Welcome & Overview

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Agenda

Guest Speaker
• Senator Elizabeth Warren (D-MA)

Field Updates
• Daniel Davis, UMOM New Day Centers
• Chris Martin, Housing California
• Raphael Ramos, Legal Action of Wisconsin
• Andrew Bradley, Prosperity Indiana

Litigation Strategies to Prevent Evictions
• Eric Dunn, NHLP

Healthcare Needs of People Experiencing Homelessness
• Bobby Watts, NHCHC

Update from Capitol Hill & Needed Advocacy
• Sarah Saadian, NLIHC
• Joey Lindstrom, NLIHC

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Guest Speaker

Senator Elizabeth Warren

Massachusetts

United States Senate
Field Updates

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Field Updates

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Field Updates

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Litigation Strategies to Prevent Evictions

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Holding Back the Ocean
Fighting evictions during Covid-19

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Strategies for Stopping Evictions

- **Political:**
  - Many public officials have the power to stop or slow down at least one aspect of the eviction process
  - Identify and bring pressure on all such officials

- **Judicial:**
  - Courts can stop evictions through administrative orders related to protecting public/staff safety
  - Higher courts can restrain acts of lower courts

*Ideally, a judicial strategy supports (or creates) a viable political strategy*
Asking courts to stop evictions

- Courts can decline to process or hear eviction cases altogether to protect their staff or the public.
- Courts can impose conditions on resuming eviction cases (for safety, *due process*, or other good cause).
Health concerns: Covid-19

- Physical characteristics of courthouse
  - Courtrooms, lobbies & hallways, security checkpoints
  - Clerk’s offices and other facilities

- Volume of court users
  - Caseloads, dockets (not just evictions!)
  - Public has right of access to observe court operations too

- Rules & policies
  - Masks, social distancing rules, numerical limits
  - Notice, compliance, enforcement
Some due process concerns

- Access to court:
  - Safe to enter? Safe to travel?
  - Access for witnesses, others?
- Preparation:
  - Investigation/discovery
  - Access to legal services
- Notice
  - Has court location changed?
  - New rules or policies?
  - Remote hearings available?
  - Remote hearings, you say?
- Video available?
- Written procedures on-line?
- Devices, wifi provided?
- Accessible exhibit practice?
- Real-time interpretation?
- Public access provided?
- Tech help available?
- Policy for those unable to use technology effectively?
What if the court isn’t ready?

• Safety/public health:
  • Physical preparations (if possible)
  • Adopt & enforce safety rules & policies
  • Reduce volume of court users

• Due process:
  • Fully-baked procedures
  • Notice to all concerned
  • Totality of circumstances
Suing courts to stop evictions

- Identify **recurring** due process violation
  - Must taint quality of hearings across entire dockets or categories of cases—not adjudication of single case
  - Individual violations: strong basis to seek remedy for affected tenant but not necessarily collective relief

- Sue to enjoin the court from hearing more evictions until the challenged practice is corrected
Litigation vehicles

  - Challenges: standing, ripeness, federalism (Anti-Injunction Act, abstention doctrines, Rooker-Feldman doctrine, Eleventh Amendment)
  - Benefits: good remedies, universally available

- State: varies, usually statutory or constitutional writ
  - Quasi-administrative law procedure, also useful for enforcing conditions and administrative court orders
The Virginia writ theory

- Virginia Supreme Court:
  - Issued emergency order suspending in-person hearings on all non-emergency cases in March 16
  - On May 6, authorized courts to resume in-person hearings, but imposed conditions (safety, notice)

- Lynchburg General District Court:
  - Decided to resume in-person eviction hearings without fulfilling the conditions set by VSC

- Claim: Order Lynchburg GDC not to hear any eviction cases until it complies with VSC’s conditions
Healthcare Needs of People Experiencing Homelessness

Bobby Watts

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Updates from Capitol Hill & Needed Advocacy

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Resources


Next Steps