



Hasaan Munim and Romi Ferder
Research Assistant and Undergraduate Research Associate
1515 Massachusetts Avenue and 1607 Massachusetts
Cambridge, MA 02138
(617) 496-0917
hmunim@law.harvard.edu and rferder20@cmc.edu

To: Jim Greiner
From: Hasaan Munim; edited by Romi Ferder
RE: D. James Greiner, et al. *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*. 126 Harvard Law Review 901 (2013).
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Title: The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future
Authors: D. James Greiner, Cassandra Wolos Pattanayak, Jonathan Hennessy
Location: Quincy District Court, Quincy, Massachusetts
Sample: N = 129
Timeline: N/A
Target group: Low-income tenant housing court cases
Intervention type: Limited or full representation
Research papers: D. James Greiner, et al. *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*. 126 Harvard Law Review 901 (2013).
Partners: Greater Boston Legal Services, Neighborhood Legal Services, Inc., Boston Bar Association Task Force on Expanding a Civil Right to Counsel, Boston Bar Foundation, Massachusetts Bar Foundation, and the Boston Foundation

Abstract

Unbundled, limited legal assistance remained unevaluated in empirical literature. Researchers conducted a randomized control trial in the Quincy District Court to determine whether unbundled, limited legal assistance was as effective as full representation in summary eviction court. The findings indicated that representation led to favorable outcomes in terms of tenant possession, financial judgments, and reduced court burden.

I. Policy Issue

Unbundled, limited legal assistance, an attorney-client relationship with limited scope, arose as a potential way to mitigate access to justice challenges associated with rising

legal complexity and the overburdening of the court system. Historically, ethical codes and civil procedure rules prohibited performing discrete tasks in litigation, such as the drafting of court documents. Given the flood of self-represented litigants, courts and the bar association adopted rules authorizing limited legal representation. Despite the prevalence of unbundled legal assistance, no study had rigorously evaluated the efficacy of such limited representation versus a traditional attorney-client relationship. Did unbundled legal services improve outcomes for occupants facing eviction proceedings and increase court burdens?

II. Context of Evaluation

Summary eviction proceedings made self-represented occupants vulnerable to would-be evictors given the basic human necessity of shelter and the complexity of housing law. Furthermore, court-ordered eviction could bar individuals from government-subsidized housing and emergency shelter; it could also limit individuals' access to the rental market by impacting their credit scores. Previous literature noted the substantial unmet need for legal assistance in eviction proceedings. Thus, unbundled legal assistance had potential to close the gap in access to justice in the case of summary eviction proceedings.

The cases in this study occurred in the Quincy District Court, which handled 1280 summary evictions in the primary year studied, 2010. Contested judgments were generally rare with the court pushing parties to settlement through hallway negotiations and mediation sessions and, if those steps failed, back-and-forth colloquies before the judge. Due to the complexity of eviction law in Massachusetts, negotiations between parties around the conditions for eviction were significant. Strategic management of what external observers, such as credit reporting agencies and government entities, viewed as court-ordered eviction resulted in important consequences of a judgment of eviction.

III. Details

The study worked with three attorneys from Greater Boston Legal Services (GBLS) to represent and recruit participants. GBLS recruited approximately 70 percent of participants through a proactive approach involving examining court records and mailing potential participants. Recruited individuals then participated in a two-to-three-hour instructional clinic on eviction-relevant forms, allowing the staff attorneys to assess participant fit for the study. GBLS recruited the other 30 percent through judge referrals and had participants who independently approached staff attorneys. An undetermined percentage of this 30 percent group received assistance in filling out forms, but none attended the instructional clinics. Once GBLS identified participants who would be appropriate for the study, the researchers randomized them into one of two conditions; in the control condition participants received no help beyond the assistance they had in filling out forms, and in the treatment condition they received full representation.

The GBLS staff attorneys used all available resources to advocate for clients, including outside programs and agencies, aggressive investigation of the facts, and frequent motions to compel responses to discovery, motions for preliminary relief, and jury trial

demands. The court avoided jury trial where possible due to timing issues, so demands for trial were a powerful tactic to gain bargaining leverage.

IV. Results and Policy Lessons

Possession Outcomes

Where 62 percent of control-group occupants lost their residence, only 34 percent of treatment-group occupants lost possession of their unit. Further, an offer of representation from a GBLS staff attorney was 95% likely to reduce the probability that the occupant leave their residence by between 17 to 39 percentage points. The data thus implied that representation significantly improved possession outcomes for occupants facing eviction proceedings.

Financial consequences

Observing the months of rent saved by an occupant, the 95 percent confidence interval indicated occupants saved between 1.9 to 12 months of rent. When looking at all eviction cases rather than only those involving nonpayment of rent, the median judgment amount in the occupant's favor in the control group was \$0 whereas in the treatment group it was \$617 ($p < 0.01$). Lastly, execution writs for monetary payments, or writs ordering payment to the evictor, were issued significantly less often in the treated case – only 7 percent of treated cases versus 38 percent of control group cases ($p < 0.01$). The findings suggested that full representation leaves occupants better off financially.

Court Burden

Overall, court burden did not increase. Although an offer of representation by GBLS attorneys led to increased case length ($p < 0.01$), this generally represented increased time negotiating settlements and pretrial motions rather than court burden. The incidence of evidentiary hearings, including trials, did not significantly change in the treatment group.

V. Applications of the Study

The study named six possible explanations for the large effects observed: the non-random intake and screening process for the study; the confrontational and involved litigation styles of the staff attorneys; the complexity of the cases; the adjudicatory practices in the district court which included an emphasis on settlement; the need for pre-hearing factual investigations to gather evidence for a defense; and GBLS's method of service delivery. There are many possible explanations outside of these six which the study chose not to address.

This study was limited in two key ways: first, it focused on particular litigation and not the whole of an evictor/occupant relationship and, second, it only examined some socioeconomic consequences.