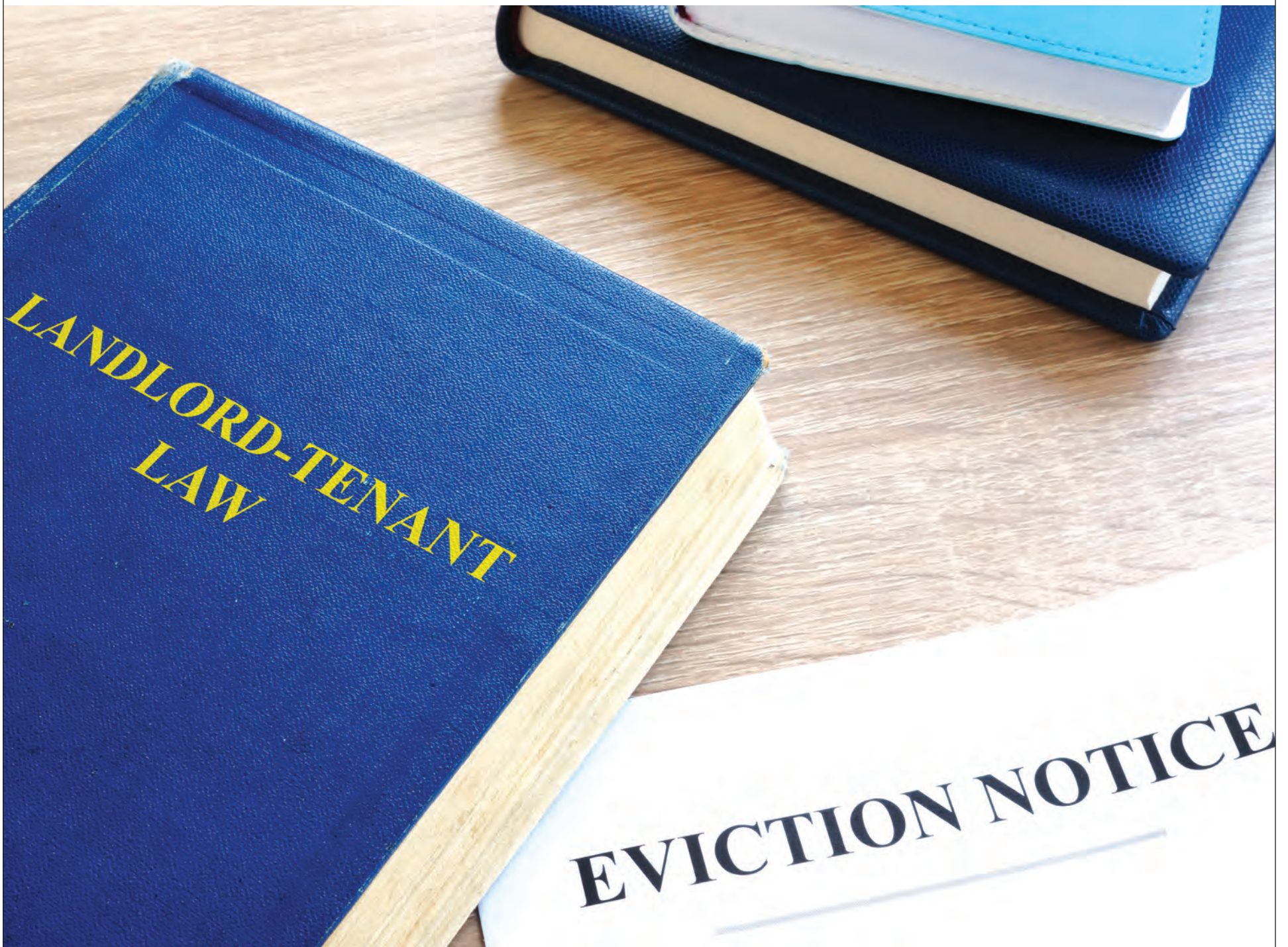


# WHAT'S THE BEST WAY TO STEM EVICTIONS?



*A Minnesota Lawyer  
panel discussion*

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EXPERTS FORUM

EVICCTIONS

PANELISTS



JOSEPH ABRAHAM  
PRINCIPAL, PERGOLA  
MANAGEMENT

Joseph Abraham is principal at Pergola Management, a Twin Cities company that has owned and managed apartment properties in the metro since 1995 and has 750 market-rate apartments in the Twin Cities area. More than half of Pergola’s apartments are considered naturally occurring affordable housing. The company has preserved these apartment homes. Abraham is also second vice chair for the Minnesota Multi Housing Association and serves as a member of executive committee and chairs MMHA’s legislative committee. MMHA was founded in 1967 to promote the highest standards in the development, management and maintenance of rental and owner-occupied multi housing. While members include the state’s largest apartment management companies, developers, common interest communities, and providers of related products and services, the majority of its members own or manage fewer than 20 units each.



COLLEEN EBINGER  
FAMILY HOUSING FUND

Colleen Gross Ebinger is vice president of the Family Housing Fund and has led the Ramsey County Housing Court pilot from inception to implementation over the past three years. This work brings together the judicial branch, lawyers, mediators, financial assistance, and the multi-housing industry to address the root causes of eviction. Fluent in Spanish, Ebinger previously directed a statewide policy and advocacy initiative for Centro Legal and served as a Peace Corps volunteer in Honduras. She also consulted for 12 years for governments, nonprofits and foundations, and is currently co-chair of the Minneapolis Advisory Committee on Housing. Ebinger is an alumna of the College of St. Benedict and holds a master’s degree in public policy from Harvard University, attending on a Reynolds Fellowship.



KEITH ELLISON  
MINNESOTA  
ATTORNEY GENERAL

Keith Ellison graduated from the University of Minnesota Law School in 1990. Before winning elected office, he worked full-time as a litigator specializing in civil rights, employment, and criminal law; as the executive director of the nonprofit Legal Rights Center; and as an attorney in trial practice. From 2003 to 2007, he served in the Minnesota House of Representatives, and from 2007 to 2019, in the U.S. House of Representatives. In November 2018, he was elected attorney general, the first African American and the first Muslim to be elected to statewide office in Minnesota. As attorney general, Ellison is focused on protecting consumers, supporting women’s economic security, and helping communities in Greater Minnesota be safe and thrive. He is involved in national efforts to protect immigrants’ rights and women’s reproductive rights, fight arbitrary deregulation that endangers health and safety, defend middle-class prosperity and affordable access to health care, and defend our Constitution and democracy.



