

**ADVOCACY: LEGISLATION AND RULES, LITIGATION, PROGRAMS AND PROJECTS, AND  
COMMITTEES, ASSOCIATIONS AND VOLUNTEERING  
LAWRENCE REED McDONOUGH  
ATTORNEY AT LAW**

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***EXECUTIVE ORDERS***

*2020*            Advocated for suspension of evictions during the viral pandemic, resulting in Executive Order 20-14, 2020 Bill Text MN E.O. 14 (Mar. 23, 2020), Executive Order 20-73, 2020 Bill Text MN E.O. 73 (June 5, 2020), and Executive Order 20-79, 2020 Bill Text MN E.O. 79 (July 14, 2020).

***LEGISLATION AND RULES***

*Introduction*    Lobbied for and drafted all or part of legislation since 1985, and almost all of the landlord and tenant laws in Minnesota since 1989

*1985*            Proposed and co-drafted amendment what is now Minn. Stat. §§ 571.75, 571.921 to extend garnishment protection to farmer milk sales

*1988-89*        As member of the Legal Services Task Force of the Governor’s Commission on Affordable Housing for the 1990s, proposed, co-drafted, and lobbied for:

- Minn. Stat. § 484.013 to create Housing Courts in Hennepin and Ramsey Counties,
- Minn. Stat. §§ 504.33-504.35, governing displacement and replacement of low-income housing by government, and providing a basis for *Low-Income Housing Committee v. City of Minneapolis* (see Significant Cases, 1992-94, *infra*); repealed in 1995,
- Minn. Stat. § 504B.381 (formerly § 566.205) to provide for the emergency relief action for tenants,
- Minn. Stat. § 504B.385 (formerly § 566.34) to provide for the rent escrow action,
- Minn. Stat. § 504B.391 (formerly § 566.35) to provide for fines in landlord violations of housing court orders,
- Amendment of Minn. Stat. § 504B.231 (formerly § 504.255) to provide

- for minimum statutory damages for landlord lockouts, and  
 • Amendment of Minn. Stat. § 504B.221 (formerly § 504.26) to provide for minimum statutory damages for landlord utility interruptions

- 1990 Proposed and drafted amendment to Minn. Stat. § 504B.425 (formerly § 566.25) to provide for attorney fees in tenant remedies, rent escrow, and emergency relief cases, and proposed and co-drafted amendment to Minn. Stat. § 504B.001 (formerly § 566.18) to extend tenant protections to caretakers
- 1991 As member of the Hennepin County Housing Court Bench and Bar Committee, proposed and co-drafted Minn. R. Gen. Prac. 601-612 governing Housing Court practice and procedure
- 1992 Proposed and co-drafted amendment to Minn. Stat. § 504.27, now contained in §§ 504B.271 (formerly § 504.24), 504B.225 (formerly § 504.25), 504B.231 (formerly § 504.255), and 504B.221 (formerly § 504.26), to provide protection against property seizures, lockouts, and utility interruptions to mortgagors and contract for deed vendees
- 1992 Proposed and drafted Fourth District (Hennepin County) Standing Housing Court Order Waiving Housing Court Photocopying Charges to Legal Services and Legal Advice Clinic Attorneys (Minn. Dist. Ct. 4<sup>th</sup> Dist. June 8, 1992)
- 1996 Proposed Fourth District (Hennepin County) Standing Housing Court Order approving acceptance of uncertified checks from Legal Aid and other law firms for payment into court. Order (Minn. Dist. Ct. 4<sup>th</sup> Dist. May 15, 1996)
- 1997 Proposed and co-drafted amendment to 504B.171 (formerly § 504.181) to prohibit landlords from allowing illegal activity, and to 504B.001 (formerly § 566.18) to allow tenants to enforce the statute in tenant remedies and rent escrow actions
- 1997 As a member of the Conference of Chief Judges Procedures and Forms Committee, *Pro Se* Housing Court Subcommittee, drafted court forms for *pro se* landlords and tenants in unlawful detainer (eviction), rent escrow, tenant remedies, and lockout actions
- 1999 As a member of a committee of landlord-tenant attorneys selected by the Minnesota Legislature, co-drafted of Minn. Stat. Ch. 504B, a recodification of landlord-tenant statutes formerly in Chapters 504 and 566
- 2002 Drafted proposed amendment to 42 U.S.C. § 1437d(l)(6) to protect innocent public housing tenants from eviction (not enacted)
- 2003-2006 Lobbied successfully against bills by tenant screening agencies to weaken tenant eviction expungement rights in Minn. Stat. § 484.014

