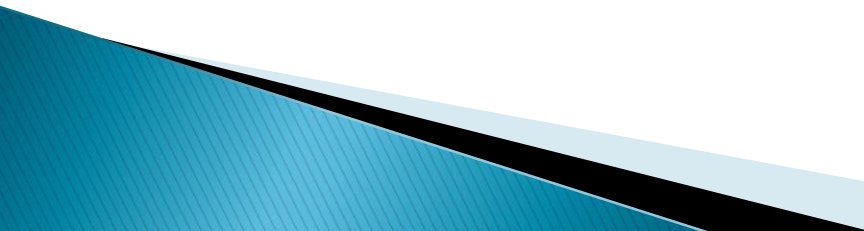




# Durham Evictions and the Eviction Diversion Program

Professor Charles Holton – Duke Civil Justice Clinic

# Consequences of Eviction:

- Compounding Poverty
    - Immediate risk of homelessness
    - Loss of personal property
    - Job Issues -- “likelihood of being laid off is roughly 15% higher for workers who have experienced an eviction” (id.)
    - Eviction Judgment (or even a filing) appearing on a credit report makes it much harder to rent another unit and may make families ineligible for affordable housing units; adverse effect on commercial credit
  - Breaking up social support structures (schools, churches, nearby family members and neighbors)
  - Health issues
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# Evictions Also Affect Landlords

- ▶ “Evictions are expensive for landlords, because by the time they get to housing court, they’ve usually gone without rent payments for at least a month. If the tenant is evicted, it can take several months before landlords find and screen a new tenant.”

–Tracey Benson, president of the National Association of Independent Landlords.

Quoted from Wiltz, Teresa: *How Free Legal Help Can Prevent Evictions*, *Huffington Post*, Oct. 27, 2017,

- ▶ Plus filing fees and attorneys’ fees

# What Happens Once Cases are Filed?

- ▶ Service of process by personal service, mail, or posting; hearing date chosen by LL – can be as early as 2 days after service; no continuance beyond 5 days w/o consent of LL;
- ▶ Trial before Civil Magistrate;
- ▶ De novo appeal to District Court w/i 10 days
- ▶ Of 10,134 eviction cases filed in fiscal year 2016–2017:
  - 1,668 judgments were denied or involuntarily dismissed
  - 5,290 judgments were granted
  - 3,291 were voluntarily dismissed or settled

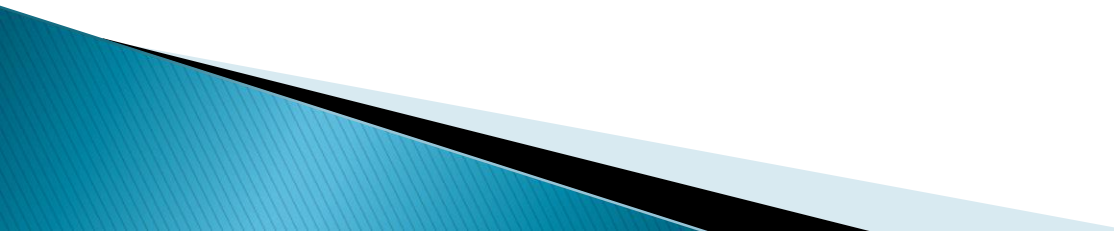
# Landlords Far More Likely to Have Lawyer – Power imbalance

- ▶ Most tenants do not have legal counsel in eviction proceedings, but most landlords do:

Location	Share of Represented Tenants	Share of Represented Landlords
NYC	11.9%	97.6%
Chicago	5%	69%
Berkeley, CA	20.4%	83.4%
Hartford, CT	16%	85%

- ▶ In Minneapolis, MN, the Volunteer Lawyers Network published a study tracking more than 300 eviction cases finding that 96% of “fully represented” tenants won or settled their cases, while only 6% of tenants without lawyers left housing court with a clear eviction record.

# Eviction Diversion Program

- ▶ Partnership Between Legal Aid of North Carolina and Duke Civil Justice Clinic, in cooperation with the Durham County Department of Social Services
  - ▶ Launched in September, 2017
  - ▶ Goal is to preserve tenancies that are sustainable and negotiate a solution in other situations that avoids an eviction judgment.
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# Durham Eviction Diversion Program

Sponsored by:  
Duke Civil Justice Clinic and  
Legal Aid of North Carolina  
in partnership with Durham County  
Department of Social Services



**EVICTION NOTICE**

**Are you interested in possibly preventing an eviction and  
possibly avoiding a Judgment against you?**

**Please contact the Durham County Department  
of Social Services at 919-560-8000 for an appointment to discuss referral  
to the Eviction Diversion Program**