JUDGE JOHN GUTHMANN  
2ND JUDICIAL DISTRICT

John Guthmann is the chief judge in Minnesota’s 2nd Judicial District, which encompasses Ramsey County. He graduated from Cornell College with a double major in history and political science in 1976. He received his J.D. from William Mitchell College of Law in 1980. After clerking for Minnesota Supreme Court Chief Justice Robert Sheran, Guthmann practiced for 27 years with the Hansen Dordell firm. He was appointed to the Ramsey County bench in 2008. In addition to teaching at both the University of Minnesota Law School and the William Mitchell College of Law, Guthmann wrote and lectured frequently while in private practice. After his appointment to the bench, Guthmann served three years in the Criminal Division and five years in the Civil Division. He is presiding judge for Minnesota’s asbestos litigation and handles all criminal, juvenile, and Housing Court expungements. Guthmann is a member of the Civil Jury Instruction Guide Committee and the Board of Directors of the Minnesota District Judges Foundation.



BRITTANY LEWIS  
CENTER FOR URBAN  
AND REGIONAL AFFAIRS

Brittany Lewis is a local scholar, activist, author, professor and youth action research team leader who utilizes her engaged action research framework to center the voices of black women and girls in her scholarship and public advocacy on urban housing and community economic development. Lewis is a senior research associate at the Center for Urban and Regional Affairs where she is the principal investigator of The Illusion of Choice: Evictions and Profit in North Minneapolis project and the co-principal investigator on the recently published report: “The Diversity of Gentrification: Multiple Forms of Gentrification in Minneapolis and St. Paul.” Lewis is a former Minneapolis Federal Reserve Bank Fellow and is currently expanding her research into areas of criminal justice. Lewis is a Ph.D. trained community-engaged urban ethnographer with an expertise in urban housing, community economic development, and critical race and gender studies with a focus on issues of poverty.

Are evictions the fault of deadbeat tenants, or predatory landlords? The answer, of course, is in the middle – as is the stew of ideas to keep a lid on unnecessary evictions.

Eviction prevention was the topic of a panel discussion at the state Capitol last month in which an all-star group of stakeholders talked — and, sometimes, bickered — about how the issue of evictions can be at least mitigated.

The panelists were:

**Joe Abraham**, a partner at Pergola Management, which owns or operates about 750 market-rate apartment units.

**Colleen Ebinger**, vice president of the Family Housing Fund.

**Keith Ellison**, Minnesota attorney general.

**John Guthmann**, chief judge of the 2nd Judicial District, and one of whose assignments is hearing housing expungements. Guthmann’s court is also currently running a housing court pilot project in Ramsey County along with the McKnight Foundation.

**Brittany Lewis**, a senior research associate at the Center for Urban and Regional Affairs and the Minneapolis Federal Reserve Bank scholar in residence. Lewis is currently studying evictions in north Minneapolis, and

her report is scheduled to be released in late September.

**Drew Schaffer**, executive director of Mid-Minnesota Legal Aid.

The discussion was moderated by **Barbara Jones**, editor of Minnesota Lawyer.

**JONES:** Matthew Desmond, who wrote the book “Evicted,” is very clear on the intersection of race, poverty, and eviction. Does anybody doubt that? Does anybody think we should take race out of the discussion?

**ELLISON:** I don’t think we should take it out. But I think it’s important to understand there’s a lot of white people who are hit by this. I was in Marshall, Minnesota, at a manufactured housing community. Desmond does talk about a manufactured housing community, which is very adversely affected by their landlord/tenant relationship dynamic. This particular place doesn’t just rent the land. It also rents a lot of the units. The normal model is rent the land, buy the unit. But in this place about half the people rented the unit and the land and about half of these people were white.

They were in horrible conditions. I can’t imagine how they made it through the winter. It was so bad that the landlord wouldn’t fix the roads

and there were foot-deep potholes in the roads, but it was all private land. When the school bus said we’re going to come and pick up the kids, and there’s a ton of kids living there, he said I’m not fixing anything, and in fact, you cannot come here because your school bus I think is making the potholes.

The 5-year-old kids who had to walk in the snow three-quarters of a mile to get to the bus stop on a very busy street. And that’s just one of the problems. So I’ll say absolutely this is a racially charged issue, but to ignore the white people who are affected is to leave out a lot of people.

**GUTHMANN:** You can’t leave anything out of the discussion. But since 90 percent of the eviction cases we see in the court are nonpayment of rent, poverty is a better correlation. From there you look at people who are in poverty, and then you see a race tie in there as well. You’ve seen the data that shows that most people can’t afford a \$500 emergency. If your check is late or if something suddenly happens that takes you out of your routine, now you’re late on your rent. When I do expungement hearings I hear these accounts again and again.

**ABRAHAM:** For me, it is not a racially charged issue, but maybe that’s because of where I am in my perspective. We can’t ignore the 90 or



DREW SCHAFER  
MID-MINNESOTA LEGAL AID

Drew Schaffer graduated in 2004 from the University of Minnesota Law School, where he got his first exposure to poverty law and vindicating families’ basic civil rights in the Housing Clinic. He joined Mid-Minnesota Legal Aid in September 2005 as a staff attorney, advising and representing low-income tenants in all varieties of housing cases while specializing in eviction defense litigation. For a decade, he co-taught the University of Minnesota Law School’s Housing Clinic, lecturing on landlord-tenant law in Minnesota and supervising law students in representations of tenants in eviction and housing health and safety matters. In 2013, Schaffer became the managing attorney of the Housing Unit in Mid-Minnesota Legal Aid’s Minneapolis office. In 2017, Schaffer became the executive director of Mid-Minnesota Legal Aid, where he now oversees Legal Aid’s work to protect vulnerable people’s family safety and stability, financial security, health and nutrition, housing safety and stability, and other basic civil rights in Hennepin County, central and western Minnesota, and statewide for people with disabilities.



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92 percent of evictions that are for nonpayment. Now, why did they get there? There may be these three or four things. To lay it at the feet of the property owner is very difficult.