- 2007* Assisted in the drafting of and testified in support of Minn. Stat. § 504B.206, which created the right of victims of domestic abuse to terminate a residential lease in certain circumstance.
- 2008* Lead Attorney, Renter Working Group of the Minnesota Legislature Task Force on Mortgage Foreclosures (2007-08), co-wrote a legislative package to increase the rights of tenants whose landlords are in foreclosure. New laws included foreclosure advice notices for tenants, Minn. Stat. § 580.042, disclosure of foreclosure status by landlord to prospective tenants before signing leases, § 504B.151, two month vacate notices to tenants at the end of the redemption period, § 504B.285, expanded rights of tenants to pay on or take over unpaid landlord utility bills and deduct payments from rent, § 504B.285, right to withhold the security deposit in the last month of the redemption period, § 504B.178, and mandatory expungement of foreclosure eviction files where the tenant already has moved or where the bank did not give the required notice to the tenant, § 484.014
- 2009* Assisted in the drafting of amendments to Minn. Stat. § 504B.285 to extend eviction notice rights to tenants in foreclosure who were excluded from the 2008 amendments
- 2010* Assisted in the drafting of and testified in support of the Tenants' Bill of Rights, which regulated late fees, required receipts for rent, implied in leases that provide for tenant payment of landlord attorney fees a reciprocal obligation on landlords to pay tenant attorney fees, further regulated application fees, increased penalties for wrongfully withholding security deposits, conformed state eviction rights for tenants in foreclosure with recent federal legislation, and created a rebuttable presumption of actual rent payment when the tenant produces money order receipts. 2010 Minn. Laws Ch. 315; Minn. Stat. §§ 504B.118, 504B.172, 504B.173, 504B.177, 504B.178, 504B.285, 504B.291.
- 2011* Successfully lobbied in the Minnesota Legislature against passage of H.F. No. 440, Sections 11 and 12, and S.F. No. 875, Sections 8 and 9, which would have eliminated the rights of landlords and tenants in Hennepin and Ramsey Counties to have judges hear eviction, repair and lockout cases, and to have judges review decisions of referees in these cases
- Served as an observer to the National Conference of Commissioners on Uniform State Laws (ULC) Study Committee on a Revision of the Uniform Residential Landlord and Tenant Act, and helped encourage the Study Committee to unanimously agree to recommend to the conference that a drafting committee be formed to comprehensively revise the Act
- 2012-2016* Served as an observer to the National Conference of Commissioners on Uniform State Laws (ULC) Drafting Committee on a Revision of the Uniform

Residential Landlord and Tenant Act, submitting provisions included in the final Act

2014 Successfully lobbied for amendment to Minn. Stat. § 504B.345 to provide for the first statutory recognition of the continued availability of both common law and statutory expungement of eviction court records, significant that it ensures that the expungement statute does not preempt use of common law expungement when the statute does not apply. The amended statute also allows for expungement as early as the time judgment is entered in the eviction.

2016 Testified before the Minnesota Supreme Court Advisory Committee on the Rules of Public Access to Records of the Judicial Branch and presented oral argument to the Minnesota Supreme Court, successfully advocating for greater public protections concerning bulk data use by commercial subscribers in *Order Promulgating Amendments to the Rules of Public Access to Records of the Judicial Branch*, ADM 10-8050 (Minn. Supreme Court Aug. 1, 2016)

2018-  
Present Drafted proposed statute requiring public housing authorities to pay for tenant eviction representation in breach of lease cases, approved by the Minnesota State Bar Association, pending

Co-drafted and testified in support of proposed statutes to expand eviction court record expungement and require written notice before filing an eviction court action, pending

2019 Presented oral argument and written comments to the Minnesota Supreme Court, successfully advocating against allowing non-attorney agents to represent corporations in eviction court actions in *Order Promulgating Amendments to the Gen. Rules of Practice for the Dist. Courts*, No. ADM 09-8009 (Minn. Supreme Court May 13, 2019)

### ***SELECTED LITIGATION***

*Introduction* Litigated, co-counseled, and supervised hundreds of trials and motion hearings and scores of appeals since 1983

1983-1986 *In re Application of Northwestern Bell Telephone*: represented rural telephone customers in first telephone rate setting case following federal deregulation. The Minnesota Public Utilities Commission (MPUC) significantly reduced the proposed rate increase. After the MPUC denied an attorney fee request, the Court of Appeals reversed, 374 N.W.2d 758 (Minn. Ct. App. 1985), but the Supreme Court reinstated the denial, 386 N.W.2d 723 (Minn. 1986).

