

Battering and Extreme Cruelty:
Drawing Examples from Civil Protection Order and Family Law Cases¹

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Congress passed the Violence Against Women’s Act (“VAWA”) in part to prevent abused immigrant spouses who had entered into valid marriages in good faith, and their children, from being locked in abusive homes and relationships. The drafters of VAWA decided that analysis of domestic violence incidents under Department of Homeland Security (“DHS”) regulations with regard to Immigrant Petitions (the “DHS Immigration Regulations”) should not be limited to acts of violence but also include extreme cruelty. Thus, legal immigration status and protections could be obtained through VAWA without requiring that the immigrant spouse or child wait for the abuse to escalate to physical or sexual violence.

The phrase “battery or extreme cruelty” includes a range of behaviors that the DHS Immigration Regulations define as follows:

“being the victim of any act or a threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor) or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under this rule. Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence.”³

“It is not possible to cite all perpetrations that could be acts of violence under certain circumstances. The Service does not wish to mislead a potentially qualified self-petitioner by establishing a partial list that may be subject to misinterpretation. This rule, therefore, does not itemize abusive acts other than those few particularly egregious examples mentioned in the definition of the phrase “was battered by or was the subject of extreme cruelty.”⁴

This definition of “battery or extreme cruelty” includes a continuum of abusive activities. Actions that are considered criminal under state law and which provide justification for issuance of a civil protection order or initiation of a criminal prosecution have always been generally the equivalent of “battery” under the DHS Immigration Regulations. When Congress created the battered spouse waiver in 1990 and VAWA protections (self-petitions, suspension of deportation, and cancellation of removal) in [1994], it coupled the DHS Immigration Regulations’ definition of battery with the broader range of

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³ 8 C.F.R. §204.2(c)(1).

⁴ Immigration and Naturalization Service, Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Spouses and Children, 61 Fed. Reg. 13061 (March 26, 1996).

abuses that constituted extreme cruelty when considering a VAWA immigration case. Extreme cruelty has been historically considered by family courts as a crucial factor in determining the outcome of divorce, alimony, support and custody proceedings.

States have enacted statutes authorizing civil protection orders to provide victims immediate relief from abusive partners as an alternative or adjunct to criminal prosecution.⁵ The civil protection orders have their jurisdictional basis in acts of intimate partner violence and are issued to prevent perpetrators from committing future criminal and abusive acts against family members and/or intimate partners.⁶ In 1994, the National Council of Juvenile and Family Court Judges created the Family Violence Model State Code that set the standard at the time for development and implementation of state laws designed provide effective criminal and civil justice system responses to domestic violence.⁷ The Model Code “treats domestic and family violence as a crime which requires early, aggressive and thorough intervention.”⁸

“The Model Code enumerates the range of criminal conduct employed by many perpetrators of domestic or family violence. By the Model Code’s focus of criminals behaviors and threats that constitute that are crimes, attempted to commit or conspiracy to commit a crime that would qualify as domestic abuse under most state protection order statutes and the type of acts that would constitute extreme cruelty but may not reach the abuse levels requirement under states protection order statute. The Model Code offers this detailed list to underscore the breadth of violent crimes and fear-inducing or harmful conduct undertaken by perpetrators of domestic or family violence. ...The Model Code defines “crime involving domestic or family violence” to include one or more of the following crimes against another family or household member:

- Arson;
- Assault Offenses (Aggravated Assault, Simple Assault, and Intimidation);
- Burglary, Breaking and Entering;
- Destruction, Damage, Vandalism of Property;
- Homicide Offenses (Murder and Non-negligent Manslaughter, Negligent Manslaughter, and Justifiable Homicide);
- Kidnaping, Abduction;
- Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);
- Stolen Property Offenses;
- Weapon Law Violations;
- Disorderly Conduct;

⁵ Finn, P., and Colson, S. (1990). *Civil Protection Orders: Legislation, Current Court Practice, and Enforcement*. Washington, DC: U.S. Department of Justice, National Institute of Justice, NCJ 123263; Harrell, A., Smith, B., and Newmark, L. (1993). *Court Processing and the Effects of Restraining Orders for Domestic Violence Victims*. Washington, DC: Urban Institute; Keilitz, S.L. (1994). “Civil Protection Orders: A Viable Justice System Tool for Deterring Domestic Violence.” *Violence and Victims*, 9(1), 79–84.; Finn, P. (1989). “Statutory Authority in the Use and Enforcement of Civil Protection Orders Against Domestic Abuse.” *Family Law Quarterly*, 23(1), 43–73.