**JONES:** Nobody is suggesting that.

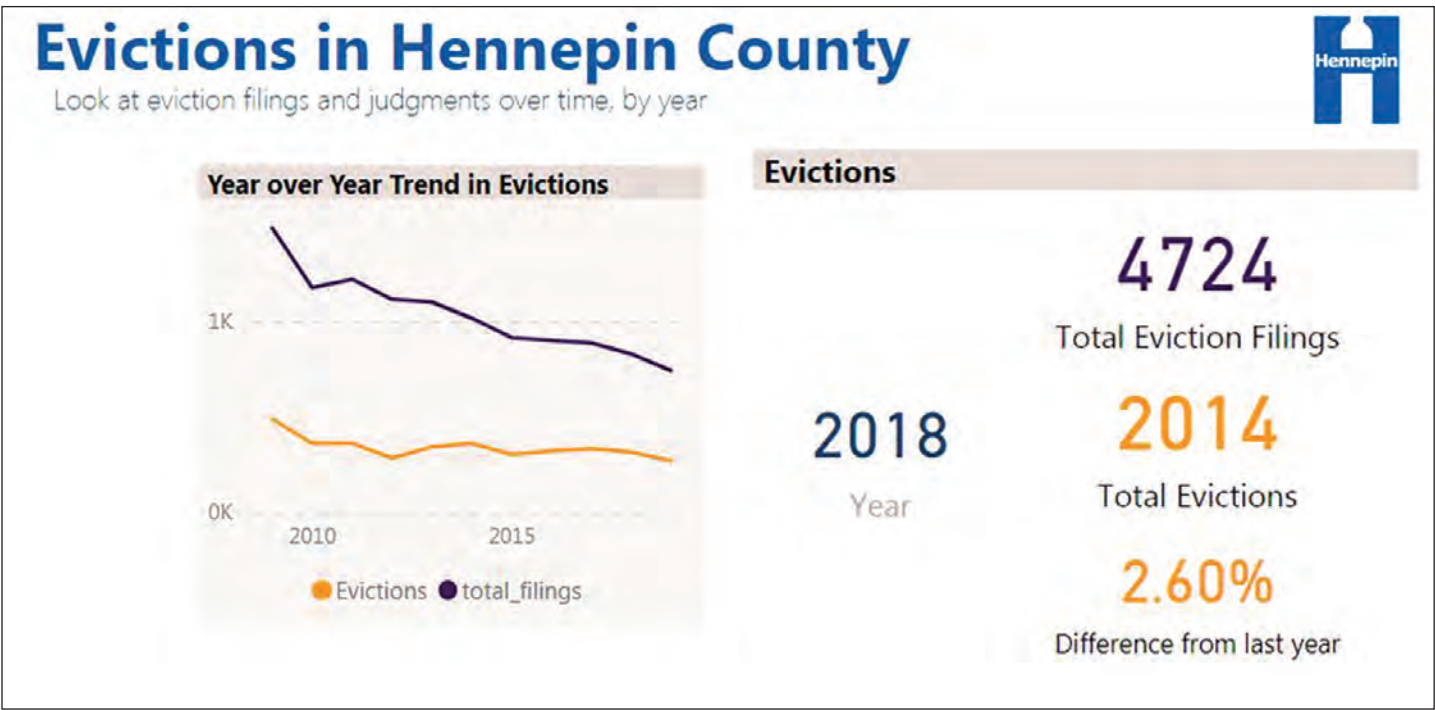
**ABRAHAM:** I know. My point is that can we participate in a discussion on how we even prevent getting there. I think there are some social things that as a city, as a state, as a country we have to deal with to prevent those. But Desmond’s book really highlighted this predatory practice that occurs. And it does happen in those two or three ZIP codes that we’ve already talked about here. We know there are bad landlords. There are bad actors in every industry.

There are tools that are underutilized by regulators. We need to really start using the tools that are out there and tightening some of the standards that exist. Some of the tiered licensing efforts that happened a few years ago, let’s get those a little bit tightened up. Let’s find out why some of these guys are still operating. We’re sweating that maybe a battery went out last night in a smoke detector, and these guys are turning the heat off.

**ELLISON:** I’m glad you said what you said there. I think that it is important for the reputable and ethical actors to not do alibis for the bad actors. In the law business, lawyers will turn on each other with a quickness. There’s no love. You’re messing up, you’re out. Because we all know that the profession’s reputation hinges upon one person, right?

I think it is good from a trade association standpoint to say you will not compromise how the public sees what we do. And to be an advocate and helping to make sure that the standards are high. I think there is some unfairness for landlords. For example, in the area of lead paint. Who is getting sued? The landlord or the paint manufacturer? Generally, it’s been the landlord. The manufacturers have been able to wall themselves off from liability in this area. And yet, the landlords are the ones who get stuck with this stuff and have to pay the costs even though a lot of them are very small operators doing the best they can.

One of the things I hope will come out of this is a better relationship between people who regulate and people who own so that we can collaborate around the worst actors. The law is written, I think, in favor of landlords. The example I picked out is the unlawful detainers on your record from the moment you file not after the writ and restitution issues. There is a power dynamic, an unequal balance of power that even the most benign, benevolent landlord benefits from, and I think



something we have to talk about.

**JONES:** What I hear is basically three areas of issues.

One is regulations of landlords and the enforcement of them and the appropriate relationship between the regulators and the landlords.

The second is the upstream part, the poverty question. We have to find a way to make it so people can pay the rent and also eat and go to work and have child care. But the whole country has to do that. I don’t think we can do that here.

And then the third is what the attorney general just said, which is the slanted — the power dynamic and the perception or reality that the laws are slanted in one favor or another. Where do we start with this?

**ABRAHAM:** We’ve got some low-hanging fruit in a couple of these areas. We know we have a vehicle in emergency assistance that is being underutilized. I heard that somewhere between \$1 million and \$2.5 million in Hennepin County were unused emergency assistance dollars.

**JONES:** That could just pay people’s rent for a month or something.

**ABRAHAM:** It’s designed for people who get into distress can go and apply to the county, and the county will evaluate their case depending on their situation and their ability to pay in the future. And then they will coordinate with the property operator and issue funds to cover that month of rent — or in some cases a little bit more than a month of rent.

Even at the small number, the average eviction is about \$2,000. That’s about what they owe. And if we use a million dollars, that’s 500 households. We only had 3,400 evictions in the state last year.

The problem is they take so long

“A lot of evictions have dual reasons, right? Maybe it’s non-payment of rent, but there’s something else going on, too. But still, maybe we can resolve that financial issue.”

