

## Testimony on: **New York Senate Bill 427**

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Testimony to the  
**New York Senate  
Judiciary Committee**

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Consumers for a Responsive Legal System (“Responsive Law”) is a national, nonprofit organization working to make the civil legal system more affordable, accessible, and accountable to the people. We support policies that expand the range of legal services available to meet people’s legal needs. In particular, we support loosening restrictions on who may provide assistance on legal matters so that people of all income levels can get the legal help they need. Therefore, **we endorse Senate Bill 427**, which will provide a lifeline to many New Yorkers who are unable to afford a lawyer when facing eviction.

Each year, New York City housing court handles approximately 350,000 cases.<sup>1</sup> In 2012, more than 28,700 New Yorkers were evicted.<sup>2</sup> Many legal aid and pro bono programs in New York City only provide legal help for people below the federal poverty guidelines.<sup>3</sup> Unfortunately, with a maximum qualifying income of \$23,550 for a family of four for most cases, many using the housing courts will not be eligible for free lawyer assistance.<sup>4</sup> A 1993 study found that counsel represented fewer than 12% of New York City tenants appearing in court, compared to the 97% of landlords who were represented.<sup>5</sup> Presumably the 88% who appear without counsel do so because they do not qualify for free legal aid but cannot afford a lawyer. Many more tenants undoubtedly have legitimate legal claims against their landlord that they do not pursue because of a lack of understanding of housing court procedure, a lack of time to appear in court, or both.

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<sup>1</sup> Raymond H. Brescia, [Sheltering Counsel: Towards A Right to A Lawyer in Eviction Proceedings](#), 25 *Touro L. Rev.* 187, 192 (2009).

<sup>2</sup> Steven Wishnia, [Evictions Rise Again in City](#), February 2013.  
[http://metcouncilonhousing.org/news\\_and\\_issues/tenant\\_newspaper/2013/february/evictions\\_rise\\_again\\_in\\_city](http://metcouncilonhousing.org/news_and_issues/tenant_newspaper/2013/february/evictions_rise_again_in_city)

<sup>3</sup><http://apps.americanbar.org/legalservices/findlegalhelp/freehelp.cfm?id=NY>

<sup>4</sup><http://www.familiesusa.org/resources/tools-for-advocates/guides/federal-poverty-guidelines.html>

<sup>5</sup> Andrew Scherer, [Why People Who Face Losing Their Homes in Legal Proceedings Must Have A Right to Counsel](#), 3 *Cardozo Pub. L. Pol’y & Ethics J.* 699, 704 (2006).

Senate Bill 427, would allow non-lawyers to represent people in housing court, as long as they are not compensated for their services. The bill would expand the amount of help available to tenants, thus alleviating some of the problems that tenants face when they can't afford a lawyer and are not eligible for a free one. Non-lawyers working for social service agencies and tenant advocacy organizations would be able to represent tenants in housing matters, rather than merely advising them on how to represent themselves. Even allowing friends and family members of tenants to speak on their behalf could benefit tenants with less fluency in English, or those who just don't feel comfortable presenting an argument in public to a magisterial robed presence sitting high above them.

Opponents of non-lawyer representation sometimes claim that it is problematic to allow non-lawyers to do work that has traditionally been performed by a lawyer. Such an argument falsely assumes that tenants are choosing between representation by a lawyer and representation by a non-lawyer. Most low- and middle-income tenants cannot afford to pay a lawyer. For anyone facing eviction who does not qualify for a free lawyer, the choice is between a non-lawyer or self-representation.

It is also unfair to assume that non-lawyers cannot competently represent people in housing court. Many non-lawyers working in tenants' rights are no doubt already better versed in housing court procedures than the average New York lawyer. These non-lawyer advocates would gain further competency if SB 427 were to become law, as being permitted to represent clients would give them and their organizations incentive to train them to be better courtroom representatives.

Permitting non-lawyer representatives will not only benefit tenants, it will benefit the justice system as a whole. Non-lawyer representatives will have a better understanding of housing part procedures than self-represented litigants. As a result, the court will have to spend less time explaining procedure to parties appearing before it and can focus on adjudicating. This will help the court relieve some of the pressure on its crowded docket. It will also help both landlords and tenants, by allowing them to have their cases heard more expediently.

The public's need for legal assistance is too vast to be serviced by the small number of lawyers who work in low-income legal assistance. Low-income legal services are already overburdened trying to meet the needs of the poorest New Yorkers. Most middle-class New Yorkers, who don't qualify for free lawyer assistance, still lack the means to hire a lawyer. Chief Justice Lippman's Task Force to Expand Civil Legal Services in New York recommended "the implementation of a pilot program to permit appropriately trained non-lawyer advocates to provide out-of-court assistance in a discrete substantive area."<sup>6</sup> SB 427, while not formally a pilot program, provides the type of help that the Task Force describes as being part of the solution to the access to justice crisis. **We urge the committee to vote in favor of the bill.**

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<sup>6</sup> The Task Force to Expand Access to Civil Legal Services in New York. November 2012. Page 39.