

No. 61831-8

**IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I**

Indigo Real Estate Services,

Plaintiff/Respondent,

v.

Ashlee Rousey,

Defendant/Appellant.

**BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES
UNION, AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON, NORTHWEST WOMEN'S LAW CENTER,
FAMILY VIOLENCE PREVENTION FUND, LEGAL
MOMENTUM, NATIONAL COALITION AGAINST DOMESTIC
VIOLENCE, NATIONAL HOUSING LAW PROJECT, NATIONAL
LAW CENTER ON HOMELESSNESS & POVERTY, SARGENT
SHRIVER NATIONAL CENTER ON POVERTY LAW, AND
SEXUAL VIOLENCE LAW CENTER IN SUPPORT OF
APPELLANT ASHLEE ROUSEY**

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TABLE OF CONTENTS

I. INTRODUCTION	1
II. IDENTITIES AND INTEREST OF AMICI CURIAE	1
III. STATEMENT OF THE CASE.....	2
IV. ARGUMENT.....	3
A. The Superior Court erred in failing to recognize that GR 15(c)(2)(F) authorizes redaction of court records when privacy or safety concerns are compelling.....	3
B. Preserving housing opportunities for domestic violence survivors and preventing abuse are compelling circumstances that justify redaction of court records pursuant to GR 15(c)(2)(F).....	6
1. Preventing the homelessness of domestic violence survivors and their families is a privacy and safety concern that is compelling.....	6
a. Domestic violence is a principal cause of women’s and children’s homelessness.....	7
b. Congress and many states have recognized the important public interest in promoting housing for domestic violence survivors.	11
2. Ensuring housing opportunities for domestic violence survivors and preventing abuse are “overriding interests” that justify redaction of unlawful detainer case records involving domestic violence pursuant to GR 15(c)(2)(F).13	
a. Washington’s guarantee of housing rights for domestic violence survivors would be thwarted if redaction is not authorized.....	14
b. Injury to Washington’s public policy preventing further violence and holding abusers accountable would result if redaction is not allowed.....	18
V. CONCLUSION.....	20
APPENDIX	

TABLE OF AUTHORITIES

Cases and Litigation Documents

<i>Alvera v. CBM Group</i> , HUD ALJ 10-99-0538-8 (Apr. 16, 2001).....	13
<i>Bouley v. Young-Sabourin</i> , 394 F. Supp. 2d 675 (D. Vt. 2005)	13
<i>Danny v. Laidlaw</i> , ___ Wn.2d __; 193 P.3d 128 (2008)	14, 15
<i>Dreiling v. Jain</i> , 151 Wn.2d 900, 93 P.3d 861 (2004).....	4, 7
<i>Grape v. Town/Village of E. Rochester, NY</i> , Am. Compl., 07 Civ. 6075 (W.D.N.Y. 2007)	20
<i>In Re Marriage of R.E.</i> , 144 Wn. App. 393, 183 P.3d 339 (2008) ...	5, 6, 14
<i>Rufer v. Abbott Labs.</i> , 154 Wn.2d 530, 114 P.3d 1182 (2005).....	4, 5
<i>Seattle Times Co. v. Ishikawa</i> , 97 Wn.2d 30, 640 P.2d 716 (1982)	4
<i>State v. McEnry</i> , 124 Wn. App. 918, 103 P.3d 857 (2004)	16
<i>Winsor v. Regency Prop. Mgmt.</i> , No. 94CV2349 (Wis. Cir. Ct. Oct. 2, 1995)	13

Washington Constitution, Statutes and Legislative Materials

Const. art. I, § 35.....	18
Laws of 2004, ch. 17	15
RCW 7.69.010	18
RCW 10.99.010	18
RCW 40.24.010	14
RCW 59.18.575	15
RCW 59.18.580	15-17

Other Statutes

Ariz. Rev. Stat. Ann. § 33-1318.....	13
Cal. Civ. Code § 1946.7.....	13
Colo. Rev. Stat. § 38-12-402	13
D.C. Code §§ 2-1401.01-.02.....	12
D.C. Code § 42-3505.07	13
Del. Code Ann. tit. 25 § 5314(b)(6).....	13
765 Ill. Comp. Stat. 750/15.....	13
Ind. Code Ann. § 32-31-9-8.....	12
Ind. Code Ann. § 32-31-9-12.....	13
N.C. Gen. Stat. § 42-42.2.....	12
N.C. Gen. Stat. § 42-45.1	13
N.Y. Real Prop. § 227-c.....	13
Or. Rev. Stat. § 90.449.....	12
Or. Rev. Stat. § 90.453.....	13
R.I. Gen. Laws §§ 34-37-1 through -4.....	13

Tex. Prop. Code Ann. § 92.016	13
18 U.S.C. § 2265(d)(3)	12
42 U.S.C. § 11383(a)(8).....	12
42 U.S.C. § 13925.....	12
42 U.S.C. § 13951.....	12
42 U.S.C. § 14043e(3)	9
Violence Against Women Act and Dep’t of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, §§ 606, 607 (2006).....	11
Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 40241 (1994).....	11
Wis. Stat. § 704.16.....	13

