



EQUAL JUSTICE AMERICA

Summer 2022 EJA Fellow:



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Update 1: I have learned a great deal in my first couple weeks as an Equal Justice America Fellow for the Central Virginia Legal Aid Society. My main assignment so far has been drafting a Grounds of Defense for one of our clients who is facing an eviction. This document includes motions to dismiss, affirmative defenses, and counterclaims. Writing it has required learning a lot about major Virginia laws related to landlords and tenants including the Virginia Residential Landlord and Tenant Act and Virginia Consumer Protection Act. I'm grateful to have been given a significant writing assignment on which I can work largely independently as I start out here, as I think it has been a perfect opportunity to build up necessary knowledge at my own pace. I have also learned a great deal by sitting in on housing court. The most striking things to me so far have been the sheer quantity of eviction suits and mechanical application of the eviction action, here in my hometown, tearing families from their homes. I look forward to a summer engaged in tenants' rights work.

Update 2: As I get more familiar with Virginia's landlord-tenant laws, I am becoming more comfortable reviewing incoming cases. I'm learning to look through the nonpayment notice, summons, lease, and even the land book for each client, making sure that the landlord has done everything by the book. It is strange to be so focused on the technicalities when litigating issues that are ultimately about real, substantive injustices—our clients are being evicted because they have failed to pay rent, but they've failed to pay rent because rent is too high for low-income people to pay it in our area—but I appreciate that we are fighting for people on an individualized basis. It will be interesting to see whether by the end of the year, I have more of an interest in macro-level work or if I am still all in on litigation. Either way, this has been an excellent educational experience so far. Also of note, this week, a Grounds of Defense that I drafted was sent to the opposing counsel, who agreed to settle the case so that our clients will not have to pay back rent owed.

Update 3: The past two weeks, I have performed several research projects for attorneys trying to figure out how best to defend tenants in court. First, I looked into the laws on attorney fees provisions in leases, and found that in Virginia, an attorney fees clause is invalid if it permits the losing party to collect attorney fees—but that if it is caveated by the adjective "reasonable," it becomes enforceable again. I then researched deed books and concluded that one could make a meritorious argument that a tenant has the right to accurate information in deed books. Third, I have been researching the not-for-cause lease terminations and found that while landlords may terminate the tenancies of section eight voucher-holders without cause (such as for holdover tenancies), owners of LIHTC properties may not. Researching these questions has been a very educational, interesting experience.



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Update 4: The past week has given me the opportunity to work on my first two unemployment cases for CVLAS. This experience has demonstrated how deeply broken the Virginia unemployment insurance system is. One client has been waiting almost a year for his appeal of a denial of unemployment benefits, while the second has received notices demanding payment of alleged “overpayments” that the Virginia Employment Commission had already told him they had *waived*, *plus* a double-counting of half of that amount, for a total of almost thirty thousand dollars that it has already admitted it is *not* owed. It is extremely frustrating that the best we can do for this second client will likely be to advise him to file another appeal (with which we can assist), and write emails to members of the VEC, but the system has been so overwhelmed that working with the VEC has become nearly impossible. Having now seen the peak of bureaucratic incompetence, I am eager to pursue work that allows me to counteract such systems when they inevitably victimize people simply trying to cover their basic needs.

Update 5: Over the course of my summer with the Central Virginia Legal Aid Society, I learned a great deal about the essential work of free civil legal service providers. My work on housing and unemployment matters introduced me to interesting areas of the law, critical areas of neglect, and the value of hard legal work in those areas.

I was exposed to interesting areas of the law this summer. Working on housing, I had the chance to perform in-depth research related to the rules regarding termination of tenancies for government-backed housing programs. I learned that first of all, the Low-Income Housing Tax Credit program precludes participants from terminating tenancies without good cause—but that this conclusion only becomes evident after a very close read of the extremely convoluted tax code section setting forth the tax credit. Section 8 voucher-holders, on the other hand, are not protected from not-for-cause evictions. Until 1998, I learned, the laws on Section 8 supported such a bar, but the law was then updated to prevent the prospect of an “endless” tenancy. Thus, if a landlord leases to a section 8 voucher holder, they may choose simply not to renew their tenancy.

I also learned about the newly developing area of Virginia law on the viability of lease clauses permitting landlords to collect attorneys’ fees from tenants. A recent case set forth the rule that a contract permitting the collection of attorney fees even in cases that a party *lost* is unenforceable as unconscionable and against Virginia public policy. However, it is something of an open question as to which clauses actually do this. If a clause, for instance, allows a party to collect *reasonable* attorney’s fees in *any* legal action arising out of the contract, would that illegally permit the loser of a case to collect? Courts appear to be split on that issue. Researching this question and providing a memo to my supervisor was interesting work.

In the long run, what I will most remember from my summer as an Equal Justice America fellow is not the legal doctrine I encountered, but our clients. I spoke frequently with people facing eviction and learned both how catastrophic and how normalized evictions are in our poorest communities. Our clients spoke matter-of-factly about their looming loss of place, shelter, community, and stability. They often did not seem to expect to prevail—because often, what had gone wrong for them was not the actions of a malevolent actor (the landlords were merely trying to make money) but a whole system that allows rent to be too high for people’s means. I greatly appreciated the opportunity to work and train alongside lawyers who spent every day doing what they could do mitigate the onslaught of damaging consequences that flow from this system that punishes people for being poor. The folks I worked with were intelligent, driven, and kind. I appreciate Equal Justice America’s help making this summer possible for me, as I hope to pursue similar work in my career.