

IN CONVERSATION WITH JUDGE JEAN SCHNEIDER

SUPERVISING JUDGE, NEW YORK CITY HOUSING COURT

Introduction

In 2015, the Center for Court Innovation created Poverty Justice Solutions, a collaboration with the Robin Hood Foundation, the New York State Unified Court System and the New York City Human Resources Administration that seeks to close the justice gap by expanding the pool of attorneys available to represent low-income New Yorkers in Housing Court and apply an innovative problem-solving approach to housing court matters across New York City. Each year, Poverty Justice Solutions places 20 recent law school graduates in two-year fellowships as entry-level attorneys with civil legal service providers in New York. The Fellows also meet regularly for trainings, workshops, and conversations with leaders in the civil legal justice field.

In November 2016, Judge Jean Schneider, the Supervising Judge of Housing Court in New York City, spoke with the Poverty Justice Solutions Fellows. What follows are highlights from Judge Schneider's talk.

How did you get into Legal Services work?

When I arrived in law school, I had never met a lawyer before. I found my first semester of law school absolutely soul-crushing. In my second semester, I got involved in a legal services clinic and thought, "That's what I want to do. Since I need a law degree in order to do that, I'm going to finish law school." I was a legal services lawyer for 20 years, and have been a Housing Court judge for almost 20 years. I feel so fortunate. I know so many lawyers that don't have a good time doing what they do, and almost every day I get up in the morning and I'm glad to be going to work.

About Poverty Justice Solutions

Poverty Justice Solutions is a partnership between The Robin Hood Foundation, The New York Unified State Court System, the New York City Human Resources Administration, and the Center for Court Innovation. Former New York State Chief Judge Jonathan Lippman, whose vision inspired Poverty Justice Solutions, also serves as chair of its advisory board.

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One of the things that I love about this work is I see New York City in all of its incredible variety. One of my role models always says when she's trying to teach new judges, "You know, people will leave your courtroom okay with losing if they believe you listened to them, understood what they were saying, and came to a fair decision."

How does the rising percentage of tenants with legal representation change Housing Court?

In Manhattan, 50 percent or more of the tenants are represented by counsel. That has an impact on housing court as an institution because when you get up to 50 percent, it changes the atmosphere. In other boroughs until recently between one and five percent of tenants were represented by counsel. Now, as a result of expanded funding, the latest study said 27 percent, which has had a tremendous impact. In 2014, I had a conversation with two long-term colleagues in which I asked, "Is having more lawyers in Housing Court going to make it easier to be a judge or harder?" They said, "Oh, it's going to make it much harder. We're going to have a lot more motions, we're going to have a lot more decisions to write." I said, "I don't think so - I think it's going to be much easier. Come back to me in a year and tell me what you think." They both did and said, "You're right, oh my gosh." If there are more lawyers, we have more opportunities to be judges in the way judges are supposed to be.

How are New York City Housing Courts planning to handle the influx of new tenant attorneys?

There's already an influx that we are dealing with. In terms of priorities, the first one is finding ways to bring the legal services programs into the courthouse. We have been doing that in some courthouses more successfully than others. Brooklyn is forever a challenge because there's no space there. That's been true since I was a new lawyer. I'm hopeful that if there's better designed space and the elevators work, if the stairways aren't so horrendous and the courtrooms are of adequate size, we can design an environment where people can make decisions and litigants can feel heard.

Are there any cases that stick with you personally?

One of the things that surprised me when I became a judge is that some of my colleagues really suffer over decisions and it turns out that mostly I don't. Maybe it's because I did a lot of intake in civil legal services offices, and I have a lot of experience understanding that sometimes you have to say no. However, there are particular litigants that stick with me because of their spirit. One of the things that I love about this work is I see New York City in all of its incredible variety, with all of its stunning challenges. I have real interactions with real people. One of my role models, Judge Fern Fisher (New York's Deputy Chief Administrative Judge), always says when she's trying to teach new judges, "You know, people will leave your courtroom okay with losing

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What advice do you have for practicing tenant attorneys?

I used to think that the way you have institutional impact is by creating records that can support appeals and develop the law. Now I think being a civilizing influence is probably the most important thing. My colleagues on the bench want to feel like real judges. We want to have real arguments in front of us in which people behave. While it is tempting sometimes to scream louder than the other person, I would fight against that. Also, get to know your judge. For example, I have a pet peeve about interruption. People that interrupt their adversary in midstream wind up getting withering looks from me. If you wait your turn you get all the time you want.

Do you have any advice for attorneys pursuing a judgeship?

We are always looking for great candidates to be a Housing Court judge. When we're evaluating a candidate that comes from a tenant representation background, your reputation with adversaries matters, but they don't have to love you. They have to respect you. If they say, "Man, she's really tough. She's hard to deal with but she's prepared." That's what you need to move up. I would encourage anybody that's willing to think about becoming a Housing Court judge to apply because it's not a job where crowds and crowds of people are clamoring to do it. It's a hard job, a dirty job, a really challenging job. If that's something you might think will be in your future, nurture it.

How did becoming a judge change your perspective on the housing court process?

One of the things that I don't think I had a full grasp of before I was on the bench was how difficult scheduling in court is. We are strangely kind of a 19th century institution. In the 21st century, there are not a lot of activities that require having five or six different humans be in the same place at the same time in order to do it. We get criticized as a court for the number of times that things get postponed, the number of times that people wind up coming to court before the thing is done. Imagine being an unrepresented litigant that comes to court yourself and has a brief conference and the person there representing the landlord discovers that you don't agree that you have unpaid the amount of money that the landlord says. The attorney says, "Well, I need an adjournment judge because now I have to

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explore this with my client ..." blah, blah, blah, blah, blah. The tenant is saying, "What do you mean? You started it. What do you mean you're not ready?" I'm there giving a speech in which I say ... I don't have standard speeches for very many things, but for this one it's almost, I'm pretty easy to get one postponement from. Anybody that's not ready the first time usually can get a postponement from me, after one it gets harder. Managing calendars is something we don't teach judges but we ought to.

Are there areas where landlord and tenant attorneys agree?

There are so few areas of agreement, but I can think of one. A few years ago, a group of Housing Court judges floated a proposal in the Legislature to increase the term of judges from five years to ten years, and what we said was because it takes a year to go through the reappointment process, we're in reappointment 20 percent of the time. That really does have an impact on judicial independence. Landlord advocates and tenant advocates were unanimous: "No way. No way. We like it that these guys are on a short leash and that we get to be heard every five years about what they're doing." That's the only thing I can come up with in my 19 years on the bench in which both sides agree.

What do you see as some of the long-term solutions to New York's housing crisis?

The biggest challenge from my standpoint is there's not enough housing and it costs too much. I mean, "Duh." The court as an institution doesn't have a lot it can do about that. In my personal opinion, the city could take another look at how it regulates illegal units, which are driven by market conditions. If a single person with a minimum wage job can find a room to rent for \$400 or \$450 a month, that's going to happen and it's going to keep happening. What I wish is that policymakers would focus on recapturing and regulating illegal units, as opposed to issuing vacate orders and getting everybody out of there. The city used to have a lot of SRO (single room occupancy) housing but there isn't much anymore. We've eliminated categories of housing because we've thought of them as sub-standard and we're now in this place where we can't figure out how to create places to live for people with limited incomes. That's one of the things that I see in court that I can't get anybody to listen to me about.