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RURAL RENTING: AN EMPIRICAL PORTRAIT OF EVICTION

Cassie Chambers Armstrong* & Christopher J. Ryan, Jr.**

INTRODUCTION

Eviction in America is at a crisis level. Recent estimates suggest landlords file evictions against 2.7 million households—or 7% of all renters—every year.¹ Unsurprisingly, this number decreased during the COVID-19 pandemic,² likely because of policies that prohibited some types of evictions.³ Similarly, heightened emphasis on rental assistance funding and eviction diversion programs lowered the number of eviction cases.⁴ But data from 2022 show that—as these policies and programs expire—eviction rates are rising once again.⁵

An increase in evictions matters because of the ways eviction impacts individuals. Research shows that those under threat of eviction experience many negative mental and physical health outcomes such as psychological distress, suicidal ideation, high blood pressure, and child maltreatment.⁶ Eviction is linked to mental health hospitalizations and all-cause mortality.⁷ It decreases civic engagement, and it increases stress.⁸

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1. Ashley Gromis et al., *Estimating Eviction Prevalence Across the United States*, 119 PROC. NAT'L ACAD. SCI., 7 (2022).

2. Camila Vallejo, Jacob Haas, & Peter Hepburn, *Preliminary Analysis: Eviction Filing Patterns in 2022*, EVICTION LAB (Mar. 9, 2023), <https://evictionlab.org/ets-report-2022/>.

3. Specifically, evictions for nonpayment of rent. *Id.*

4. *Id.*

5. *Id.*; see also Claire Thornton, 'A lot of fear': Rent Hikes Across the Country Mean Eviction Notices for Many Americans, USA TODAY (Jul. 5, 2023), <https://www.usatoday.com/story/news/nation/2023/07/05/rising-rents-eviction-notices-across-us/70349779007/>.

6. Hugo Vásquez-Vera et al., *The threat of home eviction and its effects on health through the equity lens: A systematic review*, 175 SOC. SCI. & MED. 199, 205 (2017).

7. Gracie Himmelstein & Matthew Desmond, *Eviction and Health: A Vicious Cycle Exacerbated by a Pandemic*, HEALTH AFFS. (Apr. 1, 2021), <https://www.healthaffairs.org/doi/10.1377/hpb20210315.747908/>.

8. *No Eviction Without Representation*, AM. CIV. LIBERTIES UNION (2022), https://www.aclu.org/sites/default/files/field_document/no_eviction_without_representation_research_brief_0.pdf.

Children born into housing instability, homelessness, or both are especially impacted—and in a lifelong way. A study of infants who experienced homelessness found that they have higher rates of low birthweight and respiratory problems, more emergency department visits, and higher annual healthcare costs.⁹ One study indicated that housing instability as a child is correlated with “lower earnings, fewer work hours, and less educational attainment later in life.”¹⁰ Children who experienced eviction during infancy scored systematically lower at age nine on tests of executive functioning, mathematical reasoning, and language skills.¹¹

Other research has documented the ways in which eviction creates a spiral that can trap individuals. It is linked to job loss and higher rates of depression as much as two years later.¹² At least one study has shown that evictions cause “large and persistent” increases in the risk a person will experience homelessness.¹³ Together, these correlations led the Eviction Lab—a national leader on eviction research and policy—to conclude “[t]he evidence strongly indicates that eviction is not just a condition of poverty, it is a cause of it.”¹⁴

And having an eviction on your record can make it more difficult to break the cycle of poverty. Eviction creates a legal record that can be a barrier to obtaining housing, as many landlords screen for recent evictions.¹⁵ States vary in whether and how renters are able to expunge an eviction from their record.¹⁶ Indeed, only ten states allow evictions to be

9. Robin E. Clark et al., *Infants Exposed to Homelessness: Health, Health Care Use, and Health Spending from Birth to Age Six*, 38 HEALTH AFFS. 721, 721 (May 2019), <https://doi.org/10.1377/hlthaff.2019.00090>.

10. AM. CIV. LIBERTIES UNION, *supra* note 8, at 5.

11. Gabriel L. Schwartz et al., *Childhood eviction and cognitive development: Developmental timing-specific associations in an urban birth cohort*, 292 SOC. SCI. & MED. 114544 (2022).

12. *Id.*; see also AM. CIV. LIBERTIES UNION, *supra* note 8, at 3 (noting that those experiencing eviction or a voluntary move are 20% more likely to lose a job as compared to those with stable housing).

13. Robert Collinson & David Reed, *The Effects of Evictions on Low-Income Households*, 1 (Dec. 2018) (unpublished manuscript), https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf (“Evictions cause large and persistent increases in risk of homelessness, elevate long-term residential instability, and increase emergency room use.”).

14. *Id.* (explaining that data strongly indicates the causal and directional nature of the relationship between poverty and eviction); see also Sam Gilman, *The Return on Investment of Pandemic Rental Assistance: Modeling A Rare Win-Win-Win*, 18 IND. HEALTH L. REV. 293, 295 (2021) (discussing the causative nature of eviction on poverty status and explaining “[e]victions have been linked to job loss, difficulty finding future housing, homelessness, chronic illness, poor learning outcomes, generational poverty, diseases of despair, and now death by COVID-19.”).

15. *Why Eviction Matters*, EVICTION LAB, <https://evictionlab.org/why-eviction-matters/#who-is-at-risk> (last visited Jan. 24, 2023).

16. Jaboa Lake & Leni Tupper, *Eviction Record Expungement Can Remove Barriers to Stable Housing*, CTR. FOR AM. PROGRESS (Sep. 30, 2021), <https://www.americanprogress.org/article/eviction-record-expungement-can-remove-barriers-stable-housing/>; see also Katelyn Polk, *Screened Out of Housing: The Impact of Misleading Tenant Screening Reports and the Potential for Criminal Expungement as a Model for Effectively Sealing Evictions*, 15 NW. J.L. & SOC. POL’Y 338, 352 (2020).

sealed or expunged.¹⁷ In many jurisdictions, therefore, an eviction will stay on a person's record for the remainder of their life.

Eviction disrupts and alters a person's life. Understanding what factors bear on outcomes within the legal process of eviction is key to avoiding its many devastating consequences. In this Article, we focus on renters and understanding what issues impact their likelihood of suffering a judgment of eviction.