**OR Bring your lease, late notices, and court papers to:  
The Eviction Diversion Clinic**

**When: Every Wednesday, 2:00 - 4:00 p.m.  
Where: Durham County Courthouse, 2nd floor  
Community Agencies Suite**

## Flier Describing Program

### ▶ **Attention: TENANTS – Eviction Diversion Program**

- ▶ • Have you not paid rent when due at any time in the last 3 months?
- ▶ • Are you in need of temporary financial assistance?
- ▶ • Do you expect to have income to pay rent next month and in the future?
- ▶ • Are you interested in possibly preventing an eviction and possibly avoiding a Judgment against you?
- ▶ If your answer is YES, please do the following:
- ▶ • Immediately call the Durham County Department of Social Services at **919-560-8000**.
- ▶ • Make an appointment to discuss your housing needs and the possibility of a referral to the Eviction Diversion Program.
- ▶ \*Even if you've already received a Summons to appear in Court, there may still be time! Call **919-560-8000** to make an appointment, and we can try to help!
- ▶ Please do **not** contact the Courthouse or the Magistrate's office, as they will **not** be able to assist you regarding this Program, and they cannot grant a continuance of your case by telephone.

### ▶ **Attention: LANDLORDS – Eviction Diversion Program**

- ▶ • Has your tenant been late on rent in the last 3 months?
- ▶ • Aside from not paying rent this time, is this tenant reliable?
- ▶ • Do you think the tenant can pay rent going forward?
- ▶ • Are you interested in possibly getting the money owed to you now, and avoiding the cost of filing for summary ejectment, litigation, and finding a new tenant?
- ▶ If your answer is YES, please do the following:
- ▶ • Immediately give this flyer to your tenant and tell her/him to call the Durham County Department of Social Services at **919-560-8000**.
- ▶ • Tell her/him to make an appointment to discuss housing needs and the possibility of a referral to the Eviction Diversion Program.
- ▶ \*Even if you've already filed for Summary Ejectment, there may still be time to avoid further costs! Tell your tenant to call **919-560-8000** to make an appointment, and we can try to help!
- ▶ Please do **not** contact the Courthouse or the Magistrate's office, as they will **not** be able to assist you regarding this Program, and they cannot grant a continuance of your case by telephone.



## **Programa para la Evasión de Desalojo en la ciudad de Durham**

Patrocinada por  
La Clínica de Justicia Civil de la  
Universidad de Duke  
La Asesoría Legal de Carolina  
del Norte  
El Departamento de Servicios  
Sociales del condado de Durham

**NOTIFICACIÓN  
DE DESALOJO**

**¿Esta interesado en posiblemente prevenir un desalojamiento y evitar un juicio contra usted?**

**Por favor comuníquese al departamento de servicios sociales de Durham al 919.560.8000 para programar una cita a cerca de referencias al Programa para la Evasión de Desalojo**

**O traiga su contrato de renta, el aviso de su propietario sobre pago tarde, y los documentos judiciales a:**

**La Clínica de Desviación de Desalojo  
Cuando: Cada miércoles entre las dos y cuatro de la tarde  
Donde: El Palacio de Justicia del condado de Durham,  
segundo piso, en las oficinas de agencias comunitarias**

# Durham Program

## Outcomes Sought for Tenants

- ▶ Attorneys negotiate with the landlord:
  - match tenant with public or charitable rental assistance from DSS and other sources and resolve the eviction proceeding;
  - and/or raise any applicable legal defenses or counterclaims;
  - or negotiate a move-out date to avoid time and expense for both parties in litigation;
  - or litigate if necessary and appropriate (minority of cases).

# Results of the Program:

- ▶ DSS receives over 250 applicants each month for emergency rent assistance.
- ▶ Average 50–60 referrals a month from DSS to Legal Aid and Duke
  - For the first 18 months of the Program, we were able to avoid evictions in 78% of cases handled and avoid move-outs in 66% of the cases.
- ▶ Ultimate goal is to substantially reduce the total number of eviction cases filed; for the last 6 months, new eviction filings for Durham have already decreased by 15%.

# Other Municipalities Taking Action

- ▶ New York City recently chose to fund a right to counsel for all tenants facing eviction
  - Expect to save \$320 million annually on spending on shelters and homelessness.
  - Cost of program – \$155 million per year.
  - **A recent report shows a dropoff of 60% in evictions in NYC.**
- ▶ Philadelphia (\$500,000 per year) and Washington D.C. (\$4.5 million per year) also recently decided to fund legal services for indigent tenants facing eviction. (Proposals pending in Baltimore and Massachusetts)
- ▶ In Newark, NJ, the City Counsel approved a right to counsel law, making Newark the latest city to join the right-to-counsel-for-evictions movement;

# Resources to Expand Programs:

- ▶ Law schools, or in cities without access to law schools, deploying retired lawyers or volunteer lawyers from area corporations or governmental agencies who have dispensations from their employers to dedicate time to pro bono legal efforts.
  - ▶ Academic studies re interface between evictions and health consequences and criminal activity.
  - ▶ Possible federal/state \$\$ via public health and/or mental health agencies.
  - ▶ Local \$\$ from City and County governments.
  - ▶ Private foundation grants.
  - ▶ Increased media awareness of eviction crisis and, thus, increased public awareness and support.
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