Rules

GR 15(c).....	1-6, 14, 16, 20
---------------	-----------------

Other Authorities

1985 Op. Att’y Gen. N.Y. 45, Formal Op. No. 85-F15 (Nov. 22, 1985) .	13
Anti-Discrimination Ctr. of Metro NY, <i>Adding Insult to Injury: Housing Discrimination Against Survivors of Domestic Violence</i> (2005).....	9
Callie Marie Rennison & Sarah Welchans, U.S. Dep’t of Justice, <i>Intimate Partner Violence</i> (2000)	10
Cindy Southworth et al., <i>A High-Tech Twist on Abuse: Technology, Intimate Partner Stalking, and Advocacy</i> (2005)	19
Comm. to End Homelessness in King County, <i>A Roof Over Every Bed in King County: Our Community’s Ten-Year Plan to End Homelessness</i> (2005).....	10, 11
Ctr. for Impact Research, <i>Pathways to and from Homelessness: Women and Children in Chicago Shelters</i> (2004)	8
Equal Rights Ctr., <i>No Vacancy: Housing Discrimination Against Survivors of Domestic Violence in the District of Columbia</i> (2008)	8
Jake Fawcett et al., <i>Now That We Know: Findings and Recommendations from the Washington State Domestic Violence Fatality Review</i> (2008)...	10
Joan Zorza, <i>Woman Battering: A Major Cause of Homelessness</i> , 25 Clearinghouse Rev. 420 (1991)	8
Linda Olsen, Domestic Violence & Sexual Assault Prevention Div., <i>Issue Brief: Domestic Violence and Homelessness in King County</i> (2006)..	11
Nat’l Ctr. on Family Homelessness & Health Care for the Homeless Clinicians’ Network, <i>Social Supports for Homeless Mothers</i> (2003).....	7

Nat'l Law Ctr. on Homelessness & Poverty & Nat'l Network to End Domestic Violence, <i>Lost Housing, Lost Safety: Survivors of Domestic Violence Experience Housing Denials and Evictions Across the Country</i> (2007).....	9
Richard M. Tolman et al., <i>Domestic Violence and Economic Well-Being of Current and Former Welfare Recipients</i> (2001).....	9
Rudy Kleysteuber, <i>Tenant Screening Thirty Years Later: A Statutory Proposal to Protect Public Records</i> , 116 Yale L.J. 1344 (2007)	17
U.S. Conference of Mayors, <i>Hunger and Homelessness Survey</i> (2005)	7
U.S. Conference of Mayors, <i>Hunger and Homelessness Survey</i> (2008)	7
Wash. State Gender & Justice Comm'n, <i>Domestic Violence Manual for Judges</i> (2006).....	9, 19
Wilder Research Ctr., <i>Homeless Adults and Their Children in Fargo, North Dakota, and Moorhead, Minnesota: Regional Survey of Persons Without Permanent Shelter</i> (2004)	8, 10
Wilder Research Ctr., <i>Overview of Homelessness in Minnesota 2006</i> (2007).....	9

I. INTRODUCTION

For a domestic violence survivor like Ashlee Rousey, the refusal to redact her full name from an eviction record magnifies the original crime committed against her: first, she was assaulted by her ex-partner; second, she was illegally pressured by her landlord to leave her apartment based on her abuser's criminal conduct; and third, she faces disqualification from future housing opportunities based on the unsubstantiated unlawful detainer complaint filed by her landlord. Federal and state policymakers have supported the housing rights of domestic violence survivors in order to avoid re-victimization and to ensure that survivors can access safe housing away from abusers. Redaction in cases involving domestic violence furthers this interest. As Ms. Rousey's brief explains, GR 15(c)(2)(F) permits redaction of a tenant's name in unsubstantiated unlawful detainer cases. Amici highlight here the reasons why loss of housing opportunities for domestic violence survivors raises privacy and safety concerns that are compelling circumstances warranting redaction.

II. IDENTITIES AND INTEREST OF AMICI CURIAE

Amici are advocacy organizations focusing on civil liberties, women's rights, housing, and domestic and sexual violence. A description of each amicus and their interest is attached hereto in the Appendix.

III. STATEMENT OF THE CASE

Ashlee Rousey lives with her child in an apartment located in King County and rented from Indigo Real Estate Services. CP 83. In January 2008, Ms. Rousey sought assistance from the YWCA Domestic Violence Advocacy Services because Vernon Noel, her former partner and the father of her child, had abused her. CP 84, 87. On February 24, 2008, Noel came to her home, refused to leave, became abusive and threatening, and threw a rock at her window. CP 83. Ms. Rousey called the police, and they issued a “trespass notice,” forbidding Noel from coming to her home. *Id.* Ms. Rousey informed Indigo about the situation, and the housing manager demanded that she surrender the apartment because of Noel’s conduct. CP 5, 84. When Rousey did not leave the apartment by the scheduled date, Indigo filed a complaint for unlawful detainer in Superior Court. CP 1-4. A week later, the parties voluntarily dismissed the case, with no conditions, and Ms. Rousey continued her tenancy. CP 6-7. Ms. Rousey’s counsel had pointed out to Indigo that termination of tenancy based on a tenant’s status as a victim of domestic violence violates Washington’s Victim Protection Act. CP 84.