Colleen Ebinger  
Family Housing Fund

to make a decision. A slow yes is worse than a quick no. It’s a very stressful two or three or four weeks to make that decision on emergency assistance. The worst case is you wait a few weeks and you don’t get approved. Now, we’ve already determined that you’re already behind on your rent and you’re probably a couple thousand dollars deeper into this. If your emergency assistance is not approved, your timeline to be in that place is very short. So we’ve got to speed that process up.

I think in Ramsey County they have it in the court. They can make a decision there. In Hennepin, they don’t do that. My experience is that takes three weeks, four weeks to make that judgment.

There’s one more point that we missed. A lot of faith organizations and other people that would help renters can’t do that until they get a response from emergency assistance. What’s lost in this conversation is that if you’re a group waiting for that response, they don’t even pursue that because what’s the point? They have to wait to get a response from emergency assistance.

**GUTHMANN:** That’s something that led up to our pilot project in Ramsey County. We were very fortunate that Ramsey County emergency assistance wanted to participate in the focus groups and the pilot project. They sent staff to our first appearance calendars, but we took it one step farther upstream by developing a hotline telephone number — when you get your summons, there’s a

dedicated number you can call to ask questions about emergency assistance. Emergency assistance knows that if that phone number was used, it came from somebody who got a summons in an eviction case.

That gets the process started even earlier if the person utilizes that hotline. So you can potentially get an answer before you go to the court, but having them there in the court means you can potentially get an answer in the court. And it’s just one more resource that can help resolve these cases.

**ABRAHAM:** Once you know you’ve got that, we don’t want them to have evictions on their record in the first place. So how do we make sure that that tool gets used before we get to that point? And we don’t do a lot of evictions, but some people aren’t able to have that communication. How do we get that information so that we can make a decision before you even have to file?

**EBINGER:** A lot of evictions have dual reasons, right? Maybe it’s nonpayment of rent, but there’s something else going on, too. But still, maybe we can resolve that financial issue.

Judge (John) Guthmann was referencing Ramsey County, and there’s a couple things on that. One is that the emergency assistance worker is at the courthouse, which just makes a huge difference. Even if you don’t get the answer, being able to say you’re working on a settlement agreement is a very different thing to say than “I promise tomorrow I’m going to go



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apply.”

Secondly, we’ve also now brought in Neighborhood House as a partner, which is a very community-based organization with a long history working particularly with immigrant communities in St. Paul. So they are now at housing court bringing a separate pool of emergency dollars. A tenant who owes money might be over the limit of emergency assistance. These other dollars can kind of bring that down, so now they qualify for aid -- and using that also as a relationship building place to work over the long-term with renters over the long-term in things like improving their credit scores.

We’re starting to build those relationships with landlords to try to get the word out that we can get ahead of filing. Schools are a great place to do eviction prevention work because it’s where families already are. People in the schools sometimes have a sense of what’s going on in the family and can help to provide that resource.

With the stronger connection between preventing eviction and being in the neighborhood schools, they are sort of doing that outreach to meet people where they are so that when someone is in crisis, our public systems, our public dollars, our philanthropic dollars are being more responsive to try to react and meet those needs.

My hope is that we can bring a lot of different parties to the table in saying we all have a role to play.

**ELLISON:** What would it take to get Hennepin County to have emergency assistance folks in housing court?

**LEWIS:** Emergency assistance is the one area that tenants and landlords agree on. This is also the place where the most people cried in my interview, how dehumanizing it was to apply for emergency assistance. Many folks say that they will no longer go and ask for help because of how that made me feel. And landlords talk about how they feel trying to track down money that is supposed to come to them.

Right now, the Pohlad Foundation has supported some funding to help reimagine the emergency assistance process in the county because of the research I’ve conducted. We’re not owning the ways in which our culture persuade folks when they’re asking us for help.

**ABRAHAM:** Can anyone speak about the pilot of the North Point Health and Wellness Center? Isn’t that an example where we can say, Hey, didn’t that make more sense? Didn’t that expedite things? Wasn’t that a more dignified way to educate people on financial responsibility, understanding the courts, understanding the process?



Minnesota Lawyer photo

Colleen Ebinger, vice president of the Family Housing Fund, talks during the roundtable discussion at the Minnesota Attorney General’s Office in St. Paul.

**SCHAFER:** Well, I can speak to it a little bit because my office had an attorney at North Point. We actually have an attorney up there now as of a medical/legal collaboration, but we also have an attorney doing the social services, financial services, legal services collaboration on a pilot program basis. And it really goes to the heart of what Dr. Lewis is talking about, what Mr. Abraham has been talking about, what Judge Guthmann was talking about.

Judge Guthmann, I’m glad you brought up the savings rate. The statistics are shocking. People do not have emergency savings in this country writ large. And people in poverty really don’t. You mentioned wage, wage stagnation, underemployment, those types of issues. They play into this.

Now, can those of us in this room solve structural racism and wage stagnation? Maybe not. But the reason this discussion is important is because a lot of these financial emergencies are actually resolvable. There are public resources for which the families are eligible, and it’s just getting those resources deployed efficiently and effectively at the point when they are needed.

A lot of the families that face eviction, they didn’t intentionally not pay their rent to spite the landlord. They are families that are underemployed. They don’t have the benefits packages that many people have for paid time off. They don’t have child care. They’re underinsured, they don’t have health insurance, or they have a vehicle break down.

“Emergency assistance is the one area that tenants and landlords agree on. This is also the place where the most people cried in my interview, how dehumanizing it was to apply for emergency assistance.”

**Brittany Lewis**  
Center for Urban and Regional Affairs

The North Point collaboration was getting mediators, social services, medical services and legal services in one place. Having a lawyer there is helpful because then a person’s legal rights can be respected and vindicated. I can’t tell you how many times I just made a phone call to somebody in the emergency financial assistance system, left a message, and said, hey, this is Drew Schaffer calling from Legal Aid, I’m looking at this case I’m trying to figure out what’s going on here. And then lo and behold, the next day my client calls me and says the issue is resolved.

Sometimes that’s what it takes. But it shouldn’t take that. The system should work more efficiently and effectively without that type of advocacy and intervention.

We can make solutions happen with legal interventions, but it shouldn’t take a lawyer calling somebody in the system to make things happen. It is frustrating that so many of these financial disputes are truly resolvable disputes at the stage when they first occur. And if the folks could just get the resources more quickly, they wouldn’t face an

eviction filing in the first place.