1986 *Salvation Army v. Luten*, No. UD-1860523522 (Henn. Cty. Mun. Ct., June 12, 1986): first case applying Minn. Stat. § 504B.285 (formerly § 566.03) retaliation protections to police calls

- 1986-1987 Laurel Village: negotiated settlement with City of Minneapolis to preserve and replace hundreds of units of low-income housing in a downtown development project
- 1988 *Tonkaway Limited Partnerships v. McLain*, 433 N.W.2d 443 (Minn. Ct. App. 1988): first decision to hold that a motion for new trial is not required in unlawful detainer (eviction) actions
- 1988-1989 *Goggeye v. Pierce* (D. Minn. 1989): federal court class action challenging HUD plan to sell Riverside Plaza, formerly Cedar Square West, the largest subsidized project in Minnesota, with a reduction in subsidized units, leading to settlement for an additional \$25,000,000 in housing subsidies
- 1990 *Simmons v. Kemp*, 751 F. Supp. 815 (D. Minn. 1990): summary judgment granted to tenant, holding public housing authority improperly bypassed administrative grievance process in eviction, enjoining evictions in violation of the process, and awarding attorney fees
- 1990 *Tyus v. Minneapolis Public Housing Authority*, No. UD-1900502523 (Minn. Dist. Ct. 4th Dist. July 11, 1990): first rent abatement award in a public housing rent escrow action
- 1990-1992 *Aguero v. Nordlie*, CT990-4474 (Minn. Dist. Ct. 4th Dist. Aug. 21, 1992) Amended Order (Sep. 28, 1992): first consumer class action over landlord's routine practice of withholding security deposits; court award of deposits, interest, penalties, and attorney's fees
- 1992 Prepared a report, adopted by the Minneapolis Civil Rights Commission, analyzing proposals to expand Interstate Highway 35W as violating federal civil rights and fair housing laws
- 1992-1994 *Low-Income Housing Committee v. City of Minneapolis*, No. 92-22715 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Oct 25, 1994): represented tenants and housing advocates in challenge to city's low-income housing displacement and replacement practices under Minn. Stat. §§ 504.33-504.35 (*see* Legislation and Rules, 1989, *supra*), leading to settlement providing for an additional 88 units of low-income housing. After the case was filed, the City Council voted to withhold \$50,000 in funding for Legal Aid, but the Mayor vetoed the resolution.
- 1995 *Minneapolis Public Housing Authority v. Holloway*, No. C0-95-391 (Minn. Ct. App. Aug. 15, 1995), Finance and Commerce 46 (Aug. 18, 1995) (unpublished): unsuccessful eviction appeal, affirming rejection of a reasonably foreseeability standard for eviction for actions of non-tenants
- 1997 *Phillips Neighborhood Housing Trust v. Brown*, 564 N.W.2d 573 (Minn. Ct. App. 1997): unsuccessful eviction appeal, affirming eviction of entire

household when one co-tenant violated the lease by engaging in illegal drug activity.

*Smith v. Reese*, No. UD-1961203542 (Minn. Dist. Ct. 4th Dist. Jan. 3, 1997): supervised clinic student in the first holding that landlord's disclosure of a box at a private commercial mail collection and distribution center is not an address where plaintiffs could be personally served, in violation of Minn. Stat. § 504.22 (now § 504B.181)

*Edwards v. Zulfe Enterprise*, No. UD-1970310901 (Minn. Dist. Ct. 4th Dist. June 3, 1997): supervised clinic student in the first decision allowing tenant to deduct the award of attorney fees from rent and pay it to counsel

1997-1999 *Minneapolis Public Housing Authority v. Lor*, No. UD-1970716525 (Minn. Dist. Ct. 4th Dist. Sep. 10, 1997): trial court concluded that federal legislative history of public housing statutes gave the court discretion to not evict remaining household members who did not have knowledge of excluded household members' illegal activity. On appeal, affirmed in *Minneapolis Public Housing Authority v. Lor*, 578 N.W.2d 8 (Minn. Ct. App. 1998), but reversed in *Minneapolis Public Housing Authority v. Lor*, 591 N.W.2d 700 (Minn. 1999)

1999 *Okoiye v. Washington*, No. UD-1981029901 (Minn. Ct. Dist. June 15, 1999): rent abatement increase for failure to complete repairs; *Washington v. Okoiye* and *Okoiye v. Washington*, No. UD-1981029901 (Minn. Ct. Dist. Oct. 8, 1999): landlord violated shared meter statute where tenant's meter covered her first floor apartment and the common basement which the landlord used for an office and for personal use; landlord violated unlawful exclusion statute by excluding tenant from the basement. Total rent abatements over 2 years: \$12,000

2001-2002 *Walters v. Demmings*, No. C4-01-2, 2001 WL 641753 (Minn. Ct. App. June 12, 2001) (unpublished): reversed eviction order and restated the strong retaliation prohibitions in Minn. Stat. § 504B.285 first pronounced in *Parkin v. Fitzgerald*, 307 Minn. 423, 240 N.W.2d 828 (1976)