Ms. Rousey then moved under GR 15(c)(2) to replace her full name with her initials in the Superior Court Information System (SCOMIS) record of the unlawful detainer action. CP 10-19. Arguing

that landlords and tenant-screening companies routinely deny housing applications based on the mere existence of unlawful detainer complaints. Ms. Rousey invoked her privacy interest in preserving future housing opportunities as grounds for redaction. *Id.* The Superior Court denied her motion on May 2, 2008, finding “no basis under the law or GR 15 to seal the file.” CP 40-42. Upon a motion for reconsideration, the Superior Court concluded that the “May 2, 2008 order was legally correct and substantially just,” without further discussion. CP 88-89. The issue on appeal is whether the order denying the redaction motion should stand.

IV. ARGUMENT

Domestic violence and housing discrimination based on domestic violence raise privacy and safety concerns that justify redaction pursuant to GR 15(c)(2)(F). Preventing homelessness and ensuring the safety of domestic violence survivors are compelling interests that numerous federal and Washington state policies seek to advance. These individual needs and public interests can only be realized if unsubstantiated unlawful detainer records in cases involving domestic violence can be redacted.

A. The Superior Court erred in failing to recognize that GR 15(c)(2)(F) authorizes redaction of court records when privacy or safety concerns are compelling.

Rule GR 15(c) provides:

- (1) In a civil case, the court or any party may request a hearing to seal or redact the court records. . . .
- (2) After the hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record. Agreement of the parties alone does not constitute a sufficient basis for the sealing or redaction of court records. Sufficient privacy or safety concerns that may be weighed against the public interest include findings that:
 - ...
 - (F) Another identified compelling circumstance exists that requires the sealing or redaction.

Few cases have interpreted the current GR 15(c)(2) or what constitutes a “compelling circumstance” for sealing or redaction. Prior to the adoption of the current version of GR 15, courts had relied on a five factor test for sealing of court records: a showing of the need for closure, notice to interested parties, use of the least restrictive means available that are effective in protecting the threatened interests, the weighing of the competing interests of the parties and the public, and tailoring of the court order so that it is no broader in its application or duration than necessary to serve its purpose. *See Rufer v. Abbott Labs.*, 154 Wn.2d 530, 543, 114 P.3d 1182 (2005); *Dreiling v. Jain*, 151 Wn.2d 900, 913-15, 93 P.3d 861 (2004); *Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30, 37-39, 640 P.2d 716 (1982). One recent opinion analyzing GR 15 stated that “records may be sealed only when an interest is sufficiently compelling to override the

public’s right to the open administration of justice.” *In Re Marriage of R.E.*, 144 Wn. App. 393, 401, 183 P.3d 339 (2008). “[I]njury to public policy or public morals is one way to talk about an overriding interest.” *Id.* at 400 (discussing statutory basis for sealing).

In concluding that there is “no basis under the law or GR 15 to seal the file,” the court below erred as a matter of law, and its decision should be reviewed de novo, *Rufer*, 154 Wn.2d at 540. GR 15(c)(2)(F) clearly authorizes sealing or redaction when the movant identifies a compelling circumstance that outweighs the public interest in record access. Ms. Rousey had raised her interest in preserving future housing opportunities, a particularly compelling circumstance given the numerous public policies supporting the housing rights of domestic violence survivors who frequently face loss of their homes. Notice had been given to Indigo, and Ms. Rousey sought a limited redaction of her name in SCOMIS. Instead of engaging in the balancing analysis, the lower court “did not decide whether the privacy interest that Ms. Rousey asserted (i.e., protection against unjustified disqualification from future housing opportunities) was compelling or whether that privacy interest outweighs the public interest in having Ms. Rousey’s full name remain in the SCOMIS index (rather than her initials).” CP 88. Accordingly, the decision should be reversed and, for the reasons below, remanded with instructions to weigh the

compelling interest in preserving housing opportunities for domestic violence survivors and preventing abuse when applying GR 15(c)(2)(F).

B. Preserving housing opportunities for domestic violence survivors and preventing abuse are compelling circumstances that justify redaction of court records pursuant to GR 15(c)(2)(F).

Protection against unjustified disqualification from future housing opportunities, particularly for domestic violence survivors, is a compelling interest that outweighs the public interest in access to unredacted records.¹ Refusing to redact in these cases inflicts an “injury to public policy,” *In Re Marriage of R.E.*, 144 Wn. App. at 400, notably the myriad public policies safeguarding housing opportunities for domestic violence survivors and ending the cycle of violence.

1. Preventing the homelessness of domestic violence survivors and their families is a privacy and safety concern that is compelling.

Domestic violence survivors cannot find safety unless they have the ability to secure new housing. Because abuse is a primary factor in rendering women and their children with no place to live, federal and state legislatures have recognized housing instability for domestic violence survivors as an urgent problem and have endorsed policies to ensure housing options for these women and their families.