We proceed in four sections. Section I examines the literature around eviction and what predicts the outcome of eviction proceedings. Section II lays out a framework for eviction and understanding what facilitates renter-positive outcomes. Section III provides an overview of our empirical findings about eviction, including those related to urban-rural differences, the impact of upstream renter-friendly policies, and in-area property ownership. Section IV discusses the implications of these findings for future research and policy.

I. FACTORS THAT IMPACT EVICTION

Given the negative impact of eviction, it is important to understand what factors drive it. This Section reviews the existing literature on eviction to situate our findings. This is not intended to suggest that these are the only factors impacting eviction. Rather, our aim is to provide a summary of the existing work in this area.

A. Race

Many scholars have documented the way eviction disproportionately impacts communities of color.¹⁸ Whereas the average renter faces a 4.1% chance of eviction each year, the risk for Black renters is 6.2%.¹⁹ Approximately one out of every four Black renters lives in an area where Black renters are evicted at more than twice the rate of white renters.²⁰

17. Nada Hussein, Tori Bourret, & Sarah Gallagher, *Eviction Record Sealing and Expungement Toolkit*, NAT'L LOW INCOME HOUS. COAL., 5 (2023), <https://nlihc.org/sites/default/files/2023-04/eviction-record-sealing-and-expungement-toolkit.pdf>.

18. Sophia Wedeen, *Black and Hispanic Renters Face the Greatest Threat of Eviction in Pandemic*, JOINT CTR. FOR HOUS. STUD. HARV. U. (Jan. 11, 2021), <https://www.jchs.harvard.edu/blog/black-and-hispanic-renters-face-greatest-threat-eviction-pandemic> (noting that a "staggering 9.7% of Black renter households and 8.7% of Hispanic households reported that they were very likely to be evicted in the next two months"); see generally Peter Hepburn, Renee Louis & Matthew Desmond, *Racial and Gender Disparities among Evicted Americans*, EVICTION LAB (Dec. 16, 2020), <https://evictionlab.org/demographics-of-eviction/> (finding that both eviction filings and eviction judgments were higher for Black renters than white renters).

19. Hepburn, Louis & Desmond, *supra* note 18.

20. *Id.*

Hispanic renters are also disproportionately threatened by eviction.²¹ A 2021 report showed that Black and Hispanic renters were twice as likely to be behind on housing payments and two times more likely to be at risk of eviction.²²

Discrimination drives these differences. One empirical study examined eviction filings in Milwaukee.²³ There, Hispanic people living in neighborhoods that were more than 60% white were significantly more likely to face eviction.²⁴ Hispanic renters with a non-Hispanic landlord also faced a greater risk.²⁵ Importantly, these effects remained even after controlling for other variables such as gender, age, marital status, criminal record, and income.²⁶ The study's authors concluded that factors such as language barriers, avoidance of the legal system, and availability of legal services could not sufficiently explain these results.²⁷ Instead, they concluded these results were evidence of discrimination, in particular “an increased likelihood of eviction for minorities living in non-minority areas.”²⁸

B. Gender and Family Status

Women, too, are at increased risk of eviction.²⁹ Recent data analyzed by researchers at the Eviction Lab suggest women are 16% more likely to face eviction than men—a disparity that is even greater for Black women.³⁰ One study concluded that, although women from Black neighborhoods made up only 9.6% of the population evaluated, they represented 30% of the evictions.³¹ The study author hypothesized that

21. *Id.* (noting that 13.1% of Latinx renters had landlords file repeated evictions against them, as compared to 9.7% of white renters).

22. Wedeen, *supra* note 18.

23. Deena Greenberg et. al., *Discrimination in Evictions: Empirical Evidence and Legal Challenges*, 51 HARV. C.R.-C.L. L. REV. 115, 121 (2016).

24. *Id.* at 128.

25. *Id.*

26. *Id.* at 121.

27. *Id.* at 135-40.

28. *Id.* at 132. Notably, this study did not find an increased risk of eviction for African American participants, even though other literature has documented this important effect. *Id.* The authors concluded that this was because African Americans were more likely to live in segregated neighborhoods, meaning they were less likely to experience the particular type of discrimination documented by this study. *Id.* at 132-33. Additionally, the authors hypothesized that African American renters may experience more “front end” discrimination in the housing process (i.e. the rental processes that select and distribute individuals into neighborhoods), leading to the segmented housing patterns they observed. *Id.* at 132.

29. Hepburn, Louis & Desmond, *supra* note 18.

30. *Id.*

31. Matthew Desmond, *Poor Black Women Are Evicted at Alarming Rates, Setting Off a Chain of Hardship*, MACARTHUR FOUND., 1 (Mar. 2014), https://www.macfound.org/media/files/hhm_research_brief_-_poor_black_women_are_evicted_at_alarming_rates.pdf.

lower wages and child-related responsibilities played a role in these disparities.³² He also posited that women’s “nonconfrontational approach with landlords and their tendency to dodge the issue” helped explain these outcomes.³³ Another study of Baltimore housing court found that 71% of defendants were women, further highlighting this group’s outsized representation.³⁴

Other research has examined the impact of parenthood on eviction. Families with children are more likely to face housing instability,³⁵ and 14.8% of all children (and almost one out of every three children living in poverty) will experience an eviction by the time they are fifteen years old.³⁶ The effect of parenthood is so strong that one study found the proportion of children in a neighborhood predicted the eviction rate more accurately than the level of poverty, racial demographics, or the proportion of single-parent households.³⁷ Black moms are particularly at risk: a New Orleans study concluded that single mothers living in areas that were 90%–100% Black were significantly more likely to be evicted.³⁸

A family’s likelihood of eviction increases with each additional child.³⁹ Whereas a renter who does not have children faces a 7.3% chance of eviction in a given year, the risk rises to 9.5% for a renter with one child, and 11.7% for a renter with two children.⁴⁰

These differences, too, may be driven by discrimination. One empirical study found that “landlord discretion” best explains why families face higher eviction rates.⁴¹ Put differently, according to the study, landlords were more likely to follow through with an eviction against a family than against an individual. The authors hypothesized that this was because

32. *Id.* at 2.

33. *Id.*

34. Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants’ Voices in Legal Process*, 20 HOFSTRA L. REV. 533, 540 (1992).

35. Erik Gartland, *Families with Children at Increased Risk of Eviction, With Renters of Color Facing Greatest Hardship*, CTR. ON BUDGET & POL’Y PRIORITIES (Nov. 2, 2021), <https://www.cbpp.org/blog/families-with-children-at-increased-risk-of-eviction-with-renters-of-color-facing-greatest>.

