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## NWLC Leads Amicus Brief in Support of Survivor Justice

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ISSUES: **Sexual Harassment**, **Sexual Harassment in the Workplace**

On March 23, 2021, NWLC, along with our law firm partner Linklaters LLP and 30 other organizations including the Women's Law Project, submitted an amicus brief to the Second Circuit in support of Nicole Chase, a 27-year-old single mother and restaurant worker who was sexually assaulted by the restaurant's owner. Our brief highlights the ways gender bias by law enforcement, including reliance on harmful sex-based stereotypes, not only leads to failures in sexual assault investigations but also compounds the trauma of sexual assault for survivors. Amici urge the appeals court to affirm the district court's decision that the police response to Chase's sexual assault was clearly motivated by gender bias and thus may violate the Constitution's protections against sex discrimination. Ms. Chase is represented by Lewis Chimes and Mary-Kate Smith, of the Law Office of Lewis Chimes LLC.

**(Content warning: Description of sexual assault)** In May 2017, after Nicole Chase finished her shift at the restaurant where she worked, her boss, the owner of the restaurant, physically pulled her into the men's restroom and pressed her into nonconsensual oral sex. Earlier that day, he had also sexually harassed Chase, including by repeatedly making offensive sexual comments and grabbing her buttocks. The morning after the assault, Chase reported the incident to the police. However, in her first reports, she felt too ashamed to include the fact that she had engaged, under pressure, in nonconsensual oral sex. In a later report, Chase updated her account to include this aspect, and described that she had felt too scared and ashamed to initially include that aspect of the sexual assault.

Throughout the investigation, the police were remarkably friendly with the owner—one detective chatted repeatedly about golf outings with his attorney and suggested that he might “get out” of the situation if he instead described it as consensual sex. The police even told the owner that they could say Chase was lying and build a case against her, as they had done to other survivors in the past. And when Chase reported the nonconsensual oral sex aspect of the assault, rather than bring charges against the restaurant owner, the police *arrested Chase* for having made a “false statement.”

Our amicus brief discusses the ways in which power imbalances between an abuser and a survivor impact consent. Chase, a 27-year-old single mother and restaurant worker, was assaulted by her wealthy boss, the restaurant's owner. She was both afraid of losing her job, which she depended on to support her young child, and of going against her wealthy boss in court. This power imbalance contributed both to the harassment and assault by her boss and to Chase's initial reluctance to fully disclose the entire scope of the sexual assault to the police.

As research confirms, false reports of sexual assault are rare and, indeed, it is common for survivors' accounts to include inconsistencies or be updated over time. In the aftermath of sexual assault, survivors often experience shame, and the effects of trauma can significantly impact their ability to recount their experiences. The police responsible for investigating Chase's report ignored these realities; their behavior highlights just some of the reasons why survivors of sexual violence are so often reluctant to report sexual assault to law enforcement. For example, survivors are often afraid of encountering other forms of discrimination—including bias against Black and brown people and LGBTQ survivors, in addition to further sex discrimination, when they report sexual assault.

NWLC submits our brief in solidarity with Nicole Chase and all survivors of sexual violence, who deserve fair and unbiased investigations that are trauma-informed from employers, schools, and law enforcement. Survivors should not face retaliation when they are courageous enough to come forward seeking some measure of justice, safety, and protection.

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