¹ Ms. Rousey sought redaction of her name only in the court records in SCOMIS. Amici, however, believe that the compelling circumstances of this case justify redaction of her name in both the electronic and the paper records of the court file.

a. Domestic violence is a principal cause of women's and children's homelessness.

Domestic violence causes homelessness. Twenty-two cities that were surveyed in 2008 reported that an average of 15 percent of homeless people in the last year were victims of domestic violence. U.S. Conference of Mayors, *Hunger and Homelessness Survey* 18 (2008). In 2005, 50 percent of surveyed U.S. cities, including Seattle, cited domestic violence as a primary cause of homelessness. U.S. Conference of Mayors, *Hunger and Homelessness Survey* 64 (2005). A 2003 survey conducted in Seattle and nine other cities found that 25 out of 100 homeless mothers had been physically abused within the last year, and almost all had experienced or witnessed domestic violence over their lifetimes. Nat'l Ctr. on Family Homelessness & Health Care for the Homeless Clinicians' Network, *Social Supports for Homeless Mothers* 14, 26 (2003).

Many women lose their homes when they escape violence. More than half of homeless parents surveyed in ten cities who had lived with a spouse or partner had left their last residence because of domestic violence. Homes for the Homeless & Inst. for Children & Poverty, *Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America* 3 (1998). Studies confirm that significant numbers of homeless women and children are fleeing abuse. *See, e.g.*, Wilder Research Ctr., *Homeless*

Adults and Their Children in Fargo, North Dakota, and Moorhead, Minnesota: Regional Survey of Persons Without Permanent Shelter 38 (2004) [hereinafter *Homeless Adults and Their Children in Fargo*] (22 percent of homeless women in Fargo, and 20 percent of homeless women in Moorhead were homeless because of violence); Ctr. for Impact Research, *Pathways to and from Homelessness: Women and Children in Chicago Shelters* 3 (2004) (22 percent of women in Chicago homeless shelters were homeless because of violence); Joan Zorza, *Woman Battering: A Major Cause of Homelessness*, 25 *Clearinghouse Rev.* 420 (1991) (citing study showing that half of all homeless women and children are escaping violence).

Domestic violence survivors also become homeless as a result of discrimination by landlords based on their status as victims. Studies report that domestic violence survivors are subjected to discrimination when they apply for housing simply because they have experienced violence. See Equal Rights Ctr., *No Vacancy: Housing Discrimination Against Survivors of Domestic Violence in the District of Columbia* (2008) (found significant levels of discrimination, despite the District's anti-discrimination law); Nat'l Law Ctr. on Homelessness & Poverty & Nat'l Network to End Domestic Violence, *Lost Housing, Lost Safety: Survivors of Domestic Violence Experience Housing Denials and Evictions Across*

the Country (2007); Anti-Discrimination Ctr. of Metro NY, *Adding Insult to Injury: Housing Discrimination Against Survivors of Domestic Violence* (2005). Many tenants who have been subjected to intimate partner violence are re-victimized when their landlords seek to evict them based on their abusers' criminal activity, noise disturbance, or property damage. See 42 U.S.C. § 14043e(3) (Congressional finding that "[w]omen and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence"); Nat'l Law Ctr. on Homelessness & Poverty, *supra*, at 7-9; Richard M. Tolman et al., *Domestic Violence and Economic Well-Being of Current and Former Welfare Recipients* 10, 12 (2001).

Housing instability heightens the risks for women experiencing domestic violence. Because abusers typically use violence as part of a larger strategy to control and isolate their partners, a woman who has experienced domestic abuse will often have little access to money and few people she can rely on if she flees. Wash. State Gender & Justice Comm'n, *Domestic Violence Manual for Judges* 2-5, 2-27, 2-33 (2006). Studies show that many victims remain in or return to abusive relationships when the alternative is homelessness. See Wilder Research Ctr., *Overview of Homelessness in Minnesota 2006* 16 (2007) (45 percent

of homeless women reported staying in an abusive relationship because of lack of housing options); *Homeless Adults and Their Children in Fargo, supra*, at 38. Preserving rental opportunities for domestic violence survivors is especially crucial given that women living in rental housing experience intimate partner violence at three times the rate of women who own their homes. Callie Marie Rennison & Sarah Welchans, U.S. Dep't of Justice, *Intimate Partner Violence 5* (2000). When a woman who rents her home suffers violence, she may choose to stay with her partner unless she is able to access new housing, free from the violence of her abuser and discrimination by landlords.