36. Emily Benfer, *U.S. Eviction Policy is Harming Children: The Case for Sustainable Eviction Prevention to Promote Healthy Equity*, PETRIE-FLOM CTR. AT HARV. L. SCH. (Nov. 2, 2022), <https://blog.petrieflom.law.harvard.edu/2022/11/02/pandemic-eviction-policy-children/>.

37. Dana Goplerud et al., *The Health Impact of Evictions*, PEDIATRICS (Nov. 1, 2021), <https://publications.aap.org/pediatrics/article/148/5/e2021052892/181363/The-Health-Impact-of-Evictions>.

38. Davida Finger, *The Eviction Geography of New Orleans: An Empirical Study to Further Housing Justice*, 22 U. D.C. L. REV. 23, 43 (2019).

39. *Id.*

40. Matthew Desmond & Carl Gershenson, *Who Gets Evicted? Assessing Individual, Neighborhood, and Network Factors*, 62 SOC. SCI. RSCH., 362, 369 (2017), <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>.

41. *Id.* at 363.

“children can cause added stress on property, disturb neighbors, and attracted unwanted state scrutiny by child welfare agents or law enforcement officers[.]”⁴² For that reason, the authors argued, landlords had more incentive to evict large families than smaller families or adult-only households.⁴³

C. Legal Representation

Another body of literature has examined the impact of legal representation in eviction proceedings. Few renters facing eviction are represented by legal counsel.⁴⁴ According to 2023 data, 82% of landlords have counsel in the eviction process, as compared to only 3% of tenants.⁴⁵ This means that many renters must navigate the legal process on their own.

Yet, studies show that access to an attorney often leads to better outcomes for home renters.⁴⁶ Those with legal assistance are less likely to experience disruptive displacement and more likely to remain in stable housing.⁴⁷ In San Francisco, 59% of those with counsel remained in their prior housing, and 70% of those who moved received a favorable settlement.⁴⁸ In Kansas City, those with legal representation avoided eviction 86% of the time—a striking difference from the 70% of renters who lost by default before the city implemented programs to provide

42. *Id.* at 372

43. *Id.* at 372-73.

44. Raymond Roth, III & Neil Steinkamp, *Cost-Benefit Analysis for New York City Right-to-Counsel Legislation*, STOUT RISIUS ROSS, <https://www.stout.com/en/experience/cost-benefit-analysis-for-nyc-right-to-counsel-legislation>; see also Jan Hoffman, *Chaos Presides in New York Housing Courts*, N.Y. TIMES (Dec. 28, 1994) (noting that “ninety percent of tenants do not have lawyers and—many who many not speak English, much less know their rights—are bullied into signing hallway agreements by landlords’ lawyers brandishing cellular phones, calculators and legal papers.”).

45. *Eviction representation statistics for landlords* and tenants absent special intervention***, NAT’L COAL. FOR CIV. RIGHT TO COUNS. (Sep. 2023), https://civilrighttocounsel.org/uploaded_files/280/Landlord_and_tenant_eviction_rep_stats_NCCRC_.pdf.

46. *Legal Representation in Eviction Proceedings*, NETWORK FOR PUB. HEALTH L., 2 (May 2021), <https://www.networkforphl.org/wp-content/uploads/2021/05/Fact-Sheet-RTC.pdf>; see generally Eviction Def. Collaborative, *Tenant Right to Counsel Data – Outcomes*, NAT’L COAL. FOR CIV. RIGHT TO COUNS. (Dec. 2021), http://civilrighttocounsel.org/uploaded_files/290/RTC_outcomes_March_2020_-_Dec_2021.pdf.

47. *Id.*; Contrary to popular belief, this doesn’t always mean that the renter remains in the unit they were in at the time the eviction was filed. One study showed that 46% of renters facing eviction do not actually want to remain in their home. *Cleveland Eviction Right to Counsel: Annual Independent Evaluation: January 1 to December 31*, STOUT RISIUS ROSS, 2 (Jan. 31, 2022), https://freeevictionhelpresults.org/wp-content/uploads/2022/01/Stouts-2021-Independent-Evaluation-of-RTC-C_Executive-Summary_1.31.22.pdf. Instead, they were interested in securing additional time to move and other “move out agreement” provisions. *Id.*

48. *Current Tally of Tenant Right to Counsel Jurisdictions: 17 cities, 4 states, 1 county!*, NAT’L COAL. FOR CIV. RIGHT TO COUNS., (last visited Oct. 13, 2023) (defining “favorable settlement” as those who reached a move out agreement that gave them sufficient time and money to move).

attorneys to renters.⁴⁹

Data suggest that access to legal counsel is not only effective at keeping renters housed—it is also a cost-effective policy intervention. Many jurisdictions that have enacted or are considering enacting expanded access to legal representation in the eviction process have conducted cost-benefit analyses.⁵⁰ One study from Philadelphia found that an annual investment of \$35 million into providing legal representation could save the city \$45.2 million each year.⁵¹ Another analysis of Cleveland’s right-to-counsel program found that it saved the city over a million dollars each year.⁵² The National Center for a Civil Right to Counsel claims that “[e]very report [examining right-to-counsel programs] has found that cities and states will save far more than they spend to provide such a right, due to avoided costs around shelters, health care, foster care, and other social safety net services.”⁵³

The impact of legal representation is part of the reason “renters’ right-to-counsel” laws have swept across America.⁵⁴ Whereas no jurisdiction had a right-to-counsel law before 2017,⁵⁵ five states, seventeen cities, and two counties now offer counsel for renters facing eviction.⁵⁶ These right-to-counsel programs have become a data-driven way for local governments to address one of their most pressing issues, and elected officials have accepted this invitation to expand access to legal representation.⁵⁷

Yet, there are limitations to these programs. Many are confined to urban areas and dependent upon COVID-19 recovery funding.⁵⁸ Many cities have chosen to initially fund their right-to-counsel programs with federal dollars made available because of the pandemic, such as the

49. *Id.*; AM. CIV. LIBERTIES UNION, *supra* note 8, at n.20.

50. Many of these analyses are conducted by the company Stout Risius Ross, LLC. A full list is available here: *A compilation of resources related to the eviction process, housing instability, racial bias, the impacts and economic costs of eviction, and legislation and other resources related to a right to counsel for tenants facing eviction*, STOUT RISIUS ROSS, <https://www.stout.com/en/services/transformativ-change-consulting/eviction-right-to-counsel-resources> (last visited Aug. 20, 2024).