⁶ See generally, Victoria L. Holt, *Civil Protection Orders and Subsequent Intimate Partner Violence and Injury*, research funded jointly by the National Institutes of Health, the Centers for Disease Control and Prevention, and the U.S. Department of Justice, National Institute of Justice.(2004) NCJ 199722; L. Orloff & C. Klein, *National Overview and Analysis of All Reported Domestic Violence Case Law and Statutes 21 HOFSTRA LAW REVIEW 801*, Symposium Issue on Domestic Violence (August 1994).

⁷ National Council of Juvenile and Family Court Judges, *Family Violence; Model State Code* (1994).

⁸ *Id* at iv.

- Family Offenses, Nonviolent;
- Stalking; [and]
- Trespass of Real Property...”⁹

The Model Code also allowed the opportunity for states to add additional crimes to the list.¹⁰ Over time, state protection order statutes have expanded to offer protection against a larger list of family violence offenses including stalking, harassment, and threats, and attempts to harm family members, household members and intimate partners. However, the analysis conducted to support most protection orders issued in the United States continues to focus on criminal activity.¹¹

The family court rulings that consider extreme cruelty an important factor in determining whether to provide protection to harmed individuals have other significant considerations in common with VAWA immigration cases. All VAWA self-petitions, VAWA cancellation and VAWA suspension cases require proof of a valid marriage, and family court rulings too involve members of one family or household. Further, family court rulings focus on US citizens, and these VAWA immigration cases involve immigrant spouses and children who, but for the abuse, would have been able to obtain legal immigration status based on the marriage or the parent-child relationship, if the U.S. citizen or lawful permanent resident spouse of parent had filed for citizenship on the immigrant spouse or child’s behalf.

The following three lists are designed to assist the BIA and immigration judges in better understanding what types of actions and behaviors fall within the definition of “battery or extreme cruelty.” The first list catalogs the criminal behaviors that courts have found sufficient to sustain issuance of a protection order. The second list contains illustrations of abuse from state protection order statutes and case law and from family court rulings that describe behaviors of extreme cruelty which establish and maintain coercive control.¹² The third list provided below catalogues other types of behaviors that family courts have determined constitute or contribute to “extreme cruelty.”

Key:

BEHAVIORS WHICH HAVE BEEN FOUND SUFFICIENT FOR ISSUANCE OF PROTECTION ORDER

Crimes of violence which should support a finding of Battery

Behaviors family courts have found to constitute Extreme Cruelty

1. Criminal Behaviors That Constitute Battery

This section contains a non-exclusive list that provides examples of the types of criminal activities that state protection order courts have determined support the issuance of a domestic violence protection order. Each of the following activities also constitute battery under U.S. immigration laws as do attempts, threats, and conspiracies to commit such crime or similar criminal activities: This list provides examples from case law that supplement the list of criminal activities described above in the Model Code.

⁹ Id at 3.

¹⁰ Id.

