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Landlord Tenant Pro Bono

by Halseth, Craig (C.M.) at 11:28 AM

Kim Ray's earlier post inspired me to get involved in the landlord tenant pro bono activities. I'm glad I did, and I want to share my recent experience.

It's hard to believe, but every year, over 30,000 Detroit residents cycle through four courtrooms assigned to address landlord tenant disputes on the fourth floor of the 36th District Court in Detroit, Michigan. Most of the defendants in these cases are extremely poor, and almost none have legal representation. Order after order is entered in favor of landlords, where the defendants are already impoverished, and now have the additional costs of judgments and must suffer the impact that a judgment has on their ability to find new housing. The cycle of poverty faced by these families is immediately apparent. They are often trapped in a system they do not understand, facing landlords with vastly more experience navigating the system. Many tenants have children, and have nowhere to go. These cases continue unabated, five days a week, every week of the year.

Across the hall from these four courtrooms sits a small office space occupied by the non-profit United Community Housing Coalition, which is only open two days each week. Outside, there are benches filled with defendants seeking free legal aid. The offices open at 9, but usually can take no more clients after 10 minutes. The Coalition can handle only about 1,000 clients each year, and as a result, literally thousands of tenants head into court confused about the process, unable to properly raise defenses without an attorney. This is a staggering volume of underserved parties who need legal representation. As lawyers, we have an opportunity to help.

Let me give you some non-confidential details about the matter I worked on last week. Forget everything you think you might know about landlord tenant disputes. The Coalition screens cases, and rest assured, it's not about

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tenants that simply don't want to pay rent and are trying to get away with something. Seldom do I get angry, but after seeing the conditions and hearing about the circumstances of my client, I was more than happy to go to battle with the landlord who was bringing the case. I've seen bad houses before when I did remodeling work, but this was deplorable. I won't go into details, but suffice it to say that one visit from the city inspector would probably end up with the house condemned. Now you might ask why someone would live here, but some people have few choices, and they pay rent expecting that the landlord will maintain the property. If they try to hold back rent or leave early, they may be threatened with a lawsuit, being forced to show up in court to prove that the landlord did not maintain the property or failed to fulfill their promises to fix it. Now they have to go through a time consuming and difficult process, without an attorney, to show that the landlord did not fulfill its end of the bargain.

In my case, the landlord previously filed a lawsuit, claiming thousands in unpaid rent (which was untrue). The tenants had suffered through many months with standing water, mold, a leaking roof, open electrical wires and other serious maintenance problems, all of which the landlord refused to repair. That case was dismissed. Despite the dismissal of the case, the landlord still did not fix the property, and proceeded to shut the water off to the house. He then showed up at the property, and started bolting the doors shut while my client's teenage son was inside. When the son came out, the landlord called the police, claimed he had an eviction order and said that the son was trespassing. The police began to arrest the son, but he was able to show them he had a key. The police finally backed off.

That was not the end, however, as the landlord filed a new lawsuit claiming more unpaid rent, even though his prior cases were dismissed. This is the case I handled. The clients wanted out, but did not want to have an improper judgment that they were liable for thousands in unpaid rent. The threat of such an order was partly what locked them into this cycle of making partial payments – the landlord kept this hanging over them, with no basis, having done no maintenance and having accepted less than full rent previously. I took on the case, and we ended up getting it dismissed with the agreement that tenants move out and pay nothing.

What happened? Tax records showed that "landlord" who filed as the plaintiff did not own the property. I went into the hall, found the plaintiff and demanded he produce a deed. He didn't have it. He got nervous. I told him that he didn't – it's in the name of an LLC. He now has a problem because he brought the lawsuit in his own name. Even if he can show he owns those companies, corporate entities need an attorney – he can't represent them without a law license. Then, I showed him the pictures of the property that we were going to show the judge, and told him the details that the court would learn about his conduct. We didn't need a full hearing – I filed an appearance, and we put the dismissal on record before the judge, with the client agreeing to move out before month's end. The client is happy, I channeled my anger to give my client the best defense, and I was able to exercise my P number for the first time in a few years. Most importantly, I helped someone with a real legal problem, who got real, tangible, and immediate results.

For the litigators reading this, we handle these types of negotiations on a larger scale all the time. It's what we do best but in a microcosm. You spot legal issues, use your knowledge and negotiating skills to try to get to a resolution, and prepare to try it if you can't. For those litigators in the office who have not been to court, or do not do this type of work regularly, this is a prime opportunity to learn and develop your skills.

Every attorney here is capable of handling these cases, and putting these tenants in a better place than they would be without help. I know what's probably holding others back from taking this on. Time and fear are likely answers. The time commitment is easy to address – sure you will need to spend a few hours reviewing some background materials and sitting through some training. However, you can pick when you want to do this – you don't need to wait for a particular pro bono opportunity to make it happen. The clinic operates two days a week every week, and you just need to let them know a few days ahead of time that you plan to be there. You can visit and shadow a Coalition attorney before you take a case yourself, or you can go with Kim or me. Plenty of cases are waiting.

Let's be honest – fear of appearing in court, fear of making a mistake, fear of not knowing what to do – those probably are what make it the hardest to take this on. But we are challenged by our leadership to change the way we work and

think, and not be afraid of failure. This presents a perfect opportunity to be uncomfortable, and challenge yourself by jumping into something new, learning from mistakes and improving. I think it fits into the goals we have as a company.

And remember, these tenants have no help – anything you can provide, even if it is imperfect, will put them in a better place. Maybe you won't stand in the right place in the courtroom. Maybe the judge will grumble that you actually need to file two appearances (one on an appearance form, the other in a small box on another sheet - that happened to me), but big deal. That's how we learn. Plus, you now have the benefit of Kim Ray's experience; she's appeared at five of these clinics. I've been to two. Leah Essenmacher and Beth Rose have also attended before. We can all help. You can certainly learn the basic rules from the outlines, but we can all help you get comfortable with the customs and other intangibles. Teamwork and strong working relationships are best formed in the trenches. We can learn together – everyone at the clinic will help you through and share ideas.

Now let me confess that I had a hard time in the days following my appearance. While the time spent in court was very satisfying, afterwards there was a feeling of sadness when I considered the circumstances faced by these defendants. It was hard to take myself out of my client's shoes. And how many others were in the same situation, but don't get counsel assigned to assist them because the clinic simply does not have the enough legal resources to assist them? But that is what is driving me to go back again, and to get better. And it's why I'm asking that you consider participating. I've handled other individual cases before. The last one took two years of delays and complications to resolve favorably, and while my client was ecstatic that he won, I was just happy it was over. That's not the feeling I got after handling the tenant case.

Most cases start and resolve in a few hours the day you are there. You see the results immediately and the impact it has on your clients. You walk away satisfied, with a feeling of confidence that you can take on anything. That pays dividends for you personally and professionally, but also makes you want to come back to help more. There are so many who need help, and you have the skills to make their lives better. Please consider participating.