, is a specific form of emotional abuse. “Emotional abuse can include verbal assault, dominance, control, isolation, ridicule, or the use of intimate knowledge for degradation.”<sup>25</sup> Studies on coercive control as a predictor of future violence identify emotional abuse as a risk factor.<sup>26</sup>

Appellant’s use of threats (“I will show no remorse and cut through u like a hot butter through knife u have no fucking idea, who

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<sup>23</sup> The total annual cost of domestic violence to the United States economy in 2015 dollars was estimated at \$8.9 billion. See, *Financial Abuse Fact Sheet*, National Network to End Domestic Violence (July 2019): available at: <https://nnedv.org/resources-library/financial-abuse-fact-sheet/> (last accessed June 1, 2023.) Approximately \$6.3 billion of this total was for medical and mental health services. (*Ibid.*)

<sup>24</sup> Barnett A., (Dec. 2017). ‘*Greater than the mere sum of its parts*’: *coercive control and the question of proof*, *Child and Family Law Quarterly*.

<sup>25</sup> Karakurt, Günnur, PhD, Silver, Kristin E., BA, *Emotional Abuse in Intimate Relationships: The Role of Gender and Age*, *Violence and Victims*, Vol 28 Issue 5 (Jan 2013); available at: 10.1891/0886-6708.VV-D-12-00041 (last accessed June 1, 2023.)

<sup>26</sup> The Validation of the Checklist of Controlling Behaviors (CCB): Assessing Coercive Control in Abusive Relationships, *Violence Against Women* 18(8), pp. 913–933.

the fuck do you think you talking to????” (2RT.934; Ex.202) and surveillance, *supra*) are well established in the record. Even more so are his degrading and dehumanizing verbal attacks on Respondent. The lower court noted the sheer volume of Appellant’s verbal abuse, which permeated their relationship and was another means for him “to keep [Respondent] off balance and maintain control.” (8RT.2785.)

### CONCLUSION

In line with the growing body of research regarding the pervasiveness and significant harms caused by coercive control, this Court should broadly apply the statutory definition of coercive control, consistent with the Legislature’s clear intent, and affirm.

Dated: June 2, 2023

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By:  /s/ Pejman Moshfegh  
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Stopping Domestic Violence,  
California Protective Parents  
Association, Center for Domestic  
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National Family Violence Law  
Center at George Washington  
University Law School, the Law  
Foundation of Silicon Valley,



California Women's Law Center,  
Community Overcoming  
Relationship Abuse, Los Angeles  
Center for Law and Justice, and  
Women Lawyers Association of Los  
Angeles

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## CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court, rule 8.204(c), I certify that the attached brief is proportionately spaced, is set in Century Schoolbook font, has a typeface of 13 points or more, pages are consecutively numbered and contains 5,275 words.

By: /s/ Pejman Moshfegh  
Pejman Moshfegh  
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California Women's Law Center,  
Community Overcoming  
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Women Lawyers Association of Los  
Angeles

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## CERTIFICATE OF SERVICE

I hereby declare I am a resident of the State of California. I am over the age of eighteen years and not a party to the within action; my business address is Morgan, Lewis & Bockius LLP, One Market Street, Spear Tower, San Francisco, California.

On June 2, 2023, I served on the interested parties in this action the within document entitled:

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF and  
*AMICI CURIAE* BRIEF IN SUPPORT OF RESPONDENT

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FAMILY VIOLENCE  
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Hon. Mark Juhas  
Los Angeles County Superior Court  
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Los Angeles, CA 90012

I declare under penalty of perjury, under the laws of the United States of America and the State of California, that the above is true and correct. Executed on June 2, 2023, at San Francisco, California.

By:  /s/ Pejman Moshfegh  
Pejman Moshfegh

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