RTCNYC Statement on OCA’s Push to Undermine Right to Counsel, April 5, 2022

The latest memo from the Office of Court Administration is absolutely outrageous and significantly undermines New York City’s historic Right to Counsel (RTC) law. With the expiration of the pandemic-related eviction protections making tenants more vulnerable than ever, OCA chose to expedite eviction cases and create policies that effectively deny tenants Right to Counsel. Instead, as we have continued to advocate for, the Court must adopt the simple solution of lowering the volume of cases to match legal services provider capacity in order to remain in compliance with the RTC law.

Since the beginning of the pandemic, we have consistently called on OCA to slow down cases. On February 16, we sent a letter to Chief Judge Difiore warning of the coming crisis and calling on OCA to implement our solutions. There is no reason to move evictions faster than any other type of civil court case. There is no reason to return to pre-pandemic norms of calendaring hundreds of eviction cases each day in every borough. Under the direction of Chief Judge DiFiore, our state courts are rushing to clear their dockets demonstrating a clear disregard for the city’s RTC law and the rights of thousands of tenants.

The new guidelines from OCA further tip the balance of power in housing court towards landlords by creating onerous burdens on tenants and legal services providers, in the midst of an unprecedented national labor shortage which has not spared legal services providers, while requiring absolutely nothing from landlords or their attorneys. We have strongly advocated for granting adjournments until tenants can receive legal representation and sent OCA a legal memo outlining how this is legally possible to do. Instead, OCA has done the opposite and has limited adjournments for cases where tenants are represented and a notice of appearance has been filed by their lawyer prior to the first court date. This means tenants will have no guarantee of Right to Counsel or asking for adjournments to search for an attorney.

While OCA has clearly proven it has the power to make policy at its discretion, it has failed to act to protect tenants. We call on OCA, specifically on Chief Judge DiFiore to:

- Reduce the cases on the calendar to a number that RTC attorneys can handle (90 plus cases on each calendar is unmanageable by any standard)
- Not calendar new cases until the backlog of cases is dealt with first;
- Only move the cases where tenants are represented forward and adjourn all the rest until the legal service providers have capacity to take more cases;
- Issue an administrative order to mandate that only cases where tenants have secured a retainer with a legal service provider can move forward and that all cases will be adjourned until that retainer is in place.

Additionally, we are also calling on the State Legislature to immediately pass the Statewide Right to Counsel legislation to guarantee tenants across the state have this critical right.