

WASHINGTON STATE COALITION



AGAINST DOMESTIC VIOLENCE

April 30, 2013

Ronald Carpenter
Clerk of the Court
Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Attn: Denise Foster

Re: Proposed Comment to RPC 4.4 Respect for Rights of Third Persons

Dear Mr. Carpenter:

Thank you for the opportunity to provide comments on proposed RPC 4.4, relating to Respect for the Rights of Third Persons. The Washington State Coalition Against Domestic Violence (WSCADV) submits these comments recommending the approval of proposed comment to RPC 4.4 to clarify that an attorney's assertion or inquiry into a third person's immigration status to intimidate, coerce, or obstruct that person from participating in a civil matter may violate the Rules of Professional Conduct

As you may be aware, WSCADV is a private non-profit membership organization comprised over seventy domestic violence shelter and advocacy organizations in Washington State committed to ending domestic violence. Our experience of providing advocacy to victims of domestic violence has made clear to us that the proposed comment addresses a serious barrier facing abuse survivors in accessing justice in Washington State. WSCADV is particularly interested in how this proposed comment may impact domestic violence survivors, in particular those who are involved in protracted or contentious litigation with their abusive partners. Advocates at our member programs across the state ***regularly*** report that the domestic violence survivors with whom they work are being threatened and intimidated with reports to Immigration authorities by their abusive ex-partners, as well as by their attorneys.

Domestic violence abusers use numerous methods to maintain power and control over their victims. When battered women seek to leave an abusive relationship, batterers often continue to harass and control their partner by using any tool available, including using

litigation and the court process. Abusers may try to enlist the assistance of civil legal authorities in their campaigns of coercive intimidation, and will contact Child Protective Services, Immigration and Customs Enforcement, or will repeatedly bring their abused partners back to court. In cases involving immigrant survivors, abusers often use *immigration status* as a tool of control.¹

The threat of immigration enforcement is one of the most significant barriers facing immigrant survivors of domestic violence in accessing help from abuse. In enacting the federal Violence Against Women Act (“VAWA”), included in the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, Title IV, 108 Stat. 1902-55, Congress recognized that the use of immigration status as a means of abuse and control should be addressed, and created mechanisms to assist abused immigrants in accessing safety. These protections, as well as protections in our state civil court system must be accessible for victims and their children to escape abuse.

The proposed comment appropriately recognizes that the use of, or threatened use of immigration enforcement to gain an advantage in a civil legal matter is a deterrent to access to justice. The proposed comment also correctly recognizes both threats to report to immigration authorities, as well as the actual reporting of immigration status for enforcement as forms of intimidation.

In order to strengthen the proposed comment, we would also ask that it include language that clarifies that an attorney should not encourage another, or participate in the threatening of, or reporting of an individual to Immigration authorities, so that someone could obtain an advantage in a civil matter.

We hope this information has been useful and will be carefully considered by the Supreme Court. If you have any further questions you can contact me. Thank you for your consideration of our comments.

Sincerely,
WASHINGTON STATE COALITION
AGAINST DOMESTIC VIOLENCE



GRACE HUANG
Public Policy Program Coordinator

¹ A study of service needs of more than 400 undocumented women in the San Francisco area found that a primary reason victims of domestic violence failed to seek help included their abusers' refusal to help them regularize their immigration status. Chris Hogeland and Karen Rosen, *Dreams Lost, Dreams Found: Undocumented Women in the Land of Opportunity* (1991).