51. *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants*, STOUT RISIUS ROSS, 6 (Nov. 3, 2018), https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/Philadelphia%20Evictions%20Report_11-13-18.pdf.

52. AM. CIV. LIBERTIES UNION, *supra* note 8, at 11.

53. NAT’L COAL. FOR CIV. RIGHT TO COUNS., *supra* note 48.

54. Cassie Chambers Armstrong, *Gideon is in the House: Lessons from the Home-Renters’ Right-to-Counsel Movement*, 59 HARV. C.R.-C.L. L. REV. 201, 205.

55. *See generally id.*

56. *The Right to Counsel for Tenants Facing Eviction: Developments*, NAT’L COAL. FOR CIV. RIGHT TO COUNS., https://civilrighttocounsel.org/wp-content/uploads/2023/11/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf

57. *See generally* Chambers Armstrong, *supra* note 54.

58. *Id.* at 240.

Emergency Rental Assistance Program and the American Rescue Plan.⁵⁹ Many cities that have not yet established a full right-to-counsel program used these funds for pilot projects.⁶⁰ Local governments must obligate their federal relief funds by the end of 2024 and spend them by the end of 2026,⁶¹ leaving these new right-to-counsel programs on shaky ground until advocates and policymakers find permanent funding.

D. State and Local Policies

Other policies matter as well. In addition to right-to-counsel laws, state and local governments—realizing the financial impact of eviction—have increasingly experimented with policies like landlord-tenant mediation programs,⁶² longer eviction timelines,⁶³ weather-related protections,⁶⁴ and more. A recent study found that state-level housing policies—such as higher filing fees for eviction cases and extended notice periods for renters—strongly correlated with a decreasing number of county-level eviction filings.⁶⁵ This evidence suggests that landlords respond to structures and incentives within the legal eviction framework and that they make decisions about pursuing eviction based on the structures in place.

Perhaps the most interesting example of eviction-related policy development transpired during the COVID-19 pandemic emergency. In 2020, federal, state, and local governments enacted a variety of policies to respond to the pandemic, escalating unemployment, and the need to keep people housed.⁶⁶ These policies included moratoria preventing landlords from evicting tenants and programs designed to help people pay

59. For a description of this program, see *Emergency Rental Assistance Program*, U.S. DEP'T OF TREASURY, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program> (last visited Jan 31, 2023); see also *American Rescue Plan*, WHITE HOUSE, <https://www.whitehouse.gov/american-rescue-plan/> (last visited Jan. 31, 2023).

60. See generally *Reforming the Eviction System During and After the Pandemic*, PD&R EDGE (Sept. 20, 2022), <https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-092022.html>.

61. *ARPA State Fiscal Recovery Fund Allocations Database*, NAT'L CONF. STATE LEGISLATURES (last updated Jul. 28, 2023), <https://www.ncsl.org/fiscal/arpa-state-fiscal-recovery-fund-allocations>.

62. Bailey Loosemore, *Facing an Eviction? How Louisville Landlords and Renters Can Avoid It Altogether*, LOUISVILLE COURIER J. (May 24, 2023), <https://www.courier-journal.com/story/news/local/2023/05/22/louisville-starts-eviction-mediation-program-using-federal-arp-funds/70209195007/>.

63. *Policies, Laws, and Rules to Mitigate Evictions*, EVICTION INNOVATION, <https://evictioninnovation.org/innovations/policy/> (last visited Oct. 17, 2023).

64. *Id.*

65. *Id.*

66. See generally Peter Hepburn et al., *COVID-era Policies Cut Eviction Filings by More than Half*, EVICTION LAB (May 3, 2023), <https://evictionlab.org/covid-era-policies-cut-eviction-filings-by-more-than-half/>.

their monthly rent.⁶⁷

Contrary to some beliefs, these programs did not prohibit *all* evictions—they prohibited eviction only for nonpayment of rent.⁶⁸ Landlords could still evict those who violated leases or whose leases expired.⁶⁹ After all, thousands of people were evicted during the COVID-19 pandemic, including at least 1,298 in Louisville, Kentucky.⁷⁰

Overall, however, eviction moratoria policies effectively achieved their goals.⁷¹ According to a recent study, they reduced eviction filings by 57.6%, and the largest reductions were in majority-Black and majority-low-income neighborhoods.⁷² Furthermore, these reductions do not appear to have fundamentally altered the landlords' financial stability.⁷³ For example, an analysis by JPMorgan Chase of small and medium landlords found that these groups ended 2020 with only slightly decreased revenues, which were accompanied by similarly decreased costs.⁷⁴ The authors speculated that “[u]nprecedented government support” to renters “likely provided needed relief to renters and helped to prevent a worse outcome for landlords.”⁷⁵ Efforts to understand the impact of rental assistance policies are ongoing, however, as the authors of that study note: “[t]he full cost of these prevented eviction cases remains unclear[.]”⁷⁶

E. Housing Affordability

The housing landscape within which renters find themselves also influences the likelihood that a person will experience eviction. Eviction is a downstream consequence of America's lack of affordable housing. In recent years, the percentage of renters spending more than half of their income on housing has increased to over 30%.⁷⁷ Low-income households

67. Peter Hepburn, et al., *Protecting the Most Vulnerable: Policy Response and Eviction Filing Patterns During the COVID-19 Pandemic*, RUSSELL SAGE FOUND. J. SOC. SCIS., 186, 187 (2023), <https://www.rsfsjournal.org/content/rsfjss/9/3/186.full.pdf>.

68. Bailey Loosemore, *The Eviction Crisis Is Here: Loopholes Let Landlords Force Renters from Their Homes*, LOUISVILLE COURIER J. (Feb. 22, 2021), <https://www.courier-journal.com/story/news/local/2021/02/22/hundreds-have-been-evicted-in-louisville-during-covid-19-pandemic/4376452001/>.

69. *Id.*

70. *Id.*

71. Hepburn, Louis & Desmond, *supra* note 67, at 187.

72. *Id.*

73. *Id.*

74. Fiona Greig, Chen Zhao, & Fefevre Alexander, *How Did Landlords Fare During COVID?*, JPMORGAN CHASE (October 2021), <https://www.jpmorganchase.com/institute/all-topics/community-development/how-did-landlords-fare-during-covid>.

