

Foster Garvey's Summer Associate Project with Family Violence Appellate Project

Pro Bono Highlight
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Contact

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[Angelo Marchesini](#) (Associate, Seattle) led a team of attorneys and summer associates in drafting an amicus brief in connection with the [Family Violence Appellate Project](#) (FVAP). After joining Foster Garvey and immediately following a clerkship, Angelo reached out to various attorneys in the Litigation group to find ways in which he could continue his involvement in appellate work. He quickly connected with [Adrian Urquhart Winder](#) (Principal, Seattle), who has a wealth of experience working with FVAP and quickly became a mentor to Angelo.

Once Angelo learned about FVAP's appellate work for survivors of domestic violence, he knew that supporting this area would both continue to sharpen his appellate skills and, more importantly, provide an opportunity to fight for those whose voices have been silenced in abusive situations.

The first case Angelo worked on with FVAP involved a survivor whose previous partner had a history of domestic violence. Although the trial court took that history into account when deciding to grant a domestic violence protection order (DVPO) and limit the abusive partner's time with their children, the abusive partner appealed and argued, among other issues, that the trial court should be reversed because of the lack of a *recent* history of domestic violence. This argument was shocking because the client already had three separate protection orders entered against the abusive partner in the past, and a review of such a history was a required statutory consideration. Fortunately, the Court of Appeals upheld the trial court's order against these arguments, recognizing the history of domestic violence supported the trial court's order. This led Angelo to become even more interested in expanding his knowledge of appellate advocacy to advocate against the types of arguments

advanced by the abusive partner in that case.

Months later, Angelo was thrilled to have another opportunity to work with FVAP on an amicus brief in partnership with two of their non-profit partners and subject-matter experts, the [National Family Violence Law Center](#) and the [Domestic Violence Legal Empowerment and Appeals Project](#). Angelo partnered with Adrian to oversee a group of three summer associates (Graham Fulton, Mackenzie Kinsella and Sam Miller) in taking part in this unique opportunity. Adrian took the lead in finalizing the work the summer associates put together and refining the arguments for the final brief, and [Julia Doherty](#) (Associate, Seattle) assisted with proofreading and cite-checking the brief. Angelo notes that drafting an amicus brief is a rare experience to develop arguments that weave in both policy and the law. Throughout this process, Angelo and the summer associates were able to view and make arguments about and consider the subject matter comprehensively.

Working with the summer associates, Angelo was able to learn about domestic violence topics he had less exposure to, including parental alienation and abusive use of conflict, and the problems these concepts can present. In the underlying case, a survivor sought a DVPO while a custody hearing for the child she shared with her former partner was ongoing. The issue the amicus brief addressed was the lower court's denial of the DVPO, in part, because that court credited the abusive parent's argument that the DVPO was filed solely as a tactic to alienate the child from the alleged abuser for the survivor to obtain custody of the child. Unfortunately, this type of argument is often used in situations of abuse to improperly discredit domestic violence survivors. Rather than focusing on protecting the child, the lower court gave credence to the claim of parental alienation in light of the ongoing custody issues. This concept, however, has been debunked in many academic journals.

When the team first began reviewing the record, the first task was to figure out which of many potential issues to focus on. Guided by Angelo, the summer associates split up and divided work based on separate legal issues that might impact the case, including connections to the relevant Washington DVPO statutes, the related legislative history, as well as the history of the parental alienation concept and its various uses. The team dug into the record and unpacked the arguments, showing how parental alienation was improperly given credence in this case. From there, the group developed more specific lines of argument for the brief. The summer associates then had the opportunity to present to the pro bono partners, outline sections of the brief and draft the section of the brief for their respective issues.

Angelo thought the summer associates did a fantastic job of putting together their sections, which can often be a difficult process when multiple individuals come together to draft a cohesive document. Angelo was also grateful for the help of the nonprofit partners as issue experts who could distill down elements of the lower court's decision and the Washington statutes based on their national context and research. Adrian worked to refine the arguments even further into a final brief for filing. Unfortunately, the Court of Appeals rejected the

challenge to the DVPOs.

Despite the Court of Appeals' decision, Angelo genuinely enjoyed the challenge of leading a bigger team of summer associates and managing expectations and communications between the Foster Garvey team and the outside pro bono partners. He noted that the summer associates had the wonderful opportunity to be creative with their arguments and to chase down their ideas, even if some of those arguments did not make it into the final product. Working with the summer associates on these issues proved to be incredibly rewarding for Angelo, and despite the result, the summer associates continue to be motivated to further an important public policy cause that will hopefully have a profound impact on individual survivors of abuse. Angelo noted that the kinds of experiences an attorney is exposed to in pro bono work like this are unparalleled.

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