¹¹ For an overview of the range of actions that can lead to issuance of protection orders see, American Bar Association Commission on Domestic Violence, Standards of Proof for Domestic Violence Civil Protection Orders (CPOs) By State (6/2009) available at: http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/Standards_of_Proof_by_State.authcheckdam.pdf

¹² Dutton, M.A. & Goodman, L.A. (2005). Coercion in intimate partner violence: Toward a new conceptualization. *Sex Roles*, 52, 743-756; Mary Ann Dutton ; Lisa Goodman ; R. James Schmidt, Development and Validation of a Coercive Control Measure for Intimate Partner Violence: Final Technical Report (June 2006) available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/214438.pdf>

- **PHYSICAL VIOLENCE**¹³
- **THREATS OF PHYSICAL VIOLENCE**¹⁴
- **USE OR THREAT TO USE WEAPON**¹⁵
- **SEXUAL ASSAULT**¹⁶
- **SEXUAL ASSAULT IN PRESENCE OF CHILD**¹⁷
- **STALKING**¹⁸
- **HOLDING DOWN SPOUSE WHILE SEXUALLY ASSAULTING HER TO URINATE ON HER**¹⁹
- **PHYSICAL VIOLENCE TO CHILD IN PARENT’S PRESENCE**²⁰
- **SMEARING CHEWING GUM INTO VICTIM’S HAIR THROUGH CAR WINDOW DURING ARGUMENT IN FRONT OF CHILD**²¹
- **SPITTING ON VICTIM IN FRONT OF CHILDREN**²²
- **THREATENING TO KILL SPOUSE**²³
- **VIOLATING OTHER RESTRAINING OR NO-CONTACT ORDERS**²⁴
- **TRAPPING VICTIM IN HOME BY BLOCKING DRIVEWAY AND DISPLAYING WEAPON**²⁵
- **DESTROYING ITEMS IN HOUSE**²⁶
- **THREAT TO KILL FAMILY PET**²⁷
- **DISPLAY OF WEAPON**²⁸

2. Non-Criminal Actions or Behaviors that Demonstrate Coercive Control

State family law courts have found that the following behaviors support, or contribute to other factors supporting, the issuance of protection orders. These behaviors illustrate activities that are or can be part of a pattern of coercive control by the perpetrator of the victim. Each of the actions listed below that contribute to a pattern of coercive control have been found by family courts to contribute to or establish extreme cruelty. The factors listed under “coercive demand”, “credible threat”, “surveillance”, and “delivery of consequences” can be extreme cruelty individually and have been found by state family courts to constitute extreme cruelty or have served as a basis for issuance of state domestic violence protection orders.

¹³ Clagg v. Clagg, 2009 Ohio 328 (2009); In re CA. S., 828 A.2d 184 (2002); Ankenbruck v. Ankenbruck, 2000 Ohio App. LEXIS 5757 (2000); Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011); Jarvis v. Jarvis, 2004 Ohio 1386 (2004); Tortorello v. Tortorello, 113 Haw. 432 (2007); Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999); Katsenelenbogen v. Katsenelenbogen, 365 Md. 122 (2001), Abriani v. Abriani, 2007 Ohio 3534 (2007); In Re A.L. R-V, Seattle, WA (2010), Attachment B; In Re N.I., File A#XX-XXX-XXX, Denver, Colorado. (2006), Attachment C; In Re P-S-L- File A#XX-XXX-XXX Denver, CO (2008) Attachment D; REDACTED File A#XX-XXX-XXX, El Paso. (2008) Attachment E; In Re N.A.J., file AXX-XXX-XXX, Seattle, WA. (2001) Attachment A; De Jesus Paiva v. Aljets, 2003 WL 22888865 (D. Minn. 2003).

¹⁴ Clagg v. Clagg, 2009 Ohio 328 (2009); Ankenbruck v. Ankenbruck, 2000 Ohio App. LEXIS 5757 (2000); State v. Maynard, 2007 ME 79 (2007); Jarvis v. Jarvis, 2004 Ohio 1386 (2004); Tortorello v. Tortorello, 113 Haw. 432 (2007); Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999).

¹⁵ Ankenbruck v. Ankenbruck, 2000 Ohio App. LEXIS 5757 (2000); Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011); Thomas v. Morris, 224 W. Va. 661 (2009); Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999).

¹⁶ Clagg v. Clagg, 2009 Ohio 328 (2009); In re CA. S., 828 A.2d 184 (2002); Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999); Rosencrantz v. Rosencrantz, 2000 Neb. App. LEXIS 320 (2000), Abriani v. Abriani, 2007 Ohio 3534 (2007), In Re Marriage of Stewart, 133 Wn. App. 545 (2006). In Re N.I., File A#XX-XXX-XXX, Denver, Colorado. (2006), Attachment C.