Victims of violence in Washington state also face a lack of housing options. One report found that in eleven recent domestic violence fatality cases, eight of the victims had difficulty finding safe housing and only one located long-term, affordable housing at a location unknown to the abuser. Jake Fawcett et al., *Now That We Know: Findings and Recommendations from the Washington State Domestic Violence Fatality Review* 46-47 (2008). A King County-sponsored coalition noted that “[f]amily violence impacts as many as half of homeless women and children and many homeless youth and young adults.” Comm. to End Homelessness in King County, *A Roof Over Every Bed in King County: Our Community's Ten-Year Plan to End Homelessness* 1 (2005). In 2005, over 15,000 individual

requests for shelter in King County from domestic violence victims were turned away. Linda Olsen, Domestic Violence & Sexual Assault Prevention Div., *Issue Brief: Domestic Violence and Homelessness in King County 2* (2006). Because of the significance of domestic violence as a contributing factor to homelessness, the Ten-Year Plan to End Homelessness in the County repeatedly emphasizes the need to provide housing services to abuse survivors. Comm. to End Homelessness, *supra*.

b. Congress and many states have recognized the important public interest in promoting housing for domestic violence survivors.

Congress and numerous states have worked to sever the dangerous connection between domestic violence and homelessness. In 1994, the Violence Against Women Act (“VAWA”) created a multi-faceted federal approach to ending domestic violence, including funding shelters for those fleeing abuse. Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 40241 (1994). VAWA’s reauthorization in 2006 included anti-discrimination provisions applicable to public and Section 8 housing and required covered landlords to preserve the tenancy of victims and their children when terminating the batterers’ tenancy. Violence Against Women Act and Dep’t of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, §§ 606, 607 (2006). VAWA also recognized the unique confidentiality concerns for domestic violence survivors trying to

find or keep safe housing through the following provisions: a requirement that the postal service issue regulations for protecting the confidentiality of addresses of abused persons and domestic violence shelters, 42 U.S.C. § 13951; a mandate that recipients of VAWA funding, including law enforcement and victim services providers, protect the “personally identifying information” of their clients, such as name and physical address, 42 U.S.C. §§ 13925(a)(18), (b)(2); a bar on internet publication of protection order information, when such publication would be likely to reveal the identity or location of the protected party, 18 U.S.C. § 2265(d)(3); and a prohibition on the entry of clients’ names and other personally identifying information by domestic violence service providers into the Homeless Management Information System, a nationwide database that collects data from shelters receiving HUD grants, 42 U.S.C. § 11383(a)(8)(A). All of these measures exemplify the federal judgment that confidentiality of the names and locations of domestic violence survivors is necessary for safety.

Numerous states also have tackled the housing ramifications of domestic violence (including Washington, *see infra* Part IV.B.2). Several have enacted anti-discrimination protections that protect survivors in all types of housing. *See, e.g.*, D.C. Code §§ 2-1401.01-.02; Ind. Code Ann. § 32-31-9-8; N.C. Gen. Stat. § 42-42.2; Or. Rev. Stat. § 90.449; R.I. Gen.

Laws §§ 34-37-1 through -4.² Others have provided for early lease termination for survivors who need to leave their current rental. *See, e.g.*, Ariz. Rev. Stat. Ann. § 33-1318; Cal. Civ. Code § 1946.7; Colo. Rev. Stat. § 38-12-402; Del. Code Ann. tit. 25 § 5314(b)(6); D.C. Code § 42-3505.07; 765 Ill. Comp. Stat. 750/15 (does not apply to public housing); Ind. Code Ann. § 32-31-9-12; N.Y. Real Prop. § 227-c; N.C. Gen. Stat. § 42-45.1; Or. Rev. Stat. § 90.453; Tex. Prop. Code Ann. § 92.016; Wis. Stat. § 704.16. These laws convey the judgment of legislatures across the country that housing opportunities for domestic violence survivors must be safeguarded.

2. Ensuring housing opportunities for domestic violence survivors and preventing abuse are “overriding interests” that justify redaction of unlawful detainer case records involving domestic violence pursuant to GR 15(c)(2)(F).

Washington state has been at the forefront of adopting policies advancing the rights of domestic violence survivors. “Washington State has unequivocally established, through legislative, judicial, constitutional, and executive expressions, a clear mandate of public policy of protecting

² Executive bodies and courts have likewise recognized that housing discrimination against domestic violence survivors is illegal sex discrimination. *See, e.g., Bouley v. Young-Sabourin*, 394 F. Supp. 2d 675, 678 (D. Vt. 2005) (finding that eviction based on domestic violence may constitute sex discrimination); *Alvera v. CBM Group*, HUD ALJ 10-99-0538-8 (Apr. 16, 2001) (same finding by federal HUD); *Winsor v. Regency Prop. Mgmt.*, No. 94CV2349 (Wis. Cir. Ct. Oct. 2, 1995) (finding by Wisconsin state court that a categorical ban on renting to domestic violence survivors has a disparate impact on women); 1985 Op. Att’y Gen. N.Y. 45, Formal Op. No. 85-F15 (Nov. 22, 1985) (same conclusion by the New York attorney general).

domestic violence survivors and their families and holding abusers accountable.” *Danny v. Laidlaw*, 193 P.3d 128, 141 (2008). The Supreme Court discussed at length the legislature’s “clear, concrete actions to encourage domestic violence victims to end abuse, leave their abusers, protect their children, and cooperate with law enforcement and prosecution efforts to hold the abuser accountable.” *Id.* at 134. This Court has noted that “injury to public policy” is one way to evaluate when an interest is “overriding” so as to provide a basis for sealing or redaction. *In Re Marriage of R.E.*, 144 Wn. App. at 400. Washington’s policy opposing domestic abuse, which “is ‘truly public’ in nature,” *Danny*, 193 P.3d at 135, would be undermined if redaction was not permitted, because finding and keeping secure, alternative housing is necessary for a survivor to escape abuse. The unavailability of redaction will compromise survivors’ future housing opportunities. Thus, domestic violence is a compelling and overriding circumstance for the purposes of GR 15(c)(2)(F).

a. Washington’s guarantee of housing rights for domestic violence survivors would be thwarted if redaction is not authorized.

