

**SUPREME COURT**  
**STATE OF COLORADO**

2 East 14th Avenue  
Denver, CO 80203

On Certiorari to the District Court, Adams County,  
District Court Case No. 2022CV30680  
Opinion by Judge Teri Lynn Vasquez  
County Court, Adams County, 2022C503

**Petitioner:** Claire Miller  
v.  
**Respondent:** Jesse Amos

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Case No. 2022SC936

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**MOTION FOR LEAVE TO FILE AN  
AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONERS**

The National Alliance to End Sexual Violence, National Fair Housing Alliance, National Housing Law Project, National Network to End Domestic Violence, National Resource Center on Domestic Violence, National Women’s Law Center, and Shriver Center on Poverty Law respectfully move this Court under Colorado Appellate Rule 29 for leave to file an amicus curiae brief in support of Petitioner Claire E. Miller. The brief is conditionally filed with this motion.

Courts have broad discretion to accept submissions by amicus curiae. *Conservation Cong. v. U.S. Forest Serv.*, No. 14-CV-2228-GEB-AC, 2015 WL 300754, at \*1 (E.D. Cal. Jan. 22, 2015) (participation as amicus is within court’s sound discretion). Permitting amicus briefs is advisable where third parties can contribute to the court’s understanding of the case. *Funbus Sys., Inc. v. State of Cal. Pub. Utilities Comm’n.*, 801 F.2d 1120, 1125 (9th Cir. 1986). Colorado courts have a long tradition of welcoming the participation of amici curiae. *See Mitchell v. People*, 232 P. 685, 687 (Colo. 1924) (“We welcomed the appearance and argument of amici curiae”).

This Court will decide whether or not Ms. Miller’s petition for certiorari will be granted, and in turn, if she and other tenants can raise fair housing affirmative defenses in eviction court proceedings. Amici have an interest in this case because

as a collective of civil rights, legal aid, domestic violence, and sexual assault organizations, Amici see firsthand how sexual harassment by rental property owners is all too common, and filing evictions is an easy and quick way by which owners can retaliate against tenants who rebuff the harassment. Specifically, each organization provides the relevant expertise that could be helpful to the Court:

- a. **National Alliance to End Sexual Violence** (“NAESV”) is the voice in Washington for the 56 state and territorial sexual assault coalitions and 1500 rape crisis centers working in their communities to end sexual violence and support survivors. The rape crisis centers in NAESV’s network see every day the widespread and devastating impacts of sexual violence upon survivors including difficulties in finding and keeping safe housing. NAESV opposes any impediments to survivors feeling safe to come forward, receive services, and seek justice.
- b. **National Fair Housing Alliance** (“NFHA”) is a national organization dedicated to ending discrimination and ensuring equal opportunity in housing for all people and communities through leadership, homeownership, credit access, tech equity, education, member services, public policy, community development, and enforcement initiatives. Founded in 1988, NFHA is a consortium of 167 private, non-profit fair housing organizations, state and local civil rights agencies, and

individuals. NFHA participates as amicus curiae in cases throughout the country to ensure that the Fair Housing Act and other housing laws are interpreted broadly to advance fair housing, including the recognition of a fair housing defense in eviction cases.

- c. **National Housing Law Project (“NHLP”)** is a national, non-profit legal advocacy center whose mission is to advance housing justice for poor people by increasing and preserving the supply of decent, affordable housing; expanding and enforcing low-income tenants' and homeowners' rights; and increasing housing opportunities for racial and ethnic minorities. NHLP played a key role in the 2013 and 2022 Reauthorization of the Violence Against Women Act and supports survivors and advocates confronting sexual harassment in housing. NHLP's Survivors Housing Rights Project provides technical assistance, litigation, and advocacy on the housing rights of domestic violence and sexual assault survivors to advocates and attorneys across the country.
- d. **The National Network to End Domestic Violence (“NNEDV”)** represents the 56 state and U.S. territorial coalitions against domestic violence. NNEDV is dedicated to creating a social, political, and economic environment in which domestic violence no longer exists. NNEDV works to make domestic violence a national priority, change the

way society responds to domestic violence, and strengthen domestic violence advocacy at every level. NNEDV was instrumental in the passage and implementation of the Violence Against Women Act. NNEDV has a strong interest in ensuring that victims of domestic violence and sexual assault have access to the full protection of laws like the Fair Housing Act so that they can protect themselves and their families from having to choose between becoming unhoused or enduring harassment and discrimination.