¹⁷ In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

¹⁸ Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999), In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

¹⁹ Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999).

²⁰ Katsenelenbogen v. Katsenelenbogen, 365 Md. 122 (2001).

²¹ In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

²² In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

²³ Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999); In Re N.A.J., file AXX-XXX-XXX, Seattle, WA. (2001) Attachment A.

²⁴ In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

²⁵ Thomas v. Morris, 224 W. Va. 661 (2009);

²⁶ Frank v. Hawkins, 383 Ill. App. 3rd. 799 (2008); State v. Maynard, 2007 ME 79 (2007);

²⁷ Frank v. Hawkins, 383 Ill. App. 3rd. 799 (2008);

²⁸ Ditmars v. Ditmars, 18 Neb. App. 568 (2010).

A. Setting the stage:

There are four ways in which abusers can set the stage for apprehension of impending violence against the victim and beginning the cycle of coercive control: i) creating vulnerabilities, ii) exploiting existing vulnerabilities, iii) wearing down resistance, and iv) facilitating attachment.²⁹

i) Creating vulnerabilities:

- **Physical abuse**³⁰
- *Psychological abuse leading to PTSD*³¹
- *Verbal abuse*³²
- *Constant arguments about couple's sexual relations*³³

ii) Exploiting Existing Vulnerabilities

- *Domination and invalidation of spouse*³⁴
- *Physical and verbal intimidation without explicit threat*³⁵

²⁹ U.S. Department of Justice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IX of the Personal Responsibility and Work Opportunity Act of 1998, AG Order No. 2129-97, Vol 62 No.. 221 Federal Register 61344, 61369, 61370 (November 17, 1997) describes "battering or extreme cruelty" for purposes of prima facie determinations and access to benefits in VAWA self-petitioning, VAWA suspension of Deportation, VAWA Cancellation of Removal, Battered Spouse Waivers and Family Based Visa Petitions in which a spouse or child is eligible for public benefits as: "The phrase "battered or subjected to extreme cruelty" includes but is not limited to, being the victims of any act or threatened act of violence, include an forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under this rule. Acts or threatened acts that, in and of themselves, may not initially appear violence may be part of an overall pattern of violence.

This is a broad, flexible definition that encompasses all types of battery and extreme cruelty. The acts mentioned in the above definition should be regarded by benefit providers as acts of violence whenever they occur... It is not possible, however, to identify all behaviors that could be acts of violence under certain circumstances, and this definition does not contain an exhaustive list of acts of violence that will constitute battery or extreme cruelty. Many other nonenumerated abusive actions will also constitute an act or threatened act of violence under this definition... The benefit provider should consider *any credible evidence* proffered by the applicant. Evidence of battery or extreme cruelty ... includes but is not limited to, reports or affidavits from police, judges, and other courts officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, and other social service agency personnel; legal documentation, such as an order of protection against the abuser or an order convicting the abuse of committing an act of domestic violence that chronicles the existence of abuse; evidence that indicates that the applicant sought safe-haven in a battered women's shelter or similar refuge because of the battery against the applicant or his or her child; or photographs of the visibly injured applicant, child, or (in the case of an alien child) parent supported by affidavits. An applicant may also submit sworn affidavits from family members, friends, or third parties who have personal knowledge of the battery or extreme cruelty. Additionally, an applicant may submit his or her own affidavit...describing the circumstances of the abuse, and the benefits provider has the discretion to conclude that the affidavit is credible, and, by itself or in conjunction with other evidence, provides relevant evidence of sufficient weight to demonstrate battery or extreme cruelty.