On remand, *Walters v. Demmings*, No. UD-1001004526 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Aug. 14 and Oct. 25, 2001, Jan. 30, 2002): denied eviction, held landlord could not force tenant to pay utility bill on a shared meter which included landlord's other utility accounts, credited tenant's payments against rent, and awarded rent abatement, costs, and \$4,500 in attorney's fees and authorized tenant to withhold fees from rent

2001 *Tri Star Developers, LLC v. Mattson*, No. HC 1011002522 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Oct. 16, 2001): supervised clinic student in the first decision to hold landlord's failure to obtain a rental license is a jurisdictional defect in a

nonpayment of rent eviction case, requiring dismissal

*Smith v. Floy*, No. HC 010829900 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Dec. 14, 2001): Landlord held in contempt of court for failing to reimburse tenant as ordered by the court for apartment rented to tenant while condemned, and ordered to jail if landlord continued to violate the court's orders

2002 *Minneapolis Public Housing Authority v. Valtierra*, No. HC 1020710513 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Aug. 2, 2002): first Minnesota decision holding that a public housing authority cannot bypass its administrative grievance process for criminal activity in an eviction involving possession of a small amount of marijuana, which is not a crime

2003 *Senogles v. Tran*, No. HC 03022020901 (Minn. Dist. Ct. 4<sup>th</sup> Dist. May 22, 2003): emergency relief action; habitability rent abatement award of \$4,500, with \$2,000 disbursed from court and judgment for \$2,500

*Dominium Management Services, Inc. v. C.L.*, No. A03-85, 2003 WL 22890386 (Minn. Ct. App. Dec. 9, 2003): supervised work responding to landlord's appeal of eviction decision; Court affirmed rulings that eviction notice was retaliatory, that defendant was disabled, and that the landlord failed to reasonably accommodate the tenant's disability under federal law

2004 *Harris v. \_\_\_\_\_*, No. HC 031022502 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Dec. 15, 2003, Jan. 9, and Feb. 6, Mar. 3, Mar. 17, 2004): landlord imprisoned for contempt in violating eviction settlement

*Erin Realty v. \_\_\_\_\_*, No. HC 030918514 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Mar. 16, 2004): supervised clinic student in first decision that a landlord may not obtain a writ of recovery for failure to pay future rents not alleged as due in the complaint, as it would constitute a waiver of the tenant's right to the protections of the eviction process in Minn. Stat. Ch. 504B and the right to raise defenses to the landlord's claim as to nonpayment of future rents

*St. Louis Park Place, L.L.C. v. \_\_\_\_\_*, No. HC 1031015540 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Nov. 12, 2004); *Brooklyn Park Housing Associates, L.L.P. v. \_\_\_\_\_*, No. HC 040218503 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Oct. 14, 2004): supervised clinic students in a series of decisions expanding the court's common law inherent power expunge court files under *State v. C.A.*, 304 N.W.2d 353 (Minn. 1981); *State v. Schultz*, 676 N.W.2d 337 (Minn. Ct. App. 2004), *State v. T.M.B.*, 590 N.W.2d 809 (Minn. Ct. App. 1999)

2005 *Pollard v. Southdale Gardens of Edina Condominium Ass'n., Inc.*, 698 N.W.2d 449 (Minn. Ct. App. 2005): co-counsel in successful appeal holding that held that mere existence of nonwaiver clause in bylaws did not preclude residents from asserting claims that association and board were equitably estopped from

enforcing rule, and did not preclude residents' claim that association and board violated duty to treat all residents equally; and that resident had standing to bring action even though resident did not own unit in which he resided

2006

A series of decisions on judicial review of a new Housing Court referee's decisions:

*Meldahl v. McIntosh*, No. 1050923509 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Feb. 23, 2006): co-counsel in successful judge review of a new housing court referee's decision, resulting in dismissal of an eviction action for commencement in the name of the landlord's agent, improper service by the plaintiff's agent, failure to service the Section 8 office, improper representation of a corporation by a non-attorney, failure to comply with housing court rules, waiver of breach by acceptance rent, and application of the covenants of habitability

*Peters v. Tillmon*, No. 060306506 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Apr. 10, 2006): co-counsel in judge review reversal of referee decision ordering tenant to pay rent into court in Section 8 voucher eviction case where landlord failed to notify the Section 8 office as required by regulation

*Humphrey v. Knox*, No. HC 031015540 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Apr. 26, 2006): co-counsel in judge review reversal of referee decision to evict tenant after tenant had successfully litigated habitability defense