75. *Id.*

76. *Id.*

77. Matthew Desmond, *Unaffordable America: Poverty, Housing, and Eviction*, 22 INST. RSCH. ON POVERTY 1, 1 (2015), <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>.

are disproportionately impacted, with over half of poor families spending more than half their income to secure housing.⁷⁸ Increases in rent and utilities, flat-lining wages for poor workers, and the inaccessibility of many federal assistance programs contribute to this impact.⁷⁹ All of this led Matthew Desmond to conclude that forced moves were “mainly attributed to families’ inability to pay rent.”⁸⁰

The National Low Income Housing Coalition shows America needs 6.8 million affordable housing units to ensure that low-income families have sufficient housing options.⁸¹ This means that, for every one hundred low-income renters, there are just thirty-seven affordable units.⁸² The Coalition also notes that 70% of all extremely low-income families pay more than half of their income in rent, and that assistance programs only help 25% of extremely low-income individuals.⁸³ These cost-burdened families struggle financially to pay rent and meet other basic needs. The Eviction Lab explains that a lack of affordable housing means that “it has become harder for low-income families to keep up with rent and utility costs, and a growing number are living one misstep or emergency away from eviction.”⁸⁴ Fewer affordable units mean fewer affordable places for renters to live.

F. Landlord Characteristics

The nature of a geographical area’s housing market may also play a role. Specifically, research suggests that the number of units a landlord owns impacts eviction filings. A recent study used eviction filings and other records in Boston to examine the differences between large and small landlord behavior.⁸⁵ The study author found that large landlords were 186% more likely to file evictions than were small landlords.⁸⁶ He also concluded landlords of different sizes think about eviction differently. Whereas small landlords see eviction as “morally fraught,” often because of their personal relationships with tenants, large landlords

78. *Id.*

79. *Id.* at 2.

80. *Id.* at 5. Matthew Desmond uses the term “forced moves” because it encompasses informal evictions, landlord foreclosure, and building condemnation. *Id.* at 3. Of these, 48% of forced moves were informal evictions and 24% were formal evictions. *Id.* Another 23% of forced moves were landlord foreclosures and 5% were because the building had been condemned. *Id.*

81. *Why We Care*, NAT’L LOW INCOME HOUS. COAL., <https://nlihc.org/explore-issues/why-we-care/problem> (last visited Jan. 24, 2023).

82. *Id.*

83. *Id.*

84. EVICTION LAB, *supra* note 15.

85. Henry Gomory, *The Social and Institutional Contexts Underlying Landlords’ Eviction Practices*, 100 SOC. FORCES 1774 (2021).

86. *Id.* at 1786.

categorize it as “a routine business practice.”⁸⁷

Additionally, that same study found that landlords who employed property managers and owned their properties, as companies, filed evictions 22%–41% more frequently.⁸⁸ They were also more likely than small landlords to complete the eviction process and remove a tenant.⁸⁹ One explanation for this, the author suggested, was that small landlords were more likely to live close to tenants, which created opportunities to make informal decisions—and perhaps negotiations to avoid the formal eviction process altogether. In contrast, arms-length relationships with tenants and bureaucratic management practices allowed large landlords to use eviction as a more impersonal, efficient tool.⁹⁰

A study of Atlanta documented similar results.⁹¹ There, the study authors found that corporate landlords who owned more than fifteen single-family homes were 68% more likely to file eviction notices than smaller landlords.⁹² This correlation held true even after controlling for other characteristics of the property and neighborhood.⁹³

In addition to being more likely to file evictions generally, corporate landlords are more likely to engage in serial eviction filing.⁹⁴ Serial eviction filing occurs when the same property owner files against the same renter at the same address multiple times.⁹⁵ In one study, researchers theorized that serial eviction happens “when legal environments expedite the eviction process,” allowing landlords to use eviction as a means to collect rent and late fees.⁹⁶ Put differently, landlords are more likely to engage in serial eviction filing when costs are low and when collecting due rent seems attainable.

Yet serial eviction is not without costs to renters. That same research study found that serial eviction filing raises the monthly housing cost of low-income renters by 20%⁹⁷—likely because each new lawsuit results in approximately \$180 in fines and fees.⁹⁸ Over time, these additional costs accumulate and can significantly burden tenants.

87. *Id.* at 1774.

88. *Id.* at 1797.

89. *Id.* at 1789.

90. *Id.*

91. Elora Lee Raymond et al., *From Foreclosure to Eviction: Housing Insecurity in Corporate-Owned Single-Family Rentals*, 20 CITYSCAPE 159, 159-60 (2018).

92. *Id.* at 160.

93. *Id.*

94. Lillian Leung et al., *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*, 100 SOC. FORCES 316, 317 (2021).

95. *Id.* at 316.

96. *Id.*

97. Gomory, *supra* note 85, at 1790.

98. *Id.* at 1794.

Collectively, these studies suggest that landlord size is important because it influences the way a property owner utilizes the eviction process. Landlord decisions are complex, driven by the relationship with the tenant,⁹⁹ the presence and role of third parties (like property managers),¹⁰⁰ and the legal landscape within which a landlord operates.¹⁰¹ This has important implications for eviction, as it suggests size mediates important variables that impact outcomes for renters.

G. Rurality

Rural justice systems face unique challenges. In 2021, the Legal Services Corporation—established by Congress to fund civil legal services—launched a rural justice task force to raise awareness about what it termed the “rural justice gap.”¹⁰² In doing so, the Corporation noted that factors such as “geographic and social isolation, the frequent lack of Internet service or technology, the low density of legal-aid and other human service providers, and the distinctiveness of different rural populations” are all issues that impact rural communities.¹⁰³ It further noted that, although 75% of rural households experience at least one civil legal problem each year, 86% of those households receive no or inadequate legal assistance.¹⁰⁴ Shockingly, only 14% of rural residents receive adequate assistance for legal problems—a number that is less than half the national average.¹⁰⁵

There is little data about the role of rurality in eviction, although rural evictions may be uniquely challenging.¹⁰⁶ First, many housing nonprofits are based in urban areas, suggesting that rural renters experiencing eviction face unique barriers to receiving assistance. Second, people living in rural communities are less likely to be covered by right-to-

99. *Id.* at 1775.