**GUTHMANN:** I had a woman who had four motions for expungement. She redeemed every time. Plus filing fees. So she had to pay over \$400. She paid \$1,200 plus the back rent because her paycheck didn’t mesh with the date her rent was due. If you’re off a couple of days, you could face a UD. Landlords have a right to do it.

**ABRAHAM:** I think everyone agrees that is an exception.

**LEWIS:** No, I don’t think that’s true at all. Behind nonpayment of rent, landlord retaliation is huge. What does that mean? It means I called the city inspectors. Thirty percent of our cases were directly connected to tenants asking for things getting fixed. Tenants do it all the time – can I pay on the fifth instead of the first? It’s never written down.

So then when you ask for something extra, they can file on you whenever it’s convenient. Sexual assault and harassment is not being talked about. Legal Aid filed a case about a week ago for a landlord that I actually interviewed and a few tenants that I interviewed



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who had experienced that. They can't go to housing court with that. One tenant actually brought it up in housing court and was told this wasn't the place. That's what's behind nonpayment of rent. The landlord is cool with it until they're not cool with it. And then they file them because they can.

That's what's behind the 90 percent nonpayment of rent. It appears as if they don't work. More than half of the people I interviewed have jobs. We assume so much about who these people are. These are working people, working in low-wage sectors. They can't pay in the traditional timeline like folks that have savings or have the salaries that you have. These landlords are choosing when they're going to exercise their power when it's convenient for them.

**ELLISON:** There are some folks whose model is eviction. There's one particular landlord who has been in the news a little bit because of his behavior. And this guy, he gets first month's, last month's rent, security deposit, and I think he was trying to throw people out by the third week they were there so he could do it to somebody else -- because the rental market was just that tight.

This guy happened to go to the same mosque I go to, and he would bring tenants to me and say, "I'm not doing anything wrong -- these people will swear that I'm helping them." And they would come up and advocate for him because of the UD record they had. That's the only place they could live, but then he would take advantage of their tough circumstances.

**ABRAHAM:** It is complicated. I think I should be able to respond. My point was, and I can -- your passion is great on this. My point is --

**ELLISON:** Her facts are great on this. It's not just a passion.

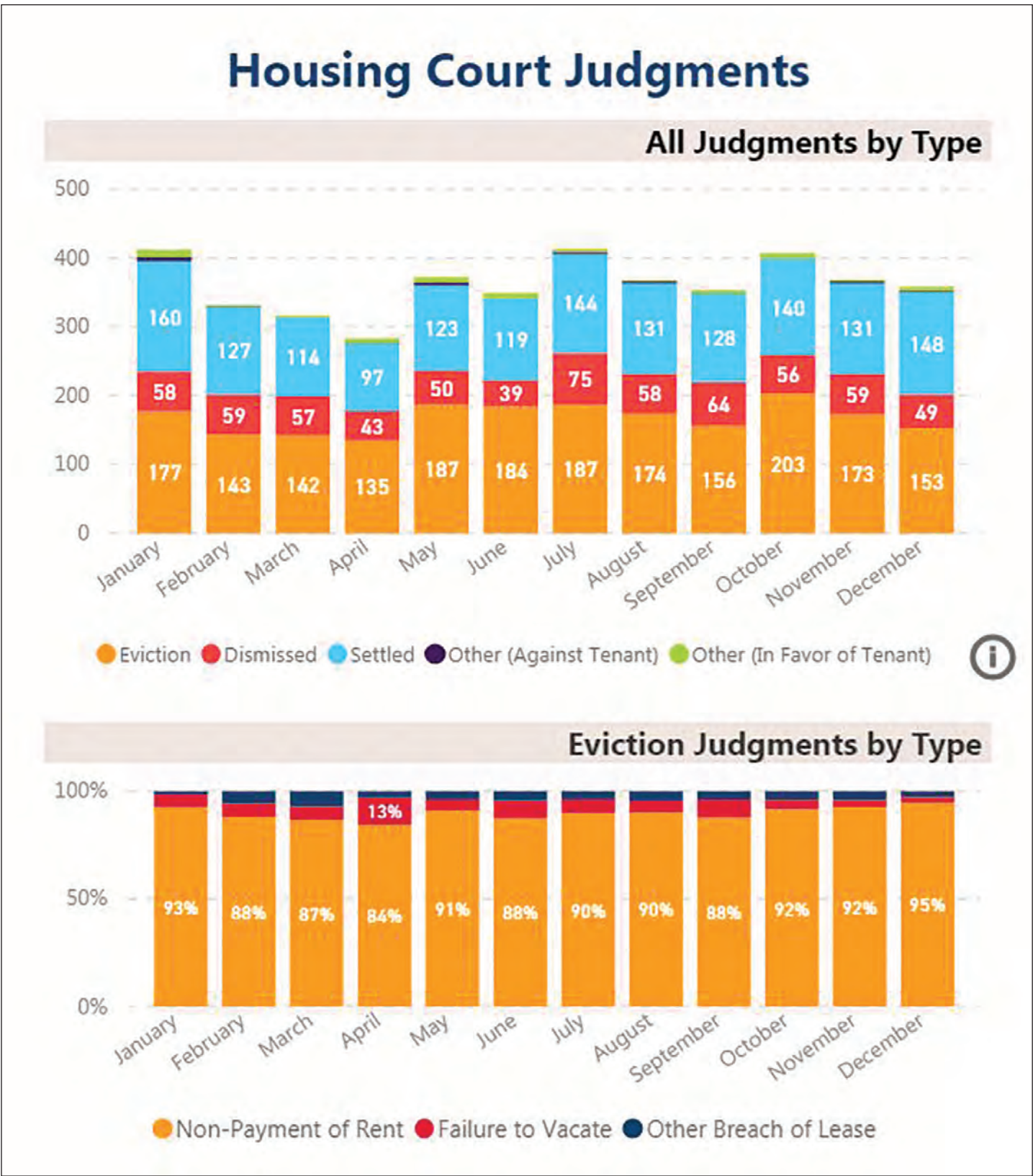
**ABRAHAM:** Hang on.

**ELLISON:** Maybe I'm misconstruing what you're saying, but when we put what you said in terms of passion, I think it sort of distances us from the facts of what she's discovered in her research. So maybe you didn't mean it that way.