The benefit provider should bear in mind that, due to the nature of the control and fear dynamics inherent in domestic violence, some applicant will lack the best evidence to support their allegations (e.g. civil protection order or a police report). Thus, the benefit provider will need to be flexible in working with the applicant as he or she attempts to assemble adequate documentation. In determining the existence of battery or cruelty, it is important that the benefit provider understand both the experience of intimate violence and the applicant's cultural context. The dynamics of domestic violence may have inhibited the applicant from seeking public or professional responses to the abuse prior to applying for benefits needed to enable the applicant to leave the abuser. For many cultural groups, going to outsiders for help is viewed as disloyalty to the community and an embarrassment to the family. In some cultures, for example, women have been conditioned to accept authority and control of their husbands. Thus, there may be little independent documentary evidence of the abuse; the benefit provider should be sensitive to the needs and situation of the abused applicant when reviewing allegations and evidence of abuse. Many applicants will have had an I-130 petition filed on their behalf by their spouse or parent, in which case the spouse or parent will have ultimate control over the disposition of the petition. If the spouse or parent is the abuser, he or she can nullify the petition either by withdrawing it or by divorcing the alien before the alien is able to obtain a green card.

³⁰ Conner v. Conner, 1984 Ohio App. LEXIS 12284 (1984); Muhammad v. Muhammad, 622 So. 2d 1239 (1993); Reed v. Reed, 130 Mont. 409 (1956); McDuffee v. McDuffee, 169 Mich. 410. (1912); Mackenzie v. Mackenzie, 366 Mich. 632 (1962), Waldbaum v. Waldbaum, 171 Neb. 625 (1961), De Burgh v. De Burgh, 39 Cal. 2d 858 (1952), McFall v. McFall, 58 Cal. App. 2d 208 (1943), Andrews v. Andrews, 120 Cal. 184 (1898), De Cloedt v. De Cloedt, 24 Idaho 277 (1913), Friedman v. Friedman, 37 N.J. Super. 52 (1955).

³¹ Frank v. Hawkins, 383 Ill. App. 3rd. 799 (2008); Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011); In Re N.A.J., file AXX-XXX-XXX, Seattle, WA. (2001) Attachment A.

³² Clagg v. Clagg, 2009 Ohio 328 (2009); In re CA. S., 828 A.2d 184 (2002); Ankenbruck v. Ankenbruck, 2000 Ohio App. LEXIS 5757 (2000); Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011); Jarvis v. Jarvis, 2004 Ohio 1386 (2004); Tortorello v. Tortorello, 113 Haw. 432 (2007); Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999), In Re Marriage of Stewart, 133 Wn. App. 545 (2006)..

³³ McFall v. McFall, 58 Cal. App. 2d 208 (1943).

³⁴ Tortorello v. Tortorello, 113 Haw. 432 (2007).

- *Using child as a tool*³⁶
- *Constant complaints about finances*³⁷
- *Alienating parent from children*³⁸
- *Indifference toward raising children in mutual religious beliefs*³⁹
- *Refusal to participate in children's activities and religious or cultural rights of passage*⁴⁰
- *Hiding personal and sentimental items*⁴¹

iii) Wearing Down Resistance

- **Physical abuse**⁴²
- *Psychological abuse leading to PTSD*⁴³
- *Verbal abuse*⁴⁴
- *Social isolation*⁴⁵
- *Domination and invalidation of spouse*⁴⁶
- *Harassment*⁴⁷
- *Alienating parent from children*⁴⁸
- *Excessive fighting and cursing in front of others*⁴⁹
- *Religious persecution*⁵⁰
- *Restricting diet*⁵¹

iv) Facilitating Attachment

- **Physical abuse**⁵²
- *Neglect*⁵³

³⁵ Markowitz v. Markowitz, 2006 Ohio 5932 (2006), Ditmars v. Ditmars, 18 Neb. App. 568 (2010).

³⁶ Jarvis v. Jarvis, 2004 Ohio 1386 (2004), In Re N.I., File A#XX-XXX-XXX, Denver, Colorado (2006), Attachment B; In Re P-S-L- File A#XX-XXX-XXX Denver, CO (2008), Attachment D.

³⁷ Ennis v. Ennis, 83 R.I. 64 (Ohio 1955).

