

ABA Commission on Domestic Violence Quarterly E-Newsletter

Volume 1

October 2005

Practice Tips for Attorneys Representing Victims of Domestic Violence and Trafficking by Charles Song, Esq. and Robin Thompson, Esq.

1. Be aware that Survivors of domestic violence may also be Survivors of trafficking.
2. Ensure the safety of Survivors, their families, yourself, and your staff.
3. Clearly establish attorney-client relationship and who is the boss.
4. Make the time to thoroughly discuss civil litigation with Survivors, in particular, the possibility of losing, discovery, and trial.
5. If necessary, carefully screen and use interpreters and translators.
6. Be aware of the risk of Survivors being removed from the United States.
7. Law enforcement support is not necessary to apply for and be granted a T visa.
8. Be aware of Survivors' criminal liability and Fifth Amendment rights.
9. Protect Survivors' civil claims against the relevant federal and state statutes of limitations.
10. Co-counsel or refer to other attorneys if appropriate to ensure Survivors have competent representation for all their legal needs.
11. Work closely with social service professionals as enforcing their legal rights can be extremely traumatic for Survivors.
12. Protect Survivors involved in criminal and civil litigation by, among other things, using pseudonyms, maintaining confidentiality of sensitive information, and filing discovery protective orders.
13. Be aware of the actual or potential impact Survivors' numerous legal matters may have on each other.
14. Claiming intentional and negligent infliction of emotional distress may waive Survivors' psychotherapist privilege and provide traffickers and/or their attorneys access to Survivors' counseling and case management records.
15. Where applicable, carefully review traffickers' insurance policies to determine whether insurance companies may also be liable for Survivors' injuries.

This E-Newsletter is provided as a public service by the ABA Commission on Domestic Violence. All materials contained in this E-Newsletter, should not be construed as legal information, legal advice, legal representation, or any form of endorsement or recommendation. Unless specifically stated as policy of the ABA Commission on Domestic Violence, this information has not been approved by the House of Delegates or Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.