*Himraj v. Mayfield*, No. 1060117546 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Apr. 27, 2006): co-counsel in judge review reversal of referee decision requiring tenant in eviction action to pay the full rent and costs to redeem the tenancy where the tenant proved a violation of the statutory covenants of habitability

*Ali v. Brown*, No. HC 600223537 (Minn. Dist. Ct. 4<sup>th</sup> Dist. May 16, 2006): judge review reversal of referee decision denying statutorily required costs to prevailing tenant in eviction action

2007

*Stewart v. Anderson*, No. A06-1878, 2007 WL 2366528 (Minn. Ct. App. Aug. 21, 2007): supervised work responding to landlord's appeal of eviction decision; Court affirmed rulings by district court judge that housing court referee erred in receiving the landlord's late exhibits but refusing to receive the tenant's late exhibits, and requiring expert testimony for tenant's lay testimony regarding her observations of sounds of rodents, foul smells, and grease stains on personal property removed from the dryer

2008

*Sakala v. \_\_\_\_\_*, No. 27-CV-HC-08-6156 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Sep. 9, 2008): successful judge review of referee order for eviction, where the referee made no finding or conclusion on whether the landlord complied with the Minn. Stat. § 504B.181 disclosure requirements, the referee allowed the



landlord to reply entirely on hearsay, the referee raised claims not raised by the landlord and stepped into the role of representing a landlord who already had counsel against a *pro se* tenant. The reviewing judge reversed the referee and dismissed the eviction action for landlord's failure to post address information until two weeks after filing the eviction action

- 2008-09 *Minneapolis Public Housing Authority v. \_\_\_\_\_*, No. 27-CV-HC-08-10954 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Sep. 21, 2009): successful eviction defense of a public housing tenant for possession of a small amount of marijuana a mile away from the property, with no allegations that the tenant had ever done anything wrong on the property. The lease provision created by federal statute allows for eviction for drug-related criminal activity on or off of the property, with no geographic limitation. A small amount of marijuana is a petty misdemeanor offense, and not a crime under state law. The court granted judgment for the tenant, concluding on reconsideration that Congress did not intend the definition of drug-related criminal activity to cover non-criminal illegal activity, and that the legislative history supported consideration of the circumstances
- 2008-10 *Kutscheid v. Emerald Square Prop., Inc.*, 770 N.W.2d 529 (Minn. Ct. App. 2009): supervised work on tenant's rent escrow action over violations of utility shared meter billing regulations in Minn. Stat. § 504B.215, successful appeal of housing court referee's denial of remedies, and successful remand for damages
- 2010 *Public Housing Agency of the City of Saint Paul v. Edwards*, No. A09-2085, 2010 WL 3544770 (Minn. Ct. App. Sep. 14, 2010): consulted on work responding to landlord's appeal of eviction decision; Court affirmed rulings by housing court referee in finding that the landlord failed to prove a breach of lease
- Bryant Manor Apartments, LLP, v. \_\_\_\_\_*, No. 27-CV-HC-08-8492 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Nov. 18, 2010): supervised clinic student in reversal of a referee eviction expungement denial, where the referee took testimony from the landlord but not the tenant and then did not properly apply the common law inherent authority standard
- 2011 *Trim v. Inmotion Property Management and Conoryea*, No. 62-HG-CV-11-877 (Minn. Dist. Ct. 2<sup>nd</sup> Dist. May 10, 2011): supervised student in trial in a rent escrow action based on a ceiling collapse from an unattended roof ice jam and exposed nails and inadequate basement air temperature and hot water temperature, after which the referee signed our 9 page proposed order with slight modifications, ordering completion of repairs and awarding \$1500 in rent abatement, costs and disbursements
- Isackson v. \_\_\_\_\_*, No. 62HGCV11-819 (Minn. Dist. Ct. 2<sup>nd</sup> Dist. April 15, 2011): supervised student in an eviction action for nonpayment of rent, in

which we answered with defenses including excessive late fees, waiver of obligation to promptly pay rent due to repeated acceptance of irregular payments, and violation of the Fair Debt Collection Practices Act (FDCPA) by the attorney requesting \$75 in attorney fees while the state eviction statute provides for attorney fees not exceeding \$5.00, and we settled for installment payments, dismissal of the landlord's parallel conciliation court action, mutual rescission of the lease in two months, and no payment of the landlord's filing, service and late fees, with the tenant preserving the \$2000 FDCPA claim against the attorney for two violations of the Act

*Spann v. Pauluk*, 27-CV-HC-11-1462 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Mar. 30, 2011): supervised clinic student in a rent escrow action case, resulting in an order completely abating the \$850 rent for March 2011 and until further order of the court, due to multiple repair problems and the landlord's failure to appear in court

