

January 20, 2023

Hon. Tamiko A. Amaker
Acting Chief Administrative Judge, NYS Office of Court Administration
Via Email

Ms. Raniece Medley
Civil Justice Coordinator, NYC Department of Human Resources Administration
Via Email

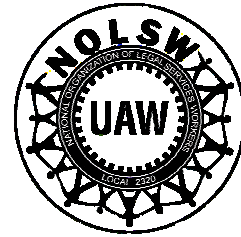
Re: Legal Services Labor Unions Demand Action on Right to Counsel

Dear Judge Amaker and Ms. Medley,

As the labor unions representing the vast majority of legal services workers in New York City—the National Organization of Legal Services Workers (NOLSW), UAW Local 2320; the Legal Services Staff Association (LSSA); and the Association of Legal Aid Attorneys (ALAA), UAW Local 2325—we write to you to demand that the NYS Office of Court Administration (OCA) and the Office of Civil Justice of New York City’s Human Resources Administration (OCJ) work together to address the crisis that, for the past year, has sabotaged New York City’s landmark Right to Counsel in housing court (RTC). For too long, the Courts and the City have actively undermined RTC while shifting the burden and the blame onto legal services providers and their workers. We demand immediate action to ensure that low-income tenants have the legal representation that they need and deserve, and we request a meeting with you to discuss our concerns.

Acting Chief Judge Anthony Cannataro was quoted in the New York Law Journal blaming the current Right to Counsel crisis in housing court on the legal service providers’ difficulties “holding onto attorneys and making them available for court proceedings.” This impulse to put the blame on the legal service providers is merely an attempt to hide the Court and City’s role in undermining Right to Counsel. We, the unionized RTC workers, want to make clear that we see through OCA’s attempt to shift the blame for its failure to implement RTC onto the legal services workers who are actually on the ground doing the work.

While RTC eligibility expanded to all zip codes citywide, drastically increasing the number of tenants eligible for RTC services (a change we wholly support), OCA made the



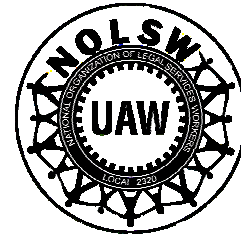
reckless decision to begin calendaring eviction proceedings at an unnecessary and unsustainable speed, swamping RTC attorneys' capacity to take these cases and even swamping judges' own capacity to get through their calendars each day. OCA is prioritizing clearing its calendars over tenants' rights, bowing to pressure from the landlord lobby, which complained loudly and frequently throughout the pandemic that vital tenant protections such as the eviction moratorium threatened their profits. OCA has obediently fired up the eviction mill in response, and tenants have paid the price by not being adequately informed of their legal housing rights and, as such, have experienced homelessness or imminent risk of homelessness. As a direct result, we are seeing a drastic uptick in post-eviction cases, and we have never had so many clients in crisis at once.

OCA cannot sabotage RTC and then blame it on the legal services workers. In at least one recent dialogue with housing justice advocates from the Right to Counsel NYC Coalition, Judge Cannataro shifted the blame to "agencies" who he claimed were "not hiring lawyers fast enough to fill the need," expressing further concern over their incapacity to "retain lawyers." However, organizations' difficulty in hiring and retaining staff has been directly caused by OCA and HRA's decisions to impose overwhelming caseloads and inadequate pay on Right to Counsel workers.

Now, OCA and OCJ have announced their intention to conduct a case capacity study for RTC attorneys in New York City Housing Court. We disagree with the use of an out-of-touch, outsider consultant to put a number on access to justice, and we urge the Court to instead listen to the unionized workers who know first-hand what caseloads we can handle and what steps are necessary for Right to Counsel to succeed. Based on our on-the-ground experience, **we, the unionized Right to Counsel workers, offer the following suggestions to remedy this crisis.**

First, we fully support the Right to Counsel NYC Coalition's demand that, **until everyone has an attorney, the courts must impose an administrative stay on all RTC cases that do not receive an immediate RTC lawyer, and the court must reduce the volume of cases on the calendar each day.** The current RTC crisis is a self-imposed problem that OCA can solve almost instantly with minor tweaks to its calendaring system.

Second, in the face of rising costs of living, RTC contracts must pay enough to retain talented, well trained, and dedicated staff. We are seeing high rates of attrition and difficulty filling open positions due to inadequate pay for this demanding work. In particular, pay for paralegals, investigators, social workers, and other legal workers must reflect their experience and their vital role in tenant representation.



Third, the voices determining the future of Right to Counsel must include the legal workers who actually do RTC work, as well as the tenants affected, not just legal services managers who often do not handle cases themselves.

Fourth, any study of case capacity among RTC attorneys and legal workers must begin and end with the contractual case caps in our Collective Bargaining Agreements. Unlike non-unionized legal services providers where staff are pressured by management into handling RTC cases in an assembly line fashion, our members have secured crucial contractual rights to case caps which allow us to zealously represent our clients in line with our ethical duties. We firmly believe that every client is entitled to as much and as strategic litigation as their case demands: not every case should be settled, many cases should be dismissed on motion, and other cases should go to trial.

Fifth, the City must adequately staff city agencies—including, but not limited to, the Department of Social Services, the Commission on Human Rights, and the city-funded Homebase providers—so that our clients can apply for benefits and challenge any discriminatory conduct on the part of landlords (i.e., source of income discrimination and other related claims) in a timely fashion. Their staffing crisis is not unlike ours, as Acting Chief Judge Cannataro has acknowledged. This underscores the importance of slowing down cases until the City and legal service providers can fully grapple with the eviction crisis at hand.

Again, the only immediate solution to the RTC crisis is the enactment of the Right to Counsel NYC Coalition’s demand that, until everyone has an attorney, the courts must impose an administrative stay on all RTC-eligible cases until an RTC attorney is available and must reduce the volume of cases on the calendar each day. We call on OCA and OCJ to swiftly implement the recommendations in this letter, and we request a meeting with you to further discuss our demands.

Respectfully,

Corinthia Carter, President, Legal Services Staff Association
Lisa Ohta, President, Association of Legal Aid Attorneys
Pam Smith, President, National Organization of Legal Services Workers