

## THE CHIEF JUDGE'S 2023 HEARING ON CIVIL LEGAL SERVICES IN NEW YORK

### September 18, 2023

Right to Counsel Testimony on Urgent Need For Statewide Right to Counsel and Enforcement of NYC's Right to Counsel

[The Right to Counsel NYC Coalition](#) unites tenants, organizers, attorneys, faith communities and many others who are working to ensure New York City's Right to Counsel law is upheld, and to win a Statewide Right to Counsel for all New Yorkers facing eviction. We and members of our [Housing Courts Must Change! Campaign](#) collectively represent tens of thousands of tenants across New York State and are honored to be working on permanent and transformative solutions to New York's eviction crisis.

New York City's Right to Counsel law is a hard-fought victory, achieved by tenants and their allies who had identified housing court as a center of displacement and an engine of the eviction crisis—and sought to transform it. This historic victory made NYC the first place in the nation to establish a Right to Counsel for tenants facing eviction, and inspired a movement across the country, which has now seen [over 20](#) cities, states and counties win a Right to Counsel.

By all metrics, Right to Counsel has worked to keep New Yorkers in their homes, reduce evictions, and empower tenants to organize in their buildings and show up to court to fight their cases. Now, all of that is at risk. The court's insistence on advancing an increased volume of eviction cases at such a rapid speed—faster than any other type of civil court case—has produced a situation in which legal providers cannot keep up with the pace of cases, and tens of thousands of tenants who are eligible for Right to Counsel have had this critical right denied to them. These tenants are overwhelmingly Black and brown, women and mothers, immigrants, and people who suffered the greatest losses during the pandemic, often while our society depended on their labor to keep functioning. Without Right to Counsel upheld, our court system continues to send a message to these tenants that it's acceptable for them to face eviction alone and navigate a confusing, traumatizing court system without an advocate. This failure to uphold Right to Counsel undermines any potential for equity in courts, entrenching them as eviction machines, and places where the rights of only the powerful and wealthy are upheld.

But the courts, as well as our city and state governments, are all capable of addressing this crisis:

- **The court administration should issue an administrative order**, mandating that all eviction cases where a tenant is eligible for RTC shall be administratively stayed until the tenant has retained a Right to Counsel attorney.
- **The state legislature should:**
  - **pass our Statewide Defend RTC Legislation (S3254 / A4993)**, which would mandate that tenants have the time they need to get RTC, and
  - **pass our Statewide Right to Counsel Legislation (A.1493/S.2721)** for all New York tenants, which would also create rules for the courts to uphold and implement RTC.
- **New York City should fully fund RTC!** In the last city budget cycle, we demanded \$351 million to ensure there are enough attorneys to represent everyone entitled to RTC.

Statewide Right to Counsel legislation is critically needed regardless of how we remedy the undermining of NYC's Right to Counsel law. This bill, introduced by Senator Rachel May and Assembly Member Latoya Joyner, would ensure that all New Yorkers have the right to a lawyer when facing an eviction and:

- Covers any legal proceeding that could result in a tenant losing their home.
- Requires that tenants be represented throughout their entire case, not just when they show up in court. This includes legal advice, advocacy, and assistance.
- Creates a New York State Office of Civil Representation that would administer the implementation of Right to Counsel statewide, including:
  - contracting with nonprofit legal services organizations to provide Right to Counsel and with non-profit community based organizations to provide tenants' rights education and tenant organizing.

- collecting and publicizing important data on evictions and representation, and holding public hearings on the efficacy of Right to Counsel.

With nearly [170,000 eviction cases pending across the state](#), New York State tenants need Right to Counsel now more than ever. In many localities across the state, only a fraction of these tenants are represented; for example, the city of Albany documented record low rates of tenant representation in the third quarter of 2022, with only about 1.3% of tenants having an attorney in eviction court, compared to 92-94% of landlords. This rate of representation is even lower when it comes to affirmative cases to protect against neglect of repairs, harassment or illegal lock out. Most tenants outside of New York City understand housing court to be a place that *only exists to facilitate eviction*—a place where they have little to no recourse to assert their own rights, in particular, their right to a safe, habitable home.

Statewide Right to Counsel is a significant step our society can take to stop displacement and transform courts into places that uphold tenants' rights, hold landlords accountable and enable tenants to remain in their homes. The financial firm Stout published a [study on the estimated cost of establishing Right to Counsel outside of New York City](#), which anticipates that passing Statewide Right to Counsel legislation will have a tremendous effect on evictions across the state. Stout estimates that:

- At full implementation, approximately **46,600 tenant households outside New York City would receive legal representation** under a Statewide Right to Counsel. Approximately 97% of tenants who appear in eviction court would benefit from Right to Counsel. With dedicated funding to community organizing and outreach, the percentage of tenants that accept free legal representation will likely be closer to 100%.
- Implementation of a statewide eviction Right to Counsel would **decrease eviction filings outside of New York City by at least 19%**.
- A statewide eviction Right to Counsel would **reduce the number of default judgments outside New York City, with an expected 32% decline in default rates**.

Our coalition estimates that in total, NYS will need to appropriate approximately \$500-\$550 million annually at full implementation of Statewide Right to Counsel. This cost will be phased in across five years, and will pay for itself in the long run. Passing Statewide Right to Counsel will enable New York State to realize staggering fiscal and social cost savings: millions of public dollars (over and above the cost of providing the Right) that would otherwise be spent on shelter, emergency room costs, homelessness services, and more. Like most cities and states with an eviction Right to Counsel, **New York State could see cost savings of \$3 - \$6 per dollar invested in Right to Counsel**. Behind these fiscal savings are myriad gains for New Yorkers, who Right to Counsel will protect from disruptions to schooling and education; violent encounters with marshals, police and sheriffs; devastating mental and physical health repercussions of displacement; and many other destabilizing effects of eviction.

We encourage you to consider the [comprehensive summary](#) Stout compiled detailing the harms of eviction. Housing instability, evictions and displacement are tearing our communities apart across the state. The crisis will only get worse if we don't enact permanent solutions that strengthen tenants' rights and empower tenants to fight for their homes. We can save the state money, improve equity in our justice system, and most importantly, protect and empower New Yorkers in their homes and in our courts by passing Statewide Right to Counsel legislation. At the same time, we can and must remedy the crisis in NYC's courts by enforcing our local Right to Counsel. We urge the Chief Judge to take swift action on both accounts: New Yorkers are looking to you to help our communities thrive by ensuring tenants have the fundamental right to representation.