2012 *Minneapolis Public Housing Authority v. \_\_\_\_\_*, No. 27-CV-HC-12-221, Order (Minn. Dist. Ct. 4<sup>th</sup> Dist. Mar. 21, 2012): judged reversed referee eviction ruling concluding that referee denied the tenant a fair trial

*PPL Louisiana Court LP v. Glover*, No. 27-CV-HC-12-787, Order on Request for Emergency Judge Review (Minn. Dist. Ct. 4<sup>th</sup> Dist. Mar. 12, 2012): referee order conditioned stay of eviction during judge review on defendant paying rent full rent rather than tenant's subsidized rent; judge reversed referee order and stayed eviction on condition tenant pay subsidized rent into court

*Minneapolis Public Housing Authority v. \_\_\_\_\_*, No. 27-CV-HC-12-221, Decision and Order (Minn. Dist. Ct. 4<sup>th</sup> Dist. Feb. 10, 2012): referee order conditioned stay of eviction during judge review on defendant paying plaintiff's costs and disbursement; judge reversed referee order and stayed eviction on condition tenant pay only rent into court

*Trilogy Properties of MN LLC v. \_\_\_\_\_*, No. 27-CV-HC-11-7635 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Dec. 16, 2011): first decision to hold that Minn. Stat. § 504B.181 (formerly 504.22) requires disclosure to tenants of the identity of the principal of the property

2013 *Broom v. Hennepin Healthcare System, Inc, Turning Point, Inc.*, No. 27-CV-HC-12-7415 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Jan. 22, 2013): reversed and remanded referee decision denying petition for lockout remedies without taking testimony

*Odash v. \_\_\_\_\_*, No. 27-CV-HC-12-3214 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Mar. 26, 2013): reversal of referee's refusal to hold mandatory hearing motion for return of personal property under Minn. Stat. §§ 504B.271 and 504B.365

- 2013-2014 *HNA Properties v. Moore*, 848 N.W.2d 238 (Minn. Ct. App. 2014): co-counseled representation of tenant at the district court, and supervised and later consulted on the appeal, resulting in reversal of the district court, and holding that under Minn. Stat. § 549.02, subd. 1, a district court must allow the defendant in costs upon dismissal of the case.
- 2013-2015 *Equity Residential Holdings, LLC v. Koenig*, No. 27-CV-HC-13-3359 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Oct. 11 and Nov. 21, 2013, and Sep. 23 and Dec. 18, 2014): co-counsel successful defense of tenant in eviction action, and supervised the appeal on attorney's fees under Minn. Stat. § 504B.172 in *Equity Residential Holdings, LLC v. Koenig*, No. A15-0001, 2015 WL 5312074 (Minn. Ct. App. Sept. 14, 2015) (unpublished)
- 2014 *Skylark Opera v. Department of Employment and Economic Development*, No. A13- 2343, 2014 WL 4672360 (Minn. Ct. App. Sept. 22, 2014) (unpublished): supervised successful appeal, reversing department decision and holding that persons hired by a nonprofit, professional opera company were independent contractors so that wages paid to these persons were not taxable under the unemployment-insurance laws
- Equity Residential Holdings, LLC, Appellant, v. Koenig*, A14-0162 (Minn. Ct. App. Apr. 9, 2014): successfully represented tenant in dismissal of landlord's premature appeal of district court order awarding attorney's fees under Minn. Stat. § 504B.172
- Bell-Ramsey v. Meldahl*, No. 27-CV-HC-14-3813 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Oct. 23, 2014): successfully represented tenant in rent escrow action, with the referee and judge on appeal awarding rent abatement for six months due uncorrected plumbing and electrical problems, costs, attorney's fees, and consequential damages for food and services; and *Meldahl v. Williams*, 27-CV-HC-14-2983 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Oct. 23, 2014): successfully represented tenant in companion eviction action, with the referee and judge on appeal concluded there was no material violations of the lease where landlord's lease requiring advance notice of housing inspection violated Minn. Stat. § 504B.161
- The Freund Haus LLC v. \_\_\_\_*, 27-CV-HC-13-6609 (Minn. Dist. Ct. 4<sup>th</sup> Dist. July 22, 2014): successfully represented tenant in motion to expunge eviction with judge on appeal reversing referee decision and concluding that eviction action was moot where filed eviction after tenant departed, and holding for the first time that landlord must strictly follow the exact sequence of steps in mailing and posting service under Minn. Stat. § 504B.331
- 2016 *Cocchiarella v. Driggs*, No. A-14-1876 (Minn. Aug. 21, 2016): supervised representation of amicus HOME Line in successful appeal of dismissal of lockout action under Minn. Stat. § 504B.375, with the Court holding that the

requirement that a “residential tenant” be “a person who is occupying a dwelling” included a person with a present legal right to occupy the dwelling