³⁸ Buess v. Buess, 89 Ohio App. 37 (1950); Mackenzie v. Mackenzie, 366 Mich. 632 (1962); REDACTED File A#XX-XXX-XXX, El Paso. (2008), Attachment E.

³⁹ Waldbaum v. Waldbaum, 171 Neb. 625 (1961).

⁴⁰ Waldbaum v. Waldbaum, 171 Neb. 625 (1961).

⁴¹ Krull v. Krull, 105 Cal. App. 2d 56 (1951).

⁴² Conner v. Conner, 1984 Ohio App. LEXIS 12284 (1984); Muhammad v. Muhammad, 622 So. 2d 1239 (1993); Reed v. Reed, 130 Mont. 409 (1956); McDuffee v. McDuffee, 169 Mich. 410. (1912); Mackenzie v. Mackenzie, 366 Mich. 632 (1962), Waldbaum v. Waldbaum, 171 Neb. 625 (1961), De Burgh v. De Burgh, 39 Cal. 2d 858 (1952), McFall v. McFall, 58 Cal. App. 2d 208 (1943), Andrews v. Andrews, 120 Cal. 184 (1898), De Cloedt v. De Cloedt, 24 Idaho 277 (1913), Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁴³ Frank v. Hawkins, 383 Ill. App. 3rd. 799 (2008); Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011);

⁴⁴ Clagg v. Clagg, 2009 Ohio 328 (2009); In re CA. S., 828 A.2d 184 (2002); Ankenbruck v. Ankenbruck, 2000 Ohio App. LEXIS 5757 (2000); Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011); Jarvis v. Jarvis, 2004 Ohio 1386 (2004); Tortorello v. Tortorello, 113 Haw. 432 (2007); Morris v. Stonewall, 1999 Ohio App. LEXIS 5356 (1999), In Re Marriage of Stewart, 133 Wn. App. 545 (2006); De Jesus Paiva v. Aljets, 2003 WL 22888865 (D. Minn. 2003).

⁴⁵ Ditmars v. Ditmars, 18 Neb. App. 568 (2010).

⁴⁶ Tortorello v. Tortorello, 113 Haw. 432 (2007).

⁴⁷ Thomas v. Morris, 224 W. Va. 661 (2009); In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

⁴⁸ Buess v. Buess, 89 Ohio App. 37 (1950); Mackenzie v. Mackenzie, 366 Mich. 632 (1962).

⁴⁹ Conner v. Conner, 1984 Ohio App. LEXIS 12284 (1984); Pfalzgraf v. Pfalzgraf, 1979 Ohio App. LEXIS 9252 (1979); Mackenzie v. Mackenzie, 366 Mich. 632 (1962); Arnold v. Arnold, 76 Cal. App. 2d 877 (1946), Waldbaum v. Waldbaum, 171 Neb. 625 (1961).

⁵⁰ De Cloedt v. De Cloedt, 24 Idaho 277 (1913).

⁵¹ Muhammad v. Muhammad, 622 So. 2d 1239 (1993).

⁵² Conner v. Conner, 1984 Ohio App. LEXIS 12284 (1984); Muhammad v. Muhammad, 622 So. 2d 1239 (1993); Reed v. Reed, 130 Mont. 409 (1956); McDuffee v. McDuffee, 169 Mich. 410. (1912); Mackenzie v. Mackenzie, 366 Mich. 632 (1962), Waldbaum v. Waldbaum, 171 Neb. 625 (1961), De Burgh v. De Burgh, 39 Cal. 2d 858 (1952), McFall v. McFall, 58 Cal. App. 2d 208 (1943), Andrews v. Andrews, 120 Cal. 184 (1898), De Cloedt v. De Cloedt, 24 Idaho 277 (1913), Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁵³ In re CA. S., 828 A.2d 184 (2002);