Washington state has articulated its specific interest in ensuring housing opportunities for abuse victims. In 1991, the legislature created an address confidentiality program to protect domestic violence survivors attempting to escape violence. RCW 40.24.010. The program “provides

a method to help victims of domestic violence avoid being tracked by their assailants, and thereby attempt a fresh start on their lives and those of their children.” *Danny*, 193 P.3d at 132-33 (citation omitted).

In 2004, the Washington legislature expanded housing protections for abuse survivors, by prohibiting discrimination and allowing victims to terminate their leases early without penalty. RCW 59.18.575, .580. The legislature made findings directly relevant to this case:

(1) Domestic violence, sexual assault, and stalking are widespread societal problems that have devastating effects for individual victims, their children, and their communities. . . . The legislature further finds that victims of these crimes who do not have access to safe housing are more likely to remain in or return to abusive or dangerous situations. Also, the legislature finds that victims of these crimes are further victimized when they are unable to obtain or retain rental housing due to their history as a victim of these crimes. The legislature further finds that evidence that a prospective tenant has been a victim of domestic violence, sexual assault, or stalking is not relevant to the decision whether to rent to that prospective tenant.

(2) By this act, the legislature intends to increase safety for victims of domestic violence, sexual assault, and stalking by removing barriers to safety and offering protection against discrimination.

Laws of 2004, ch. 17, § 1. The legislature emphasized the importance of these housing protections for the public interest by providing: “This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.” Laws of 2004, ch. 17, § 7.

Without redaction, the unlawful detainer record could be used against domestic violence survivors in violation of this law and the policies it reflects. As Ms. Rousey's brief establishes, tenant screening companies routinely survey unlawful detainer records to conduct background checks and use the existence of filed complaints to disqualify applicants. Because such searches will include complaints filed in violation of RCW 59.18.580, unredacted court records will contribute to the denial of applications based on a prospective tenant's status as a domestic violence victim and thwart the legislature's purpose.

Although this case is of first impression, one Washington case offers further support for the proposition that loss of rental opportunities can be considered a sufficient interest to seal records. In *State v. McEnry*, the Court of Appeals noted that because McEnry owned his own home, potential loss of housing based on the court records was not at issue, and thus could not serve as an overriding interest to seal his criminal court records. 124 Wn. App. 918, 926, 103 P.3d 857 (2004). For domestic violence survivors like Rousey who rent their homes, being barred from future housing opportunities because of the SCOMIS record can be devastating, given tenants' heightened vulnerability to abuse.

If GR 15(c) is interpreted to preclude redaction, tenants like Ms. Rousey who vindicate their rights under RCW 59.18.580 will be punished

by the loss of future housing opportunities. When threatened with a discriminatory eviction, domestic violence survivors will be forced to choose between acquiescing to the discrimination and leaving their home before an unlawful detainer is filed, or asserting their rights with the knowledge that, even if they are successful, any record could drastically reduce their chances of renting an apartment in the future. Indeed, landlords have threatened tenants that it will become impossible for them to rent anywhere if legal action is filed. Rudy Kleysteuber, *Tenant Screening Thirty Years Later: A Statutory Proposal to Protect Public Records*, 116 Yale L.J. 1344, 1349 (2007).

The public interest in fair housing also supports redaction. The law explicitly proscribes housing discrimination based on status as a victim of domestic violence. RCW 59.18.580. If Rousey is denied housing in the future because of the discriminatorily filed unlawful detainer, such denial may violate RCW 59.18.580.³ Landlords could incur liability by acting on records that include complaints based on domestic violence incidents. The requested redaction therefore serves the interests of preserving rental options for abuse survivors, avoiding housing discrimination, and enhancing fair housing.

³ In an analogous context, HUD and the courts have recognized that housing discrimination against domestic violence victims can constitute sex discrimination, even if there is no intent, because of the disparate impact such discrimination has on women. *See supra* note 2.

b. Injury to Washington’s public policy preventing further violence and holding abusers accountable would result if redaction is not allowed.

Beyond the specific consideration given to survivors’ housing rights, the state has adopted public policy aimed at stopping domestic violence, by encouraging survivors to report abuse and holding perpetrators accountable. The state constitution states: “Effective law enforcement depends on cooperation from victims of crime.” Const. art. I, § 35. The legislature reiterated the importance of empowering victims:

In recognition of the severe and detrimental impact of crime on victims, survivors of victims, and witnesses of crime and the civic and moral duty of victims, survivors of victims, and witnesses of crimes to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to grant to the victims of crime and the survivors of such victims a significant role in the criminal justice system.

