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October 11, 2017

Honorable William N. Brownsberger  
Senate Chair, Joint Comm. on Judiciary  
Boston, MA 02133

Honorable Claire D. Cronin  
House Chair, Joint Comm. on Judiciary  
Boston, MA 02133

**Re: In Support of H. 3589, An Act establishing a right to counsel in certain eviction cases; H. 968, An Act promoting homeless prevention in Massachusetts; and S. 831, An Act promoting homeless prevention in Massachusetts**

Dear Chairs and Members of the Joint Committee on Judiciary:

Thank you for the opportunity to provide testimony on H. 3589, H. 968, and S. 831. As a Staff Attorney for the Public Justice Center, I serve as Coordinator of the [National Coalition for a Civil Right to Counsel](#) (NCCRC). The NCCRC works to establish the right to counsel in civil cases involving basic human needs such as housing via litigation, legislation, research support, and public advocacy/education. The NCCRC has nearly 300 participants in 38 states, including many in Massachusetts. Among our efforts, we were instrumental in the American Bar Association's introduction and adoption of [ABA Resolution 112A](#) (2006), which called for jurisdictions to support a right to counsel in civil cases involving basic human needs. At the state level, we collaborated with local advocates in New York City on the successful passage of Intro 214-b, which established a right to counsel for tenants in eviction cases who are at or below 200% of the federal poverty level. And we were one of the founding members of the [Housing Not Handcuffs Campaign](#), a 100+ organization effort that seeks to end the criminalization of homelessness through a variety of policies and approaches, including the right to counsel in housing court.

There are many reasons why providing a right to counsel in housing court would promote justice and be responsive to the state's needs. For one, numerous studies have demonstrated the significant impact on outcomes when tenants have counsel. In [The Importance of Representation in Eviction Cases and Homelessness Prevention](#), the Boston Bar Association Task Force on Civil Right to Counsel described how, at one of the state's housing representation pilot sites, tenants receiving full representation were twice as likely to retain possession and paid hundreds of dollars less to landlords when compared to those receiving "lawyer of the day" assistance. In a limited study in California, fully represented tenants were two-and-a-half times more likely to retain possession and (when ordered to leave) received nearly twice as long to vacate as those receiving limited assistance.<sup>1</sup> And a

<sup>1</sup> Jessica Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 Geo. J. Pov. L. & Pol'y. 453 (2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1960765](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1960765).

New York randomized study found that fully represented tenants were less likely to default, less likely to be subjected to a negative judgment or warrant of eviction, and more likely to receive a rent abatement or repairs order than unrepresented tenants.<sup>2</sup> Prior to the passage of Intro 214-b, New York City's investment of \$60 million in eviction defense, which increased tenant representation rates from 1 percent to 27 percent over a 2-year period, caused a 24 percent decrease in evictions during that same period.<sup>3</sup>

Reports have also shown the significant cost savings that can accrue from providing a right to counsel. For example, in New York City, an independent financial analysis company concluded that the right to counsel would provide the City \$320 million in net savings.<sup>4</sup> We believe that it is wiser for state and local governments to spend the money upstream to provide representation rather than to spend the money downstream in the form of homeless shelters, homelessness services, and law enforcement costs related to homelessness.

Finally, the extreme representational imbalance between landlords and tenants impairs the fundamental fairness of the proceedings. In many jurisdictions, tenants are represented less than 10 percent of the time, compared to over 90 percent for landlords. Such an imbalance can embolden some landlords to pursue wrongful evictions, knowing that tenants are unlikely to secure legal assistance. It may also cause some judges to become too accustomed to bypassing hearings, pressuring tenants to settle with the landlords' attorney, or spending only a few seconds on each eviction, even though such evictions have a dramatic impact on the tenants' lives.

We thank you again for this opportunity to provide testimony, and would be happy to answer any questions the Joint Committee has on the efforts and activities in other jurisdictions.

Sincerely,



John Pollock  
Coordinator, NCCRC

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<sup>2</sup> Carroll Seron, et al. *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment*, 35 Law & Soc'y Rev. 419 (2001).

<sup>3</sup> NY Office of Civil Justice, *Annual Report* (2016), available at [http://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FINAL\\_08\\_29\\_2016.pdf](http://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FINAL_08_29_2016.pdf).

<sup>4</sup> Stout Risius Ross, Inc, *The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A* (Mar. 16, 2016), available at [http://www2.nycbar.org/pdf/report/uploads/SRR\\_Report\\_Financial\\_Cost\\_and\\_Benefits\\_of\\_Establishing\\_a\\_Right\\_to\\_Counsel\\_in\\_Eviction\\_Proceedings.pdf](http://www2.nycbar.org/pdf/report/uploads/SRR_Report_Financial_Cost_and_Benefits_of_Establishing_a_Right_to_Counsel_in_Eviction_Proceedings.pdf).