- e. **National Resource Center on Domestic Violence** (“NCRDV”) is a national, non-profit organization that works to strengthen and transform program and community efforts to end domestic violence. This mission is accomplished through the promotion of equitable and effective public policy, engagement in prevention, and provision of research, training, and technical assistance. To transform systemic and community responses to domestic violence, we must be responsive to all survivors of gender-based violence. The NRCDV has a longstanding expertise in strengthening housing solutions for survivors and is committed to enhancing the socio-economic conditions that supports their ability to achieve stability and safety, including access to housing.

- f. **National Women’s Law Center** (“NWLC”) is a non-profit legal advocacy organization dedicated to the advancement and protection of the rights of all people to be free from sex discrimination. Since its founding in 1972, NWLC has worked to advance income security, educational opportunities, workplace justice, and health and reproductive rights for women and girls and has participated as counsel or Amicus Curiae in a range of cases to secure protections against sex discrimination. NWLC’s work of advocating for gender justice in housing includes working to end sex harassment in housing through the full and fair enforcement of federal and state fair housing laws.
- g. **Shriver Center on Poverty Law** (“Shriver Center”) is a Chicago-based non-profit working toward economic and racial justice. Over the past 50 years, the organization has secured hundreds of law and policy victories with and for people experiencing economic instability in Illinois and across the country. As a central focus of its housing equity and racial justice work, the Shriver Center has worked closely with advocates and directly impacted communities to enhance fair housing and other protections for domestic violence, sexual assault, and sexual harassment survivors.

The trial court's holding presents significant issues that could jeopardize the safety and housing stability of Colorado renters experiencing sexual harassment or other forms of unlawful discrimination. Amici seeks to participate in order to provide this Court with a national perspective on the significant implications of the trial court's decision. Amici are well-positioned to describe how preventing victims of sexual harassment from raising harassment as a defense to a state eviction court action undermines the purpose and effect of civil rights laws and greenlights evictions by property owners who engage in or sanction harassment.

The amicus brief will contribute to the Court's understanding of the important consequences of this case for tenants experiencing sexual harassment or other forms of unlawful discrimination by their landlords or others acting under their direction. The brief highlights for the Court the critical role the Fair Housing Act and parallel state and local civil rights laws plays in protecting tenants from discrimination once they rent home. Legislative bodies intended and the courts have consistently found that fair housing laws protect people from discriminatory access to housing as well as discrimination that occurs after they rent or purchase a home. This brief also addresses how in the landlord-tenant relationship, an inherent power imbalance exists where landlords can exert coercive control. Renters, in particular women, are often vulnerable to property owners who can access their homes day or night and evict tenants who reject their sexual advances. This power

to evict is compounded when the legal system that permits summary proceedings sets such a low threshold for displacing tenants from their home. In response to the growing epidemic of sexual harassment in rental housing, both the U.S. Department of Housing and Urban Development and the U.S. Department of Justice have developed initiatives and guidance to protect renters. Finally, this brief addresses how interpreting Colorado's Forcible Entry and Detainer Act as excluding affirmative defenses based on fair housing laws would be an arbitrary and retrograde step, and such a rule would fall short of affording a meaningful opportunity to be heard for victims of housing discrimination.

This motion is timely filed. Colo. App. R. 53(g); see December 27, 2022 Order (directing petitioner to file opening brief by Feb. 10, 2023).

For the foregoing reasons, Amici believe that their participation as amicus curiae is advisable and would contribute to the Court's understanding of the case.

Respectfully submitted this 16th day of February, 2023.

/s/Laura B. Wolf

One of the Attorneys for Amicus Curiae

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## **CERTIFICATE OF SERVICE**

I hereby certify that on February 16, 2023, a true and correct copy of the foregoing MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONERS was filed with the Court and served via Colorado Courts E-Filing and similarly served upon all counsel of record.

/s/ Laura B. Wolf

\*In accordance with C.R.C.P. 121 § 1-26(7)-(9), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.