RCW 7.69.010. Once law enforcement is notified, Washington statutes require them to respond by treating “domestic violence as a serious crime against society.” RCW 10.99.010.

Redaction should be allowed to avoid punishing domestic violence survivors who exercise their right to petition law enforcement. Ms. Rousey sought to stop the violence against her by calling the police and now confronts a blemished housing record as a result. Redaction, even in

the limited form Ms. Rousey requests, will mitigate the effects of the housing discrimination she experienced as a result of seeking help from and cooperating with law enforcement.

The refusal to redact could also enable the perpetration of abuse more generally. Domestic violence is a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation, and emotional, sexual or economic abuse to control the other partner. *See* Wash. State Gender & Justice Comm'n, *Domestic Violence Manual for Judges*, ch. 2 (2006). Even after victims have ended relationships, batterers often continue to assert their power and may escalate their abuse. *Id.* at 2-9. Abusers frequently go to extreme measures to stalk their victims, including using technology like online court databases and information brokers. Cindy Southworth et al., *A High-Tech Twist on Abuse: Technology, Intimate Partner Stalking, and Advocacy* 8 (2005). A record on a court website can help a batterer identify a survivor's community, and details contained in those records can be used to further abuse. For these reasons, Congress has mandated confidentiality protections for survivors. *See supra* Part IV.B.1.b.

Abusers who learn that their conduct can jeopardize their victims' housing may be encouraged to continue their violent behavior. If a batterer can easily determine, via a SCOMIS search, that his abuse has

caused an eviction action to be filed against the victim, he gains an incentive to repeat the violence, in the hopes of further terrorizing the victim or forcing her to live with him.⁴ Thus, Washington's public policy opposing further violence and encouraging victims to cooperate with law enforcement would support the requested redaction.

V. CONCLUSION

Because the trial court based its decision on an incorrect rule of law, this case should be remanded with instructions to apply GR 15(c)(2)(F) and to weigh the compelling interest in preserving housing opportunities for domestic violence survivors and preventing abuse. Ms. Rousey has demonstrated privacy and safety concerns that warrant the replacement of her full name with her initials in all records relating to King County Superior Court case number 08-2-07870-1.

⁴ A federal complaint filed in 2007 illustrates, in a different context, how abusers can exploit the housing consequences of their violence. In *Grape v. Town/Village of E. Rochester, NY*, plaintiff Laurie Grape described the consequences of a local law that requires eviction of a tenant if the police have been called to her home three times within a year period. 07 Civ. 6075 (W.D.N.Y. 2007). She had called the police to her home twice after her former partner, Mike Baker, violently assaulted her there. Am. Compl. ¶¶ 30-42. After the second call, Baker allegedly continued to stalk and harass Grape, told her that he knew she and her children would lose their housing if she reported his abuse, and threatened to call the police himself if she refused to allow him into her home. *Id.* at ¶ 67. Grape stated that she endured further violence because of the threat of losing her home. *Id.* at ¶¶ 69-70.

Respectfully submitted this 11th day of February, 2009.

By: 

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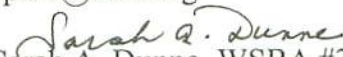
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*Not admitted in this court

APPENDIX

IDENTITIES AND INTERESTS OF AMICI CURIAE

A. American Civil Liberties Union

The American Civil Liberties Union (“ACLU”) is a national, nonpartisan public interest organization of more than 550,000 members, dedicated to protecting the constitutional rights of individuals. Through its Women’s Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has long been a leader in legal battles to ensure women’s full equality. In recent years, the ACLU Women’s Rights Project has taken a leading role at the local, state, and national levels to improve access to housing for survivors of domestic violence and their children. It has litigated several cases on behalf of battered women who faced eviction based on the abuse they experienced and has advocated for legislation and other policies that improve housing stability for survivors.

B. American Civil Liberties Union of Washington

The American Civil Liberties Union of Washington (“ACLU-WA”) is a state-wide, nonpartisan, nonprofit organization of over 20,000 members, dedicated to protecting and advancing civil rights and civil liberties throughout Washington. The ACLU-WA has appeared frequently in courts on cases involving women’s rights to receive equal treatment in the courts and to be free from discrimination on the basis of

sex, and all individuals' right to be free from government policies that harm domestic violence victims. The ACLU-WA recognizes the competing civil liberties interests—privacy and public oversight of government—involved in access to public records, including court records. It has participated in numerous cases involving the privacy of information in public records. In addition to litigation, the ACLU-WA has participated in legislative and rule-making procedures surrounding access to a wide variety of public records.

