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Unrepresented Civil Litigants Fare Better With Nonlawyers, Study Shows

Trained legal helpers can aid with paperwork or answer questions from a judge but can't argue in court



Traci Krasne, center, and Tashi Tsering are non-lawyers who provide free legal support for litigants who can't afford a lawyer in civil court. Here, they talk to David Andrews about his case at Brooklyn Housing Court. PHOTO: STEVE REMICH FOR THE WALL STREET JOURNAL

By CORINNE RAMEY

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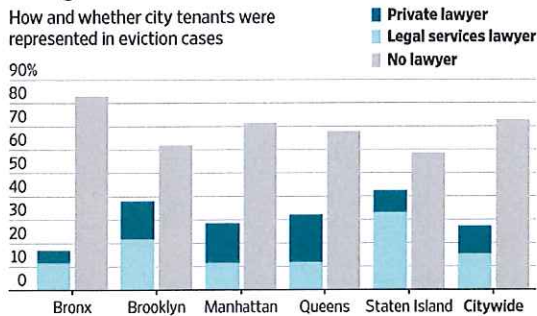
In New York City's overwhelmed civil courts, unrepresented litigants are faring better in the courtroom after being assisted by trained legal helpers, according to an evaluation of three pilot programs published Wednesday.

The study evaluates an idea that proponents call a low-cost way to make civil courts work better and that critics call a stopgap measure in a system where everyone should have a right to a lawyer. The U.S. Constitution grants defendants a right to a lawyer in criminal cases but not civil cases.

The study is one of the first independent evaluations of so-called nonlawyers, known in New York City as navigators, said its authors, who aren't affiliated with the pilot programs.

Going to Court

How and whether city tenants were represented in eviction cases



Sources: NYS Office of Court Administration; HRA Office of Civil Justice

Note: Data from April 2016 THE WALL STREET JOURNAL.

In the pilot programs, which began in 2014 and are in all boroughs except Staten Island, navigators can help litigants with paperwork or answer questions from a judge but aren't allowed to argue in court. The programs are administered by the state court system with help from several nonprofit organizations, said Fern Fisher, deputy chief administrative judge for city courts.

In one pilot program in Brooklyn Housing Court, tenants who had help from the navigators were 87% more likely than those without assistance to have their defenses

recognized by a judge, the analysis found. In another pilot, also in Brooklyn Housing Court, none of those who had help from navigators were evicted, compared with one eviction for every nine cases citywide.

New York's civil courts, like those nationwide, have struggled to address the needs of unrepresented litigants, said Rebecca Sandefur, one of the study's authors and a fellow at legal research institute the American Bar Foundation.

Across the five boroughs, 99% of tenants in eviction cases and 96% of defendants in consumer-credit cases were unrepresented, according to state court system data from 2013, the most recent figures available.

'All of us who are big supporters of nonlawyers realize it's a triage. We must do a patchwork quilt of services in order to make sure we balance the scales.'

—Fern Fisher, deputy chief administrative judge for city courts.

Since 2013, city officials have allocated millions of dollars to civil legal services, and an April 2016 survey found that the share of tenants without a lawyer in eviction cases had fallen to 73%. Ninety-nine percent of landlords had a lawyer, the survey found.

"Courts were designed by lawyers for lawyers," Ms. Sandefur said. "So they don't know how to deal with all of these people who have no idea what they're doing."

The use of nonlawyers has been criticized by those who say everyone should have access to a lawyer.

"It's kind of like putting a Band-Aid on this gushing wound," said Stan German, executive director of New York County Defender Services, a public-defender office. "My fear is that rather than fight for the money and resources to hire lawyers, they take this kind of shortcut."

Proponents of nonlawyer programs said the cost of lawyers for all civil cases isn't realistic. One model cost \$1,228 a case. Studies have estimated the cost of a public defender to be from \$1,500 to \$3,200.

"All of us who are big supporters of nonlawyers realize it's a triage," said Judge Fisher, of the city courts. "We must do a patchwork quilt of services in order to make sure we balance the scales."

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