B) Coercive demand

- *Insistence on having sex every day*⁵⁴
- *Children witnessing parent's abuse*⁵⁵
- *Waking spouse up in middle of the night to fight about finances and toys left in living room*⁵⁶
- *Insistence on spouse to work*⁵⁷
- *Refusal to allow spouse to work*⁵⁸
- *Withholding correspondence*⁵⁹
- *Full control and domination over spouse*⁶⁰
- *Refusal to file immigration papers for non-citizen spouse*⁶¹

C) Credible threat

- *Threat to take children away*⁶²
- *Threatening physical violence*⁶³
- *Display of weapon toward spouse*⁶⁴
- *Threaten to shoot spouse*⁶⁵

D) Surveillance

- *Monitoring phone usage*⁶⁶
- *Accusation of adultery and checking bed sheets for evidence of sexual activity with children present*⁶⁷
- *Showing up to school or work unannounced*⁶⁸
- *Contacting spouse's place of employment (military) about separation/divorce matters with purpose of humiliating spouse*⁶⁹

E) Delivery of threatened consequences

- **Physical abuse**⁷⁰

⁵⁴ Ditmars v. Ditmars, 18 Neb. App. 568 (2010).

⁵⁵ In re CA. S., 828 A.2d 184 (2002); Frank v. Hawkins, 383 Ill. App. 3rd. 799 (2008); Tortorello v. Tortorello, 113 Haw. 432 (2007), Katsenelenbogen v. Katsenelenbogen, 365 Md. 122 (2001), Abriani v. Abriani, 2007 Ohio 3534 (2007), In Re Marriage of Stewart, 133 Wn. App. 545 (2006). In Re N.A.J., file AXX-XXX-XXX, Seattle, WA. (2001) Attachment A; REDACTED File A#XX-XXX-XXX, El Paso. (2008). Attachment E.

⁵⁶ Richter v. Richter, 2009 Ohio 3828 (2009).

⁵⁷ Ennis v. Ennis, 83 R.I. 64 (Ohio 1955); Ormachea v. Ormachea, 67 Nev. 273 (1950); REDACTED File A#XX-XXX-XXX, El Paso. (2008). Attachment E. (Insisting that immigrant spouse work unlawfully)

⁵⁸ Robertson v. Robertson, 73 Okla. 299 (1918).

⁵⁹ Muhammad v. Muhammad, 622 So. 2d 1239 (1993).

⁶⁰ Ennis v. Ennis, 83 R.I. 64 (Ohio 1955); Veach v. Veach, 87 Idaho 237 (1964); Muhammad v. Muhammad, 622 So. 2d 1239 (1993); Krull v. Krull, 105 Cal. App. 2d 56 (1951).

⁶¹ REDACTED File A#XX-XXX-XXX, El Paso. (2008), Attachment E.

⁶² Clagg v. Clagg, 2009 Ohio 328 (2009); In Re N.A.J., file AXX-XXX-XXX, Seattle, WA. (2001) Attachment L

⁶³ Reed v. Reed, 130 Mont. 409 (1956); Keenan v. Keenan 361 Mich. 123 (1960), Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁶⁴ Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁶⁵ Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁶⁶ Ditmars v. Ditmars, 18 Neb. App. 568 (2010).

⁶⁷ In Re Marriage of Stewart, 133 Wn. App. 545 (2006).

⁶⁸ Hamilton ex rel. Lethem v. Lethem, 125 Haw. 330 (2011); Thomas v. Morris, 224 W. Va. 661 (2009);

⁶⁹ Shaw v. Shaw, 122 Cal. App. 172 (1932).

⁷⁰ Conner v. Conner, 1984 Ohio App. LEXIS 12284 (1984); Muhammad v. Muhammad, 622 So. 2d 1239 (1993); Reed v. Reed, 130 Mont. 409 (1956); McDuffee v. McDuffee, 169 Mich. 410. (1912); Mackenzie v. Mackenzie, 366 Mich. 632 (1962), Waldbaum v. Waldbaum, 171 Neb. 625 (1961), De Burgh

- **Display of weapon toward spouse**⁷¹
- **Threaten to shoot spouse**⁷²
- *Threat to commit suicide*⁷³
- *Extramarital affairs*⁷⁴
- *Involuntarily and unreasonably admitted into mental institution by spouse.*⁷⁵

