



EVICTED
NOTICE

“For a man’s house is his castle, et domus sua cuique est tutissimum refugium (and each man’s home is his safest refuge)”

—Sir Edward Coke,
The Institutes of the Law of England (1628)

“If incarceration had come to define the lives of men from impoverished black neighborhoods, eviction was shaping the lives of women. Poor black men were locked up. Poor black women were locked out.”

—Matthew Desmond,
Evicted: Poverty and Profit in the American City (2016)

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Connecticut's Eviction Crisis and the Right to Counsel Movement

I BEGAN MY CAREER AT GREATER HARTFORD LEGAL AID, INC. immediately after graduation from the University of Connecticut School of Law. I came to that position with many different interests and passions. Foremost was a desire to use my law degree to help those in need, informed by my personal beliefs and my law school experiences. American legal history was and remains a secondary interest, born from my academic pursuits prior to law school. It was in that latter context that I first learned the legal maxim quoted above, which finds expression in our jurisprudence in the early adoptions of English common law, in grievances identified within the Declaration of Independence, and in the Fourth Amendment's protections against unreasonable searches and seizures.

A few months after my admission to the Connecticut bar, I tried my first case, an eviction action for nonpayment of rent brought against my client, a Latinx single mother from Hartford. As we

prepared for trial, I learned that my client had actually paid all of her rent. My client found herself defending against a frivolous nonpayment of rent claim, likely because she had complained repeatedly to her landlord about the condition of her apartment. Thankfully, my client prevailed in that trial.

Since that early experience, I have represented thousands of tenants facing evictions and other housing issues. As I write this, the nation is reeling from the violent deaths of George Floyd, Ahmad Arbery, Breonna Taylor, and countless other Black men and women. My hope is that we will come out of these tragedies with a new resolve to identify and address structural racism's many pillars. When Mr. Desmond describes evictions as a corollary to mass incarceration, those words ring true, as I consider that the significant majority of our housing clients, and those that I have observed in Housing Court over the years, are people of color. A recent study conducted by the American Civil Liberties Union found that evictions are filed against Black female renters at double the rate of white renters or higher in 17 of 36 examined states.¹ For my clients, and for the tens of thousands of Connecticut residents facing eviction every year without an attorney, home is no "castle" and certainly no "safest refuge." The permanence and stability that those words evoke are empty promises.

Connecticut was in the midst of an unaddressed eviction crisis before the COVID-19 pandemic. According to 2016 data analysis by Princeton's University's Eviction Lab,² four of our major municipalities are among the top 100 cities with the highest eviction rates in the country. Waterbury ranks 22nd on the list, Hartford 29th, Bridgeport 39th, and New Haven 69th. In just these four cities alone, 6,531 households face eviction every year, or 18 households per day. On average, 20,000 evictions are filed throughout Connecticut every year.³ A recent Connecticut Department of Housing survey of landlords estimates that the eviction rate in

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Connecticut is expected to rise to almost double, or even triple,⁴ the current rate as a result of the economic impact of COVID-19.⁵ Such an onslaught will have a devastating impact on Connecticut's rental market, court system, and access to justice gap. Evictions also present significant and enduring harms for families. In addition to the very real threat of homelessness, unstable housing affects education, employment, health, and well-being. Records of a prior eviction operate much like a criminal record, barring tenants from securing better homes in the future.

Unlike criminal cases, there is no right to counsel, with a few limited exceptions, in civil legal matters like evictions. Evictions are particularly difficult to navigate without the assistance of counsel, as Connecticut's summary process laws allow for an expedited process, with a median duration of 29 days.⁶ In recent years, the "Civil Gideon" movement has sought to address this problem. According to the 2017 Legal Services Corporation Justice Gap Report, 86 percent of civil legal problems reported by low-income Americans received inadequate or no legal help, and 71 percent of low-income households experienced at least one civil legal problem in the prior year.⁷ The situation for tenants facing eviction is particularly stark. Studies estimate that more than 90 percent of tenants facing eviction, nationwide, do not have representation, while landlords are represented in approximately 90 percent of cases.⁸

In 2016, the Connecticut General Assembly undertook its own study of the state's access to justice gap, forming the Task Force to Improve Access to Legal Counsel in Civil Matters, led by CBA Past President Bill Clendenen and Dean Timothy Fisher of the University of Connecticut School of Law. The report made a number of recommendations to address the access to justice gap, including the establishment of a pilot project to provide counsel to tenants facing eviction:

Given the prevalence of housing-related legal issues among low-income Connecticut residents, the high percentage of cases in which landlords are represented, but tenants are not, the huge difference having a lawyer can make for a tenant being sued for eviction, and the devastating effects of eviction, homelessness, and prolonged housing instability, it is imperative that access to counsel for low-income tenants in eviction proceedings be improved dramatically. While significantly expanding access to counsel for tenants in eviction proceedings will require considerable initial funding, there is ample evidence that doing so will eventually save Connecticut far more than it will cost. To demonstrate the efficacy of such a resource-intensive initiative, we recommend establishing a smaller-scale pilot program similar to those that have recently been undertaken in New York City, Massachusetts, and Washington, D.C.⁹

Since this report was released almost four years ago, we have yet to implement this recommendation in Connecticut. In the meantime, New York City, San Francisco, Newark, Cleveland, and Philadelphia have all enacted laws guaranteeing counsel to tenants, while numerous other jurisdictions have made significant investments in increasing access to justice for tenants facing eviction.

The Connecticut Bar Association will be hosting a session on this topic at the Connecticut Legal Conference. John Pollock, coordinator of the National Coalition for a Civil Right to Counsel, will join me and other speakers to address Connecticut's eviction crisis and the growing civil right to counsel movement. Please consider joining us, to learn more, and to help advance this important access to justice issue here in Connecticut. ■

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NOTES

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2. Eviction Lab, "Top Evicting Large Cities in the United States" <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en>
3. *Report to the General Assembly*, Citizens Advisory Council on Housing Matters, January 9, 2019 (retrieved on June 11, 2020) www.ct.gov/cachm/lib/cachm/2019_BIENNIAL_REPORT_with_appendices.pdf (retrieved on June 11, 2020)
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5. "Is the State Headed for an Eviction Crisis? To Be Determined" Connecticut Mirror, June 10, 2020. <https://ctmirror.org/2020/06/10/is-the-state-headed-for-an-eviction-crisis-to-be-determined/> (retrieved on June 11, 2020)
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Learn more about this topic at the 2020 Connecticut Legal Conference in **PT02 Connecticut's Eviction Crisis and the Right to Counsel Movement**. Register online at ctlegalconference.com.