**ABRAHAM:** No, I didn't mean it that way.

**ELLISON:** I want the record to reflect that we're talking about research.

**ABRAHAM:** Maybe I should reflect in the record what I intend and you interpret. What I intend to say is I'm the most passionate about this. My point was that there's a broad group of operators. We have 650,000 apartments in the state of Minnesota. My point was that most operators do what you outline,



Housing Court judgments in Hennepin County in 2018

Submitted graphic: Hennepin County

which is they try to work with people beforehand.

The one thing that gets missed and that's really frustrating property owners is that this state has a lot of local operators like me who operate their business every day. We're in the office, we're dealing with the residents, and we're blowing that opportunity. Most metro areas and states don't have as high a concentration as local owners -- they're REITS or institutional owners that are outside the city or the state. The narrative has to change. The collaboration has to include operators in so many of these discussions that can help.

I agree it's not just about nonpayment. Sure, it's 92 percent nonpayment, and there's also other issues in there. Let's chip away at those one at a time. Let's get people so they're not even getting to the point where they're filing an eviction. Let's get to that.

**ELLISON:** This conversation is focused on a lot of the landlords

who you can call or talk to. You mentioned REITs. Is there a story that hasn't gotten to the table about these real estate investment trusts that are so distant, so far away from people? Is there an unmentioned story that maybe ought to find its way into this conversation?

**ABRAHAM:** Maybe there's discussion on institutional investment here in the metro and what it's doing to affordability. But if we want to stay focused on minimizing and dealing with evictions, I don't know that this is the forum.

**LEWIS:** How are we not talking about that? I'm confused.

**SCHAFFER:** There are foreign investment companies from places like Georgia and Illinois and Colorado and Caribbean islands that are buying up big parts of the rental housing portfolio, the naturally occurring affordable housing in the communities that we serve. Judge Guthmann did bring up a really good point. The

statute that authorizes evictions for not paying rent in Minnesota does allow for the filing of an eviction action if the rent is literally a day late and a dollar short. And most rent is due on the first under the written leases.

I've seen that a lot of tenants don't have written leases in the communities that we serve and the cases where we are defending families, but it is true that in most leases, rent is due on the first, so if a family hasn't fully paid by the second, a landlord in Minnesota can file an eviction action without any prior notice to the tenant. We do have one of the fastest eviction processes in the country. Most other states do require pre-eviction notice before a case is filed.

To Mr. Abraham's point, I believe he's describing that in his operation there's more communication. I have seen that many of the reputable and professional landlords in our community provide pre-eviction notice as part of their business practice.



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I think it's a good business practice. I think that many professional landlords in our communities would be behind a requirement that would put that into the law. It can make the emergency financial assistance system work better because there would be a formally, legally required, written notice that preceded an eviction action that could be used to trigger the type of financial assistance that might be available to resolve emergencies before an eviction action shows up and appears in somebody's rental history at the moment it's filed, which is how things happen currently in Minnesota. And it sounds like you do some version of that in your practice, in terms of communicating to try to prevent unnecessary evictions, which is, I think, what the goal of the conversation is.

**ABRAHAM:** I would say that your idea that most people would support that is probably not true. And I'll tell you why. You know, we look at them as customers. They're coming to us, and we have a process that we go through, which is that we send a friendly reminder after a few days and then one that's maybe a little bit more firm if they haven't heard anything.

And then if you don't hear any communication no payment, by the 10th, the 15th, you might send a second notice. Many people then go to another notice. And then the last thing they want to do is file an eviction. I mean, they do not want to get to that point.

We've got some predatory landlords. Those are a separate case. My concern is that if you pass too much legislation that changes the rest, you're going to affect the rest of the market. You're going to affect all these people living in affordable housing. You disrupt that whole thing by passing new legislation. We've got people that you could come down on because of they're not meeting the code or they're not doing things properly. I would rather see us focus on those bad actors and get them out of the industry rather than pass new legislation that changes the whole landscape and affects other people's ability to rent from a good landlord and for a good landlord to rent to them.

**EBINGER:** I have just a question on this because I do think that the more nimble, flexible financial assistance of some sort that meets an emergency with a real sense of urgency is a big piece of it. Right? But two other things are this upstreaming of resources -- whether it's legal, mediation, other sorts of information. Then there is fully enforcing the code on bad actors, however we define that. And probably needs to be defined.

To reduce the ability for a landlord to retaliate because someone is



Minnesota Lawyer photo

Minnesota Lawyer Editor Barb Jones, center, moderated the discussion.

asking for repairs would mitigate the potential harm to a tenant for asking for repairs that they're entitled to. But then there's the leasing part. There can be predatory leasing practices, but how would we drive someone out of business who is engaging in those sorts of practices?

**ELLISON:** Municipalities have a certain jurisdiction over code enforcement.

**EBINGER:** On the code side, yeah.

**ELLISON:** There's a range of authorities, city, county, state, maybe even some federal authority, too.

Historically, the attorney general has not really been operating in the housing space. We've kind of looked at it as a local thing. But I have memos coming from my attorneys on how can we get in this space more so we can get after the people who you're not proud of.

We're looking for systemic actors, cases where we can make some sort of a consumer fraud type argument or some sort of deceptive trade practice, something that would fit in our jurisdiction.

I've thought to myself, cities and others need more money on code-type enforcement so that it's not on the shoulders of the tenant. You don't know whether I'm the one who called on your broken window that you promised to fix. The city just showed up and said, "Fix it or we will."

**EBINGER:** It puts tenants in a very dangerous position. Brittany

(Lewis), in your research, how many units does each person have? Are you generally seeing the larger portfolios?

**LEWIS:** We have large real estate investors, and we have small mom and pops who only own two units. What is common across all of these groups is that most of them bought during the height of the foreclosure crisis. Half of them had no experience in housing or real estate or had ever been landlords before.

Many bought because it was cheap. The long-term landlords that actually had backgrounds in real estate talked about how their practices have changed over time. I feel like we have an extremely inexperienced population of landlords looking to a distressed community of mostly single-family homes. It shouldn't be a surprise that close to 50 percent of our evictions are coming from an area where there are inexperienced landlords, folks that got in because they thought it was going to be a cash cow. That's not actually what ended up happening for me. So then they are disgruntled, and they are jaded. I mean, I've had very passionate interviews with landlords who have been jaded by the process and what they assumed what it meant to be a landlord.