C. Northwest Women's Law Center

The Northwest Women's Law Center ("NWLC") is a regional nonprofit public interest organization that works to advance the legal rights of all women through litigation, legislation, education and the provision of legal information and referral services. Since its founding in 1978, the NWLC has been dedicated to protecting women against violence, whether it is domestic violence, stalking, sexual assault or rape. Toward that end, the NWLC has participated as counsel and as amicus curiae in cases throughout the Northwest and the country and is currently involved in numerous legislative and litigation efforts to protect domestic violence survivors, including efforts to protect safety in housing and survivors' privacy. The NWLC continues to serve as a regional expert and leading advocate in the area of domestic violence.

D. Family Violence Prevention Fund

The Family Violence Prevention Fund (“FVPPF”) is a not-for-profit organization incorporated in the state of California in 1989. The FVPPF mobilizes concerned individuals, children’s groups, allied professionals, women’s rights, civil rights, and other social justice organizations to join the campaign to end violence through public education/prevention campaigns, public policy reform, model training, advocacy programs, and community organizing. The FVPPF strives to educate the public that a domestic violence victim’s ability to live free from violence is directly correlated to each individual’s access to economic resources, including housing, employment, transportation, utilities, credit, and healthcare. A victim’s inability to obtain housing apart from her abuser can entrap her in a life of potentially lethal violence.

E. Legal Momentum

Legal Momentum advances the rights of women and girls by using the power of the law and creating innovative public policy. Legal Momentum advocates in the courts, Congress and state legislatures. as well as with unions and private business, to improve the protection afforded victims of domestic and sexual violence, and is a national leader in promoting the rights of victims facing employment and housing discrimination because of the violence against them. Legal Momentum

was instrumental in the enactment of the federal Violence Against Women Act and its reauthorizations, which seek to redress the historical inadequacy of the justice system’s response to domestic and sexual violence.

F. National Coalition Against Domestic Violence

The National Coalition Against Domestic Violence (“NCADV”), based in Colorado since 1992, was formed in 1978 to provide a national network of programs serving victims of domestic violence. There are over 2,000 programs currently in the United States. NCADV provides technical assistance, general information and referrals, community awareness campaigns, and does public policy work at the national level. NCADV has participated in many amicus briefs over the years on issues related to victims of domestic violence, especially when their safety and confidentiality are at risk. It is critical that public records allow for the redaction of information that will put a survivor of domestic violence at risk for future harm.

G. National Housing Law Project

The National Housing Law Project (“NHLP”) is a nonprofit housing law and advocacy center whose goal is to advance housing justice by providing legal and technical assistance to legal services and other attorneys, low-income housing advocacy groups, and others working on

behalf of poor tenants. NHLP has been active in policy advocacy at the federal, state, and local level to protect and expand the housing rights of domestic violence survivors.

H. National Law Center on Homelessness & Poverty

The National Law Center on Homelessness & Poverty (“NLCHP”) is a not-for-profit organization based in Washington, D.C. established to address issues related to homelessness and poverty at the national level. Domestic violence is one of the leading causes of homelessness in America, particularly for women and families. To address this problem, NLCHP engages in policy advocacy, builds networks, and educates advocates, service providers and victims about the housing rights of survivors of domestic violence. A key component of our work is to strengthen privacy protections for survivors of domestic violence and defend their ability to secure safe housing.

I. Sargent Shriver National Center on Poverty Law

The Sargent Shriver National Center on Poverty Law is a national non-profit legal and policy advocacy organization devoted to providing national leadership to develop, identify, and support creative and collaborative approaches to achieve social and economic justice for low-income people. The Center’s domestic and sexual violence advocacy includes the Safe Homes Initiative – a project jointly run by the Center's

Housing project and the Women's Law and Policy Project. The Initiative works to advance the housing rights and security of survivors of violence through legislative, administrative, and legal advocacy, including the passage of Illinois' Safe Homes Act in 2006, which provides a legal means for survivors to end their leases early or receive an emergency lock change. The Initiative also provides legal representation to individual survivors in order to preserve their housing and federal housing subsidies, and to end discriminatory and other illegal practices against them.

J. Sexual Violence Law Center

The Sexual Violence Law Center (“SVLC”) works with survivors, the legal community, and tribal governments and service agencies within Washington and throughout the United States to advance the legal rights of sexual assault victims. Founded in 2008 by former attorneys of the Washington Coalition of Sexual Assault Programs, SVLC’s mission is to improve the legal response to survivors of sexual violence through advocacy, education, legal consultation and referral services. SVLC believes preserving housing opportunities and ensuring the privacy and safety of domestic and sexual violence victims necessitates the redaction of court records. Washington’s public policy should protect victims from discrimination, preserve their legal rights, and empower them to leave abusive situations.


CERTIFICATE OF SERVICE

I, Rubén García Fernández, hereby certify and declare that on the 11th day of February, 2009, I sent a copy of the foregoing document via regular U.S. mail to the following:

Michael Walsh
(not appearing)
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Eric Dunn
Northwest Justice Project
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DATED this 11th day of February, 2009 at Seattle, Washington.

A handwritten signature in black ink, appearing to read 'Ruben Garcia Fernandez', is written over a horizontal line. The signature is stylized and includes a large loop at the end.

Rubén García Fernández
Legal Program Assistant
American Civil Liberties Union of Washington Foundation