100. *Id.*

101. Raymond et al., *supra* note 91, at 169.

102. *Rural Justice Task Force: Background*, LEGAL SERVS. CORP., <https://www.lsc.gov/initiatives/lsc-task-forces/rural-justice-task-force> (last visited Oct. 15, 2023). The goal of this program is “to identify best practices for rural legal aid organizations, encourage innovation in legal aid delivery in rural areas.” *Id.*

103. *Id.*

104. *Id.*

105. Lisa R. Pruitt et. al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 19 (2018).

106. Sarah Kleiner, *In Rural America, An Invisible Eviction Crisis*, THE CTR. FOR PUB. INTEGRITY (Dec. 22, 2021), <https://publicintegrity.org/housing/housing-in-crisis/rural-america-eviction-cases-crisis/>; see also *Housing Need in Rural America*, NAT’L RURAL HOUS. COAL., <https://ruralhousingcoalition.org/overcoming-barriers-to-affordable-rural-housing/> (last visited May 18, 2023).

counsel programs,¹⁰⁷ and may face geographic and infrastructure barriers to accessing resources. Third, many rural communities are “legal deserts,” perhaps making it more difficult for those facing eviction to find affordable paid counsel in a rural community.¹⁰⁸ Fourth, transportation may pose unique challenges in rural communities, where renters struggle to get to court.¹⁰⁹ A study of eviction in Philadelphia found that a one hour increase in travel time increases the probability that a person will be evicted by up to 8.6%.¹¹⁰ This suggests that the transportation challenges inherent in rural areas lead to an increase in evictions.

Yet, despite the evidence that rural communities face unique challenges that could impact eviction, no study, to date, has specifically examined this issue. Thus, this Article fills an important gap in the literature: explicitly analyzing rural eviction in order to paint a picture of it. These results help explain the effect of rurality on the eviction process, and how other factors interact with rurality to impact renters.

II. A FRAMEWORK FOR EVICTION

Eviction cases are hard for renters to win. One investigation from Oklahoma City found that landlords won 95% of eviction cases.¹¹¹ Another similar report in Hawaii found an almost identical 85%–95%

107. Most right-to-counsel laws have been passed by cities, and large cities at that. *The Right to Counsel for Tenants Facing Eviction: Enacted Legislation*, NAT'L COAL. FOR CIV. RIGHT TO COUNS. (last modified July 2024), http://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf. The three states which have enacted laws are categorized as “less rural than average” by the U.S. Census Bureau. Bill Bishop, *How Rural Are the States?*, DAILY YONDER (Apr. 3, 2012), <https://dailyyonder.com/how-rural-are-states/2012/04/03/>. There is no reason to think this trend will not continue.

108. Elaine S. Povich-Stateline, *Lack of Rural Lawyers Leaves Much of America Without Support*, N.H. BUS. REV. (Feb. 16, 2023), <https://www.nhbr.com/lack-of-rural-lawyers-leaves-much-of-america-without-support/>; Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 496 (2014); see also Tracey Farrigan, *Extreme Poverty Counties Found Solely in Rural Areas in 2018*, USDA ECON. RES. SERV. (May 4, 2020), <https://www.ers.usda.gov/amber-waves/2020/may/extreme-poverty-counties-found-solely-in-rural-areas-in-2018/> (explaining that 78.9% of high poverty counties are considered rural, and that one out of every four rural counties are high poverty compared to one out of ten urban counties).

109. For example, a study by Nagendra Velaga et al. discussed the unique challenges of transportation in rural areas, noting that they may “have limited or no connection to public transport” and that the road vehicle-based transportation system has an impact on “children, older people, people with disabilities and the mobility impaired.” Nagendra R. Velaga et al., *Transport poverty meets the digital divide: accessibility and connectivity in rural communities*, 21 J. TRANSP. GEOGRAPHY 102 (Mar. 2012). Although this study focused on Scotland, we have reason to believe that rural communities in the United States may experience similar challenges.

110. David A. Hoffman & Anton Strezhnev, *Longer Trips to Court Cause Evictions*, 120 PROCS. NAT'L ACAD. SCIS. (2023), Abstract, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4130696.

111. Lucia Walinchus, *Tenants on Trial: Investigation Shows Landlords Win 95 Percent of Eviction Cases*, J. REC. (Dec. 31, 2015), <https://journalrecord.com/2015/12/31/tenants-on-trial-investigation-shows-landlords-win-95-percent-of-cases-law/>.

landlord-win rate.¹¹²

There are several possible explanations. Most eviction cases are initiated for nonpayment of rent,¹¹³ and few legal defenses exist for such cases.¹¹⁴ The nature of eviction court, too, may play a role; housing courts have been criticized as “eviction mills” where unrepresented tenants are “not given a meaningful chance to argue their cases[.]”¹¹⁵ Furthermore, tenants sometimes suffer judgments of eviction simply because they do not show up. A recent study found that 40% of those forced to leave their residences had to do so simply because they did contest their case in court.¹¹⁶

We know a lot about what causes renters to lose. But this Study, unlike most, is not interested in that. Instead, it seeks to understand the opposite: when do renters win in eviction cases? Put another way, what factors contribute to successful outcomes for tenants? This Section offers an overview of the eviction process to better understand where, in that process, tenants might be successful.

A. Overview of Eviction

To understand what it looks like for a tenant to “win” in the eviction context, understanding how the eviction process works is critical. This section draws mainly from Kentucky eviction law because this Study relies on data from Kentucky courts. Nonetheless, the Kentucky eviction process mirrors eviction processes across America.¹¹⁷ We have no reason to believe that our Kentucky data is different than any other state that shares a combination of urban and rural areas, nor do we have any reason to believe that eviction in Kentucky looks substantially different than other states.

The first step in the eviction process is for a landowner to file an action

112. Victor Geminiani, Jennifer F. Chin, & Isaiah Feldman-Schwartz, *Evicted in Hawai'i: Lives Hanging in the Balance*, LAWS FOR EQUAL JUST., 1, 3 (Dec. 2018), <https://www.hiequaljustice.org/reports/evicted-hawaii>.

113. Ashley Gromis et al., *Estimating Eviction Prevalence Across the United States*, 119 PROC. NAT'L ACAD. SCI. 1 (2022).

114. See generally KY. REV. STAT. ANN. §§ 383.500-715; see also REV. UNIF. RESIDENTIAL LANDLORD & TENANT ACT § 601 (UNIF. L. COMM'N 2015).

115. Marika Dias, *Paradox and Possibility: Movement Lawyering During the COVID-19 Housing Crisis*, 24 CUNY L. REV. 173, 183 (2021).

116. *Id.*; Indeed, courts have found that it does not violate due process for a state to enact laws that do not require a tenant be given actual notice of an eviction action. In *Perryman v. Lucas*, the Georgia Court of Appeals considered whether a statute that allowed a tenant to be given only constructive notice of an eviction action (by tacking a warrant to the door and sending a copy via mail) was constitutional. *Perryman v. Lucas*, 626 S.E.2d 550, 551 (Ga. App. 2006).

