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Stanford law students, faculty help low-income renters avoid eviction in hands-on legal aid clinic

In anticipation of a looming housing and evictions crisis following COVID-19-based eviction moratoria expiring, Stanford's legal community undertook several projects to help low-income residents in the local area and California.

BY MELISSA DE WITTE

When U.S. Attorney General Merrick Garland asked for support (<https://www.youtube.com/watch?v=Y8NHgf1E-2s>) from the legal community in August of this year in anticipation of a housing and evictions crisis as a result of the COVID-19-based eviction moratoria expiring, Stanford law Professor Juliet Brodie was poised to help.

For the past decade, in her capacity as director of the **Stanford Community Law Clinic** (<https://law.stanford.edu/community-law-clinic/>) (CLC), Brodie, along with Stanford Law School (SLS) students under her supervision, has represented low-income residents in neighborhoods surrounding Stanford deal with a range of legal problems, including housing and eviction issues. CLC is one of the 10 clinics that the law school operates, and the only one with an off-campus, community-based office.

In response to Attorney General Garland's call for help, Brodie saw opportunities to expand the clinical practice into places where access to legal aid is lacking.

"Our mission has always been to represent tenants who otherwise would not have lawyers," Brodie said. "And COVID-19's disruption of the economy just exploded the number of those tenants."



(https://news.stanford.edu/report/wp-content/uploads/sites/3/2021/12/20211123_Juliet_Brodi)

Juliet Brodie

(Image credit: Andrew Brodhead)

Stanford University (http://www.clsepa.org/) (CLSEPA) to tap CLC students and provide legal counsel that low-income residents living in Mountain View have difficulty finding: Because much of the region's legal aid resources are concentrated in San Francisco and San Jose, low-income tenants living in the corridor between the two urban hubs can have trouble connecting to lawyers, Brodie explained. "We wanted to use our resources to expand capacity in that community," she said. (https://news.stanford.edu/report)

Informing tenants of their legal rights

Throughout fall quarter, Stanford students, along with either Brodie or Lauren Zack, a litigation and advocacy fellow at CLC, have staffed a clinic at the Mountain View Public Library where each week, city employees hold an **Eviction Help Center**

(https://www.mountainview.gov/depts/comdev/housing/rentstabilization/eviction_help_center/eviction_help_center) to help tenants apply for COVID-19 emergency rental assistance. The law students, along with a supervisor, are available to answer questions related to legal papers, including eviction notices residents may have received. If appropriate, the clinic can go on to represent the tenants in litigation or negotiation.



(https://news.stanford.edu/report/wp-content/uploads/sites/3/2021/12/20211118_Ace_Elliott_Hernandez)

Ace Elliott-Hernandez
(Image credit: Andrew Brodhead)

Mountain View has a poverty rate of about **6.7 percent**

(https://www.census.gov/quickfacts/mountainviewcitycalifornia). It also ranks as one of the most expensive areas to live in the state: Median rent is about \$2,500, according to **Census Bureau Data from 2015-2019** (https://www.census.gov/quickfacts/fact/table/mountainviewcitycalifornia). For low-income residents who live paycheck to paycheck and have experienced economic hardship due to the pandemic, owed rent in such an expensive part of the state adds up quickly.

"There are people who haven't been able to pay rent for the entirety of the pandemic," said Ace Elliott-Hernandez, a JD candidate in the Class of 2022 who has been helping at the clinic. Some of the clients Elliott-Hernandez meets owe anywhere from \$5,000 to upwards of \$35,000, depending on the family and dwelling sizes.

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 Fortunately, there are federal programs that offer relief from any rental debt accrued because of the pandemic, as well as a number of new state laws (https://housing.ca.gov/tenant/protection_guidelines.html) that offer protection from eviction, such as requiring a landlord to apply for rental assistance before they can even try to evict a tenant for failing to pay owed rent. In addition, state law stipulates that a tenant is also shielded from eviction if they have applied for rental assistance and their application is still being processed.

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 Navigating ever-changing rules like these can get complicated, quickly, Elliott-Hernandez explained. “The law is changing so rapidly around COVID-19 that it’s even difficult for us at the clinic to stay abreast of what the current state of the law is. I could not imagine being a tenant with no legal training,” Elliott-Hernandez said.

Moreover, it is especially challenging for the tenants that Elliott-Hernandez and her colleagues serve. Many do not have internet access to search for the legal information they need, and even then, because of shifting legislation, what is found on the web is sometimes out-of-date and no longer accurate. For non-English speakers, it can be even more challenging to understand the complicated legal terminology contained in the various documents and notices that tenants receive.