They'd say, "I didn't get into this to be a social worker." You are actually providing a service to people, right? They weren't prepared for half of what they were encountering, and I think that shows up in their practices. And we need to be honest about addressing who those people are, and that the percentage of

the folks evicted are coming from those particular places and spaces. Many of the tenants I interviewed know all of their names. When I interviewed my tenants and I asked them if this their first choice in housing, many will say yes. But then they say, "I had nowhere else to go. Then I asked a friend of a friend, and they gave me the same names."

Folks are being forced to go to certain landlords and forced to deal with certain tactics. I mean, to sit across from a woman who talks about a landlord sexually pursuing her ... she has young children, what options does she have? These are very common stories.

Attorney General Ellison has noted, there are good landlords and bad landlords. I think there are good tenants and bad tenants. But in this space where distressed property investment is a trend and is looked at as kind of economic growth industry, consumers are the ones that are getting the brunt of the deal.

**SCHAFER:** Right. And I think that there is a business component to that. There was a study recently that showed that the profit rate for this type of business operation compared to more conventional property management is much higher for sort of the inner city, low-income, naturally occurring affordable housing operators that we're talking about.

To circle back to Ms. Ebinger's point, Legal Aid also does take action on predatory discriminatory practices. We take action when



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there’s unhealthy and unsafe living conditions. And Dr. Lewis just alluded to this thing where outside of the formal system of evicting families in the court system, there are illegal evictions, informal evictions happening every day right in all of the communities where all of us live and work. They are happening blocks away from downtown St. Paul. They’re happening blocks away from downtown Minneapolis. Families are getting forced out through informal means. Extra-judicial evictions, let’s call it.

We take action when those folks come to us. People do feel really vulnerable. They fear retaliation. People who are new Americans or who are poor and know they don’t have other housing opportunities because of collateral consequences of past interactions with the criminal justice system, or with past evictions. They are reluctant sometimes, even with an attorney by their side, to stand up and take action.

I did want to address, too, the number of evictions in Minnesota. Filings in Hennepin County have averaged around 6,000 a year for the last five years.

The filings that happen every year are just in Hennepin County, Ramsey County, Dakota County and Anoka County is over 10,000, I believe, between and among just those four counties.

**ELLISON:** How closely do filings approximate evictions?

**GUTHMANN:** I can give you data for 2018: 2,408 eviction UD actions filed and 840 evictions ordered. The plaintiff prevailed 840 times out of 2,408 filings.

**ABRAHAM:** And Hennepin was 4,400 filings and 1,900 evictions.

**SCHAFFER:** I don’t think that’s accurate. I think Hennepin County District Court has had a minimum 5,000 eviction case filings every year for the last 15 years.

**ABRAHAM:** Filings, right — 4,400.

**SCHAFFER:** 5,000.

**ABRAHAM:** 4,400 is pretty close to 5,000. 4,401 filings, 1,852 evictions.

**JONES:** OK. OK.

**GUTHMANN:** One other statistical phenomenon I’ve noticed over time between 2014 and 2018 is an 8% increase in the number of dismissed cases, which would be, to me, evidence of upstream resolution of cases for whatever reason.

**JONES:** It sounds to me like we’ve reached a couple of conclusions, or at least working conclusions. And one of them is that a lot of landlords are reasonable to deal with over this situation and that we need to have the profession,



Brittany Lewis and Joe Abraham listen during the roundtable discussion.

the property owners’ groups, help the rest of the state regulate the bad actors effectively.

And another, it sounds like what we need is better use of emergency assistance. One way that that could be done is to get into Hennepin County what Judge Guthmann and others are doing in Ramsey County. Does anybody disagree with that?

**ABRAHAM:** No.

**JONES:** And then a little bit more sort of less concrete conclusion is better landlord/tenant relationships.

**ABRAHAM:** Getting rid of the ones that are bad, you’ve already mentioned. But because we have so many local landlords who live in the same community, we’re willing to be part of this — we’re willing to be part of the solution.

**LEWIS:** I think what frustrates me about when we have conversations about evictions is that we assume we all understand even what that means. For instance, I interviewed a landlord who said outright, “I won’t rent to someone who doesn’t have a job — on SSI or have a disability or anything like that.”

**ABRAHAM:** That’s illegal.

**LEWIS:** And then they have this backing for reasons behind it, which are very racialized. I think what we’re not owning is that most landlords in the area I interviewed are white men, middle-aged white men that are going into a community where they do not live

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Judge John Guthmann  
Second Judicial District

– that they do not visually represent or culturally represent.

They bring a lot of cultural assumptions about the people they work with, and they use it in the language. So we’re not just talking about the lease and the rent. How you understand or perceive the folks you work with influences your practices. The way they talk about their tenants is extremely obvious. The language they use to describe who they are, how they talk about their purchasing habits or who is at their house or all those things are racialized discussions.

**ELLISON:** I think you’re right. We all have a slightly different idea of what’s a good landlord. What I mean is you’re renting property up to code. You have a reasonable flexibility in terms of making sure people can pay you. You’re not kicking them out at the first moment or opportunity you can and scarring up their rental record. That’s what I have in mind. Now, also, like you said, Brittany (Lewis), you’re being respectful to the people who are putting money

in your pocket as opposed to disrespectful. Now, you and I both know that there’s some good ones, there’s some bad ones, and there’s a lot of people in the middle. There’s probably a third category of “I obey the law, but I kind of really don’t respect the people who are paying me because of who they are,” you know?

**GUTHMANN:** And they are bringing these stereotypes with them because, as you mentioned, many of them are new to the rental market, and they have substituted their pre-existing attitudes for business acumen. So you have an uneducated group of people in terms of the business that they’re in, which is why, maybe, you scratch your head when you see it come in front of you.

**EBINGER:** And the only reason you’re probably going to do that is because that’s your business model, right? Because it only makes sense if you can then collect first and second -- right, first and last month deposit and you’re going to charge the fees and you were trying to keep



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someone there so that they don't have any other options.

I think that those are intertwined and certainly if you have significant habitability problems on the property and you're filing a lot of evictions, it probably leads us toward some version of a definition of what predatory means.

**SCHAFFER:** What I would say to that is, one of the ways we can avoid even like having a discussion about value judgments about who is good and who is bad is that we just focus on facts and objective reality: Either they have code violations or they don't. Either they're unhealthy and unsafe for people to live in or they are not. And people need to observe those conditions, recognize them, enforce the codes consistently and effectively.