117. See, e.g., Judge Steven D. Pierce, *The Rhythm of Justice in the Boston Housing Court: An Overview of Summary Process Day*, 50 B.B.J. 7, 7-8 (2006); MarJuana B. Williams, *I. Eviction Overview*, 2020 TXCLE-ARED 12-I, 2020 WL 5606484.

for forcible detainer.¹¹⁸ After that action is filed and accepted by the court, state law requires the trial court to issue a warrant of eviction to the sheriff or constable.¹¹⁹ The officer then takes this warrant—which notifies the renter that an action has been filed—to the place where the renter lives.¹²⁰

Interestingly, the renter against whom the action has been filed does not have to be personally served with the warrant. The law only requires that the sheriff place the notice on the door of the premises.¹²¹ For multi-unit buildings, in particular, this is problematic. The notice of the eviction might fall off the door or be removed by another tenant. Likewise, more traffic in multi-unit buildings means increased risk that others may interfere. Undoubtedly, the current law means that some people who experience eviction will have a judgment entered against them without ever knowing that a case was initiated.¹²²

After the sheriff serves the notice of eviction, the case moves quickly. State law entitles a renter to “at least three (3) days’ notice of the time and place of the meeting of the jury”—although nothing in state law guarantees renters more time.¹²³ Although each party has the right to request a jury trial, the default—if neither party requests a jury trial—is a bench trial.¹²⁴ This means that eviction cases can move more quickly and without the procedural requirements of calling in a jury.

Similarly, nothing in state law guarantees a renter time for discovery or motion practice.¹²⁵ A renter does not have a right to seek documents from the landlord about the evidence in the case or depose the landlord about the reasons for pursuing the eviction. If a renter fails to show, a default judgment can be entered in that person’s absence.¹²⁶ This is because eviction was designed to be a fast-moving cause of action to protect landlord rights.¹²⁷

118. KY. REV. STAT. ANN. § 383.200 (defining “forcible detainer” actions).

119. *Id.* at § 383.210.

120. *Id.*

121. Thomas H. Watson, *Forcible Detainer in Kentucky Under the Uniform Residential Landlord and Tenant Act*, 63 KY. L.J. 1046, 1048-49 (1975).

122. This is in contrast to other types of cases, such as domestic violence protective orders. See Andrew C. Budzinski, *Reforming Service of Process: An Access-to-Justice Framework*, 90 U. COLO. L. REV. 167, 176-80 (2019). In those cases, every respondent who is alleged to have committed an act of domestic violence must be personally served with a victim’s petition. *Id.* This requirement is so stringent and so uniform that it has been described as an access to justice barrier as many victims of domestic violence are unable to have their petitions heard on the merits solely because the respondent has successfully evaded service. *Id.* at 179-80.

123. KY. REV. STAT. ANN. § 383.210.

124. *Id.*

125. See generally *id.* at §§ 383.200-282.285.

126. *Id.*

127. Historically, landlords were able to personally remove renters from the landlord’s property, a process known as “self-help.” Lauren A. Lindsey, *Protecting the Good-Faith Tenant: Enforcing*

If a renter does show up to court, the case goes to trial—possibly on that same day.¹²⁸ At trial, the judge or jury must reach a decision about who is entitled to possession of the premises and enter a corresponding judgment.¹²⁹ If a court enters a judgment against a renter, that person has just seven days to appeal.¹³⁰

If a renter does not appeal a judgment of eviction within a week, the court then takes steps to remove the renter from the property. Specifically, the court will issue a warrant of restitution.¹³¹ The warrant informs the sheriff that a renter “ha[s] been found guilty of a forcible entry in (or detainer of)” a property and states that those officers are commanded to, “with the power of the county if necessary . . . put the said [landlord] in possession of said premises[.]”¹³² In other words, the court instructs the sheriff to remove the renter from the property and return the property to the landlord.

The next step in the process is commonly known as a “set out,” named because it is the stage at which the sheriff removes and “sets out” a renter’s property.¹³³ Once the sheriff’s office obtains the warrant, the property owner and the sheriff agree on a date to remove the renter’s property from the building.¹³⁴ The sheriff delivers the warrant to the renter or posts it on the door if the renter is not home.¹³⁵ This stage gives tenants notice of the date that the sheriffs will return to remove their property. Set outs, when they occur, are surely one of the most traumatic stages of the eviction process for renters, as a renter’s personal belongings are set outside—a public indicator that person has been removed from housing.

Sheriff’s offices often have additional policies regulating eviction set outs. Jefferson County, the largest sheriff’s office in Kentucky (and associated with the city of Louisville), requires a property owner to provide “[three] able bodied people for the eviction from an apartment” and “[five] persons for a house.”¹³⁶ The regulations allocate just one hour for the set-out process, and provide that those assisting with removing a

Retaliatory Eviction Laws by Broadening the Residential Tenant's Options in Summary Eviction Courts, 63 OKLA. L. REV. 101, 103 (2010). These altercations often became violent, though, and the existing legal causes of action were viewed as too slow-moving. *Id.* In response, legislatures created modern eviction processes, intended to protect tenants from “self-help” evictions and landlords from overly burdensome legal processes. *Id.*

128. KY. REV. STAT. ANN. § 383.210.

129. *Id.* at §§ 383.239-240.

130. *Id.* at § 383.245.

131. *Id.*

132. *Id.*

133. See *Criminal Division: Evictions*, JEFFERSON CNTY. SHERIFF OFF., <https://www.jcsoky.org/criminal-division/evictions> (last visited Oct. 15, 2023).