*Afro Deli & Coffee LLC v. African Development Center*, No. 27-CV-16-9808 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Aug. 25, 2016): successfully represented commercial landlord in denial of motion for preliminary injunction against eviction action

2017

*Barnes v. Alan Spaulding, Mike Cashill, At Home Apartments, Gateway Real Estate LLC, Cashill Spaulding Properties, and West River Commons*, No. 27-CV-HC-17-6053 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Dec. 22, 2017): supervised emergency tenant remedies action, multiple people and entities were landlords under Minn. Stat. § 504B.001, the landlords shall immediately repair the subject property to be fully compliant with the Minneapolis Codes of Ordinances and federal subsidized housing requirements, and the landlords shall immediately prepay the tenant to cover the costs of staying with her son at a hotel of her choosing in a room with kitchenette so that the tenant can avoid the costs of purchasing pre-made food

2018

*Tran v. \_\_\_\_\_*, No. 27-CV-HC-18-871 (Minn. Dist. Ct. 4<sup>th</sup> Dist. Mar. 27, 2018): supervised eviction defense, landlord illegally required tenants to paid for shared utilities, landlord illegally required tenants to perform maintenance without compensation, landlord violated lease by charging tenants for portions of home rented to others, tenants awarded rent abatement, reimbursement of shared utility bills paid, and compensation for maintenance performed, landlord shall pay outstanding utility bills

*Wajda v. Schmeichel*, No. A18-0060 (Minn. Ct. App. Nov. 26, 2018) (unpublished): supervised amicus in successful tenant eviction appeal, eviction for breach of lease is improper because the lease is void on public-policy grounds, eviction for holdover after notice to quit is improper because respondent did not give proper written notice to appellant terminating the tenancy at will, eviction for unlawful occupancy under Minn. Stat. § 504B.301 is improper because respondent was not unlawfully occupying the property as she maintained a tenancy at will at the time of eviction, district court judgment reversed

*Ellis v. Doe*, 915 N.W.2d 24 (Minn. Ct. App. 2018): supervised amicus in successful tenant defense of the landlord’s eviction appeal, holding that tenants are not required to give written notice of habitability violations to asset a habitability defense to an eviction action for nonpayment

2019

*Cent. Hous. Assocs., LP v. Olson*, 910 N.W.2d 485 (Minn. 2019): supervised amicus in successful tenant eviction appeal, reversing Court of Appeal’s holding that a landlord retaliation defense in an eviction for breach of lease is available only where the retaliation is in response to a tenant filing a Tenant

Remedies Action complaint in court. The Court interpreted the statute more broadly than the Court of Appeals, but more importantly, created a broad common law retaliation defense to evictions claiming breach of lease.

2020 *Fletcher Props. v. City of Minneapolis*, \_\_\_\_ N.W.2d \_\_\_\_, 2020 Minn. LEXIS 360 (Minn. 2020), supervised amicus in successful defense of a Minneapolis ordinance prohibiting landlord discrimination against Section 8 Voucher Program tenants. The Court rejected landlord claims that the ordinance violated the Minnesota Constitution's guarantee of substantive due process and equal protection.

### **PROGRAMS AND PROJECTS**

1986-  
Present Authored and update materials available at Housing Law in Minnesota at <http://povertylaw.homestead.com/ResidentialUnlawfulDetainer.html> including Residential Eviction Defense in Minnesota, Security Deposits in Minnesota, pleadings, motions, and slide shows - *see* Publications [http://povertylaw.homestead.com/files/Bios/McDonough\\_Publications.pdf](http://povertylaw.homestead.com/files/Bios/McDonough_Publications.pdf)

1989-2020 Created and supervised a number of programs and clinics to provide advice and representation to tenants facing court evictions in Hennepin County, including an advice clinic at the housing court with partial staff funding and office space from the county, in partnership with Volunteer Lawyers Network, a pro bono volunteer attorney program, to provide one legal aid attorney and at first one and now two volunteer attorneys for each housing court arraignment. The eviction summons includes some tenant information, with notice of the advice clinic. The program now is supervised by the managing attorney of the housing unit of Mid-Minnesota Legal Aid and the housing resources manager at VLN. <http://www.mncourts.gov/district/4/?page=296>  
<http://www.lawhelpmn.org/organization/vln-housing-court-project/housing/foreclosure-for-tenants?ref=0Qg4g>

1989-2013 Wrote and supervised the creation and updating of housing fact sheets at <http://www.lawhelpmn.org/>

1996-  
Present Created and taught housing clinics and poverty law courses at Twin Cities law schools - *see* Law School Teaching [http://povertylaw.homestead.com/files/Bios/McDonough\\_Teaching.pdf](http://povertylaw.homestead.com/files/Bios/McDonough_Teaching.pdf)

2008-2013 Created, secured funding for and supervised the Tenants in Foreclosure Project at Mid-Minnesota Legal Assistance, providing representation and advice to tenant facing housing repair problems and evictions with landlords in the foreclosure process

2012-2013 Created, secured funding for and supervised the Veterans Legal Advocate position at Mid-Minnesota Legal Assistance to increase veterans' access to free

legal representation around civil matters focused on securing and maintaining stable housing, as well as other civil legal matters.