I think another fact in objective reality is there are a not insignificant number of eviction filings every year in Minnesota, in the communities that all of us are familiar with, that are completely preventable. They never should have been filed in the first place. And there are things we can do to make sure they aren't, and to reduce the number of eviction filings even more. Keep in mind that in Hennepin County District Court, there used to be over 10,000 eviction filings a year in the late 2000s, and it's been gradually going down.

It's still a big problem. There are still a not insignificant number of cases that do not need to happen.

**ELLISON:** Given the inexperience that Dr. Lewis is mentioning, you've got a lot of people into the market. Is it possible that you have a lot of people who basically think that it's a good idea to file a UD quickly, not really factoring in the fact that this can cost you a lot of money because it's going to leave your unit open? I mean, how much of this is just like bad business practice?

**ABRAHAM:** Speaking now as a member of MMHA, we represent about 410,000 of the 650,000 apartments in the state. My guess is that the people that you're talking to aren't members. I don't have an answer. But I can tell you that we're willing to help in any way that we can to educate. Some of these you talked about are offensive. I can't imagine what it was like when you're sitting in those rooms hearing some of those stories. It's heartbreaking. I don't want to hear those stories and most of the operators here in the state don't want to hear those stories.

**ELLISON:** I buy a quad. I know nothing about this other than I want to collect rent from people. No problem. This is America. It's legal to make money. Now what? Are there classes that you go to?

**ABRAHAM:** They're under no

“This state is sort of leading the nation. That’s what’s amazing. We’re 47th in the country, if you believe the data on eviction. So we’ve made some real progress. We just need to keep moving ahead. We need to keep reducing that number from 3,400 to 2,900 to 2,400, doing some of the things that we talked about here.”

Joseph Abraham  
Principal, Pergola Management

obligation. The tough part is that they're under no obligation to join MMHA. They are under no obligation to do anything. But ignorance is no excuse for not following the law. And listen, we sit around these meetings trying to figure the same stuff out as operators do. And it's really frustrating for us, too. I don't have an answer other than we'll do whatever we could education wise. But as far as I know, the only way to start this is to really enforce the code, enforce the law.

**SCHAFFER:** But to answer your question just really quickly, Attorney General Ellison, I am not familiar with exactly what Dr. Lewis's study is going to conclude. But I do know from my experience that there are a lot of eviction filings every year at least in Hennepin County District Court where I'm most familiar where landlords have told me to my face and they have told attorneys that I work with, I filed this case because I wanted to speed up the process of getting emergency financial assistance. I knew if I didn't file this case, I would languish, and the delays would continue. I filed it because that will speed up the process if the person is eligible for emergency —

**ELLISON:** It will give them a month.

**SCHAFFER:** Right. Exactly.

**EBINGER:** Most of the guidelines are you can get up to two months one time a year, so you're incentivizing wait until you're over a month late. Right? Because why would you want to not get it? Only get one month when you're eligible potentially for two. And that is a rational action for a tenant to take, right?

But those could be changed. We could think, as a system, more creatively about how we provide people with money faster, more flexibly.

But on the code enforcement, I do think that there is sort of this myth that's well intentioned. If you are too strong about enforcing the code for poor people or for people of color or for people who are vulnerable, you might

end up forcing them out. And I think it's well intentioned in the sense that, I don't want to have to make an owner make all these repairs and now it's going to be too expensive and the person is going to get forced out. But to Dr. Lewis's comments, that makes people vulnerable in itself when a tenant has to ask for the repairs rather than the code being enforced by an external party. That's risky.

**ABRAHAM:** But there are vehicles for that. There's receivership. Let's get someone who is going to do a quality job. There are a lot of really good reputable operators — third-party managers and people like me — who would take that on and do it for a minimal fee to cover costs.

One other thing I want to mention is that we want to try to minimize evictions as much as we can. We have a lot of engaged, local operators in the state — people who want to be involved and want to do the right thing, despite the fact that we're in one of the tightest markets historically.

This state is sort of leading the nation. That's what's amazing. We're 47th in the country, if you believe the data on eviction. So we've made some real progress. We just need to keep moving ahead. We need to keep reducing that number from 3,400 to 2,900 to 2,400, doing some of the things that we talked about here.

**LEWIS:** In a forum last year, emergency assistance at that point had refused to meet with me even to review the data. And then after that forum, they finally met with me. I went verbatim through every transcript and listed how the landlords and tenants discussed it. Then they start doing some investigative work. People start probing them from the county — funders, etc. I had an organizing event on Saturday where we had tenants testifying in front of the county with their experiences.

It took close to over a year to even engage in that conversation, mostly because we internalize and make it personal instead of talking about the system and the people we should be serving.

One of our major funders for

the research that we did with the Pohlads put their money where their mouth was and said, "OK, we believe in the research and the results. We're going to pay for the county to re-evaluate their system."

Now you're talking money. Now you can tell someone something about what they're doing. But what's going to make them move if they don't feel like they have the funds or the capacity to do that? We need to have the data to support it. It took that long for us to get to this point. We're not actually engaging in it.

**ABRAHAM:** For some of these more complicated issues, how long is it going to take to solve those? With something like this where we can all agree that it's time to get moving on that, then let's get moving. How do we enforce code? Those stories are heartbreaking, and you know much better than I because you're interviewing those people. If there's something we can do to help, let us know that. But in the meantime, some of these really easy things, let's get moving on these things and get them solved.

**ELLISON:** It's been an honor to host you all at the Attorney General's Office. We'll be happy to do it on some other topics.

**JONES:** Thank you, Attorney General Ellison. I'll wrap up, as a well-brought up young Minnesotan lady, with a compliment to my host and say I think that one of the things we're gleaning from this conversation is that treating this as a consumer-protection issue is solid. And the right way to go. I think everybody here agrees with that. And if you don't, just don't say it until we're done here.

**ELLISON:** Said like a perfect Minnesotan.

**SCHAFFER:** You know, it also is a civil rights issue. We have to look at it that way, and we also have to recognize that a lease is a contract — and it's a conveyance of an interest in real estate. It is a property interest — the tenants' property interest in their home, and that's a constitutionally protected interest. We talk about the Fifth Amendment and then the 14th Amendment as it applies to the states: Society should recognize the basic human right — and the basic civil right and the constitutional right -- involved in protecting a family's rights when they are facing eviction.

**EBINGER:** In Ramsey County, I suspect some of the people coming through feel that sense of due process, of feeling like they were heard and there was a sense of fairness. The judges and the referees are seeing a difference in how people are coming into the court and what they are saying in that due process.