

# Fact Sheet

## Case Law Example: Evidence and Family Violence: Amador & Amador

**AVERT**  
FAMILY VIOLENCE



**Collaborative Responses in  
the Family Law System**



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## Contact us

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Assistant Secretary

Family Law Branch

Attorney-General's Department

3-5 National Circuit

Barton ACT 2600

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## Fact Sheet – Case Law Example: Evidence and Family Violence

### ***Amador & Amador* [2009] FamCAFC 196**

The matter involved a “relocation” application by a mother, which was accepted by the Federal Magistrate. At the time of the parties’ separation, the mother alleged domestic violence, including sexual assault, perpetrated by the father – those allegations were substantially denied by the father. Federal Magistrate Henderson granted the mother the opportunity to relocate with the child.

One of the grounds of appeal from her Honour’s judgment was that “*the learned Federal Magistrate erred in accepting the mother’s uncorroborated evidence that domestic violence and sexual assault as perpetrated by the father on the mother*”.

The Full Court provided a neat and important statement which is useful for litigants (and indeed the community at large) to understand the way that a trial judge might approach consideration of some aspects of the evidence presented by parties where allegations of family violence and abuse are made. Relevantly, the Full Court stated at [79]:

*To the extent that it is submitted that the mother’s allegations of “horrific domestic violence” could only be accepted if objectively corroborated, we do not find that any such requirement exists. Where domestic violence occurs in a family it frequently occurs in circumstances where there are no witnesses other than the parties to the marriage, and possibly their children. We cannot accept that a court could never make a positive finding that such violence occurred without there being corroborative evidence from a third party or a document or an admission. We have not been referred to any authority in support of such a proposition.*

#### **Additional References:**

- Family Court of Australia - *Best Practice Principles for use in Parenting Disputes when Family Violence or Abuse is Alleged*