*2013-2020*

Supervised pro bono clinics at Dorsey and Whitney

- Housing Court Clinic Project: Dorsey and US Bank attorneys partnered to provide staffing for the Hennepin County Housing Court Clinic on the 3rd and 4th Wednesdays of each month from at the Hennepin County Government Center Housing Court
- Brian Coyle Clinic: The Brian Coyle Community Center Legal Clinic was staffed by Dorsey attorneys partnering with US Bank attorneys, seeing clients with a variety of issues such as consumer problems, debtor's rights, bankruptcy, landlord/tenant, employment and unemployment compensation and other civil issues.
- Legal Access Point Clinic: The clinic was staffed by a Dorsey attorney at the Self-Help Center in the Hennepin County Government Center. Dorsey attorneys assist pro se litigants by offering guidance and referral information to help them in resolving their own legal issues. Individuals primarily seek assistance with credit problems, medical malpractice, housing, bankruptcy, employment, insurance claims and conciliation court.
- Expungement Clinic: Dorsey lawyers partnered with Xcel Energy In House Counsel, working through Volunteer Lawyers Network provide assistance to individuals seeking expungement of their criminal record.
- Consumer Debt/Collection Clinic: Dorsey attorneys volunteered at a clinic for people being sued for consumer debt in Hennepin County Conciliation Court.

### ***ORGANIZATIONS, COMMITTEES, ASSOCIATIONS, AND VOLUNTEERING***

Current Service with Law Organizations

- Minnesota Supreme Court Rules of Evidence Advisory Committee
- Minnesota State Bar Association Access to Justice Committee (formerly Legal Assistance to the Disadvantaged Committee) and various subcommittees
- Minnesota State Bar Association Amicus Society, Board Member
- Minnesota State Court Administrator's Office and the Office for Collaboration and Dispute Resolution Joint Grant Review Committee for Community Dispute Resolution, Member
- Minnesota Continuing Legal Education, Trainer
- Minnesota Legal Services Coalition Housing Task Force, Member and Trainer
- Housing Justice Network of the National Housing Law Project, Member
- Hennepin County Housing Court Bench and Bar Committee, Current and Founding Member

- Home Line, Volunteer and Trainer
- Volunteer Lawyers Network, Current Housing Committee, Current Member and Trainer, and Past Member of Board of Directors and Housing Committee Co-Chair
- Law Enforcement Training Services, Trainer

Past Service with Law Organizations

- Minnesota Judicial Branch Triage Portal Advisory Committee
- Minnesota Supreme Court Legal Services Advisory Committee, Board Member
- National Conference of Commissioners on Uniform State Laws (ULC) Drafting Committee on a Revision of the Uniform Residential Landlord and Tenant Act, Observer
- National Conference of Commissioners on Uniform State Laws (ULC) Study Committee on a Revision of the Uniform Residential Landlord and Tenant Act, Observer
- National Lawyers Guild, Minnesota Chapter, Past Steering Committee Member
- Minnesota State Bar Association Civil Gideon Task Force, Member
- Minnesota State Bar Association Real Estate Committee, Member
- Minnesota Women Lawyers, Volunteer
- Minnesota Coalition Against Sexual Assault, Volunteer
- Hennepin County Bar Association Landlord-Tenant Committee, Past Chair
- Ramsey County Bar Association Real Estate Section, Member
- St. Paul Area Coalition for the Homeless, Member
- Children's Law Center, Volunteer
- Project Homeless Connect, Volunteer

Volunteer Activities

- Access Press, Volunteer
- Alliance of the Streets, Volunteer
- Arc of Minnesota, Volunteer
- Highland Friendship Club, Volunteer and Former Board Member
- KBEM Radio and KFAI Radio, Volunteer
- Masonic Home Care Center, Volunteer
- Minnesota Coalition Against Sexual Assault, Volunteer
- Minnesota Distance Runners Association, Volunteer
- North Central Chapter of the Arthritis Foundation, Volunteer
- Northern Elite Adaptive Cheer, Volunteer
- Ronald McDonald House, Volunteer
- Special Olympics Minnesota, Volunteer
- Thanksgiving Meals on Wheels, Volunteer
- Wellstone Action, Volunteer