3. Additional Behaviors that Can Constitute “Extreme Cruelty”.

This section provides examples of other forms of conduct by an abuser that family law courts have found amount to or contribute to findings of extreme cruelty:

- **Adultery with a minor**⁷⁶
- **Neglecting spouse’s need for medical attention**⁷⁷
- **Spouse’s attempted rape of babysitter and publicity stemming from the resulting trial.**⁷⁸
- *Accusations of adultery*⁷⁹
- *Objections to procurement of proper medical treatment*⁸⁰
- *Indifference towards spouse*⁸¹
- *Using children as a tool toward other parent*⁸²
- *Unreasonably critical of spouse’s child or children*⁸³
- *Being penurious within the marriage and family but a lavish spender outside the marriage and family.*⁸⁴
- *Telling others about accusations/ accusing others of partner’s infidelity*⁸⁵
- *Notifying the media accusing spouse of adultery*⁸⁶
- *Spouse moved out and lived with mistress*⁸⁷
- *Fraudulently taking wife’s real property*⁸⁸
- *Unjustified accusations of mental and emotional disturbance*⁸⁹
- *Seeking to destroy spouse’s credit.*

v. De Burgh, 39 Cal. 2d 858 (1952), McFall v. McFall, 58 Cal. App. 2d 208 (1943), Andrews v. Andrews, 120 Cal. 184 (1898), De Cloedt v. De Cloedt, 24 Idaho 277 (1913), Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁷¹ Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁷² Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁷³ Waldbaum v. Waldbaum, 171 Neb. 625 (1961).

⁷⁴ Ormachea v. Ormachea, 67 Nev. 273 (1950); Reed v. Reed, 130 Mont. 409 (1956); Arnold v. Arnold, 76 Cal. App. 2d 877 (1946), De Burgh v. De Burgh, 39 Cal. 2d 858 (1952), Tompkins v. Tompkins, 83 Cal. App. 2d 71 (1947).

⁷⁵ Ginn v. Ginn, 112 Ohio App. 259 (1960).

⁷⁶ Marko v. Marko, 2012 SD 54 (2012).

⁷⁷ De Cloedt v. De Cloedt, 24 Idaho 277 (1913).

⁷⁸ Fleming v. Fleming, 95 Cal. 430 (1892).

⁷⁹ Bierie v. Bierie, 348 Mich. 440 (1957); Keenan v. Keenan 361 Mich. 123 (1960); Robertson v. Robertson, 73 Okla. 299 (1918), McFall v. McFall, 58 Cal. App. 2d 208 (1943), Andrews v. Andrews, 120 Cal. 184 (1898), Carpenter v. Carpenter, 30 Kan. 712 (1883), Friedman v. Friedman, 37 N.J. Super. 52 (1955).

⁸⁰ Keenan v. Keenan 361 Mich. 123 (1960).

⁸¹ Ormachea v. Ormachea, 67 Nev. 273 (1950); Keenan v. Keenan 361 Mich. 123 (1960); Robertson v. Robertson, 73 Okla. 299 (1918).

⁸² Waldbaum v. Waldbaum, 171 Neb. 625 (1961), Marko v. Marko, 2012 SD 54 (2012).

⁸³ De Burgh v. De Burgh, 39 Cal. 2d 858 (1952).

⁸⁴ De Burgh v. De Burgh, 39 Cal. 2d 858 (1952).

⁸⁵ McFall v. McFall, 58 Cal. App. 2d 208 (1943), Carpenter v. Carpenter, 30 Kan. 712 (1883).

⁸⁶ Carpenter v. Carpenter, 30 Kan. 712 (1883).

⁸⁷ Tompkins v. Tompkins, 83 Cal. App. 2d 71 (1947).

⁸⁸ De Cloedt v. De Cloedt, 24 Idaho 277 (1913).

⁸⁹ Stevenson v. Stevenson, 13 Utah 2d 153 (1962).