“Just having a lawyer there to be able to distill this information is so useful,” Elliott-Hernandez said.

Offering a space to be heard

CLC is a direct service and trial practice clinic, where students apply their classroom legal knowledge to real-world situations. Often, as with the new Mountain View program, even if the students do not go on to represent the tenants, they are on hand to explain legal rights and offer counsel.

“This is often the first time that tenants are able to share their stories. We are both advisors and we offer a space for tenants to feel heard,” Elliott-Hernandez said.

Joining Elliott-Hernandez at the clinic is Julian Schneider, also a JD candidate in the Class of 2022. What has been particularly challenging for Schneider is learning about landlords who have said things to pressure or coerce their tenants in ways that break the law.

“It’s been an upsetting reality,” Schneider said.

Schneider has heard from tenants whose landlords told them that have to pay all their COVID-related rental debt when in fact, the sum owed is covered by the government rental assistance program. He also heard about landlords misinforming their tenants that the government program will only cover a specific amount and after a certain date, they won’t cover anymore. “That’s not true,” he said, noting that COVID-impacted renters could be eligible for assistance through March 31, 2022.

Part of the problem, Schneider said, is that in situations like these, even if a tenant’s legal rights have plainly been violated, the amount of money at stake is not enough to entice a private lawyer into representing them.



(https://news.stanford.edu/report/wp-content/uploads/sites/3/2021/12/20211118_Julian_Schn)

Julian Schneider

(Image credit: Andrew Brodhead)

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In addition to their direct work with tenants through the Mountain View library clinic, CLC students and attorney Zack have created a

suite of “template” legal papers for tenant lawyers around the state. “The new laws created new tools,” says Zack, “but our colleagues in busy legal services offices, especially in the under-staffed offices in rural areas like the Central Valley, don’t have time to write a brief on all these new issues.”

Two law students, Leah Kennedy and Natalie Denby, both expecting their JDs in 2022, created fillable templates raising the new defenses. The response has been tremendous. Says Kennedy, “It’s so great when Lauren tells us that another legal aid provider has sent her an email thanking her for our work. This is what I came to Stanford to learn how to do, and it’s so great that we can use our resources to play this role.”

poured into their communities, there has not been the “eviction tsunami” that people feared was coming after eviction moratoriums expired, said Brodie.

While there has been an uptick in eviction notices in San Mateo and Santa Clara counties, it is nowhere close to what many feared.

“We are seeing an increase in evictions based on landlord claims other than nonpayment of rent,” said Brodie. “The COVID protections, if enforced, basically prevent eviction of a COVID-impacted tenant for not paying rent. Some landlords are working around that protection by alleging some other problem, such as another lease violation or a ‘nuisance.’ While some of those cases are undoubtedly pretextual, they really require a lawyer to defend.”

Building on a legacy of legal aid

The evictions work that Brodie and her students are doing builds on a long history of legal aid work that the CLC and other aid workers across the country have done for decades, Schneider pointed out.

Schneider and Elliott-Hernandez are working with one client who was wrongfully evicted from their home of nearly 20 years. This person has had to move into a shared bedroom while they wait for Section 8 housing, the federal subsidy program that assists low-income renters with housing. Right now, the only legal remedy this person has is to try to get this person their security deposit back, which Schneider and Elliott-Hernandez are working on.

While Schneider and Elliott-Hernandez have been helping the Mountain View clinic deal with pandemic-specific situations, often the cases they hear are accompanied by other problems as well, particularly around habitability.

Schneider and Elliott-Hernandez said they have heard stories from renters about problems like leaky ceilings or rodent infestations in their dwellings. Another case Elliott-Hernandez is helping with involves a COVID-impacted client who, despite their building burning down, is still being asked to pay rent.

“Even though California is one of the better states for tenants’ rights, people are still being placed in these horrible positions and it is heart-wrenching to see that on a day-to-day basis,” Elliott-Hernandez said.

Avoiding an ‘eviction tsunami’

Because of the sweeping legislative efforts and financial resources that California state and local governments have

“The so-called ‘access to justice’ crisis – inadequate lawyers for the poor – is nothing new. We at CLC have been working in the neighborhoods near Stanford for decades, doing not only housing work but also disability rights, criminal record expungement, wage theft and other basic civil anti-poverty lawyering,” Brodie said.

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While the pandemic has shone a spotlight on the inadequate access to legal representation among low-income communities, the issue has been a persistent problem in the legal profession.

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“I hope that coming out of the pandemic this creates more public funding for assistance for tenants and also access to counsel,” Schneider said. “I hope this is not just an emergency measure but also the beginning of an expansion of access to counsel for people who can’t afford to pay for it.”



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