134. *Id.*

135. *Id.*

136. *Id.*

renter's belongings must place all property one foot from the curb without blocking the sidewalk.¹³⁷ The office also notes that a landlord must leave a renter's property on site for forty-eight hours before destroying it.¹³⁸

The entire eviction process—from filing the case to a completed set out—can move rapidly. In Kentucky, the time between a breach of a lease and a set out can take just eighteen days.¹³⁹ In Louisiana and Wyoming, the entire process can be completed in under a week.¹⁴⁰ Only six states require the eviction process to last over a month.¹⁴¹

The speed with which evictions proceed can often disadvantage renters. One advocacy group has advocated for rules “that slow the court process.”¹⁴² They explain that the goal is to “move[] eviction from a ‘rocket docket’ to one with more ability to raise claims, present evidence, and work out a fair settlement.” Despite these calls from advocates, to date, no jurisdictions have passed laws to lengthen the formal eviction process.¹⁴³

B. *The Uniform Residential Landlord Tenant Act*

Kentucky, like twenty other states, has adopted the Uniform Residential Landlord Tenant Act (URLTA).¹⁴⁴ URLTA, completed by the Uniform Law Commission, moves landowner-renter relationships into contract (instead of property) law and gives each party rights and remedies.¹⁴⁵ For example, a property owner must comply with building and housing codes,¹⁴⁶ keep common areas clean and safe,¹⁴⁷ provide

137. *Id.*

138. *Id.*

139. Michael Scott Davidson, *Despite changes, Nevada eviction law still favors landlords*, LAS VEGAS REV. J. (last modified Jun. 29, 2019), <https://www.reviewjournal.com/local/local-nevada/despite-changes-nevada-eviction-law-still-favors-landlords-1697301/>.

140. *Id.*

141. *Id.*

142. EVICTION INNOVATION, *supra* note 63.

143. Instead, jurisdictions have created voluntary eviction diversion programs and hoped that landlords and tenants would opt in to these processes. These voluntary procedures that allow parties to slow down eviction *if they choose* are quite different than mandatory procedures that take more time to complete. See Anna Blackburne-Rigsby & Nachan Hecht, *It Should Take More Than 10 Minutes to Evict Someone*, N.Y. TIMES (Jan. 13, 2022), <https://www.nytimes.com/2022/01/13/opinion/housing-eviction.html>.

144. *Residential Landlord and Tenant Act, Revised*, UNIF. L. COMM'N, <https://www.uniformlaws.org/committees/community-home?CommunityKey=e9cd20a1-b939-4265-9f1e-3a47a538d495> (last visited Sep. 14, 2023).

145. *Uniform Law Commission's Uniform Residential Landlord-Tenant Act*, NAT'L CTR. FOR HEALTHY HOUS., <https://nchh.org/resource-library/Uniform%20Law%20Commission%20-%20URLTA.pdf> (last visited Oct. 17, 2023).

146. REV. UNIF. RESIDENTIAL LANDLORD & TENANT ACT § 302(a)(1) (UNIF. L. COMM'N 2015).

147. *Id.* at § 302(a)(8).

running water (including reasonable amounts of hot water),¹⁴⁸ and take reasonable steps to control rodents and insects.¹⁴⁹

A renter assumes obligations under URLTA as well. These include complying with those same building and housing codes,¹⁵⁰ keeping plumbing fixtures reasonably clean,¹⁵¹ using the facilities and appliances on the property in a reasonable manner,¹⁵² and ensuring the use of the premises does not disturb another renter.¹⁵³ URLTA further imposes a good faith obligation on both parties with respect to their performance under the agreement.”¹⁵⁴

URLTA also lays out the remedies that each party is entitled to if the lease agreement is breached. If a landlord breaches obligations owed to the tenant, the tenant is required to provide the landlord with a notice of noncompliance.¹⁵⁵ If the landlord’s breach consists of a failure to provide an essential service, or otherwise impacts the health or safety of the tenant or an immediate family member, the property owner must remedy the issue within five days.¹⁵⁶ Any other breach must be remedied within fourteen days.¹⁵⁷ If the landlord does not fix the noncompliance within the prescribed period, the tenant can either terminate the lease, or continue to lease and seek damages.¹⁵⁸

URLTA also governs remedies available to landlords. If a renter breaches the lease by failing to pay rent, the landlord must first send a fourteen day notice “stating that if the rent remains unpaid . . . the lease will terminate on expiration of the [fourteen]-day period.”¹⁵⁹ A property owner may terminate the lease without giving the renter a right to cure the nonpayment if the renter failed to pay rent on two prior occasions within a four month period.¹⁶⁰ URLTA dictates similar procedures for other types of noncompliance.¹⁶¹ Notably, however, URLTA says nothing about the eviction process itself, which remains governed by Kentucky law.¹⁶²

148. *Id.* at § 302(a)(4).

149. *Id.* at § 302(a)(7).

150. *Id.* at § 501(b)(1).

151. *Id.* at § 501(b)(5).

152. *Id.* at § 501(b)(6).

153. *Id.* at § 501(b)(8).

154. *Id.* at § 105 (Stating that “[e]very lease or duty under this [act] imposes an obligation of good faith in its performance and enforcement.”).

155. *Id.* at § 401(1).

156. *Id.* at § 401(1)(B).

157. *Id.* at § 401(2)(A).

158. *Id.* at § 402.

159. *Id.* at § 601(a)(1).

160. *Id.* at § 601(a)(2)(B).

161. *See generally id.* at § 601.

162. *See generally* REV. UNIF. RESIDENTIAL LANDLORD & TENANT ACT (UNIF. L. COMM’N 2015).

URLTA modifies the common law eviction process in important ways. Under Kentucky common law, renters have no right to cure a breach of a lease agreement.¹⁶³ Therefore, if a tenant is late on rent, the landlord can evict them, even if the tenant offers to pay. In contrast, URLTA requires property owners to give delinquent renters an opportunity to pay their rent, allowing them to remain in the unit. URLTA also contains provisions governing security deposits, utilities, and habitability that are not contemplated by Kentucky common law.¹⁶⁴

Despite adopting URLTA, Kentucky does not apply it uniformly. Under Kentucky law, individual cities and counties have discretion to choose whether they adopt URLTA.¹⁶⁵ However, if they do, they are obligated to adopt the law in its entirety.¹⁶⁶

Kentucky law is clear that URLTA is the only landlord-tenant legislation local governments are authorized to adopt. State law specifies that “[n]o other ordinance shall be enacted by a city, county or urban-county government which relates to the subjects embraced in [URLTA].”¹⁶⁷ Kentucky has expressly pre-empted any other local law that seeks to address the landlord-tenant relationship. If a local government does not adopt URLTA, it is left with the common law that URLTA sought to modernize.¹⁶⁸

This puts local governments in a bind. On the one hand, URLTA offers far more protection for tenants than the common law. Accordingly, adopting URLTA can increase renter protections. On the other hand, the Kentucky legislature has clearly stated that the protections in URLTA are the *only* ones that local governments can enact—meaning that jurisdictions can either adopt URLTA or have virtually no renter protections at all.

To date, most jurisdictions that have enacted URLTA in Kentucky are cities or urban counties.¹⁶⁹ This could be because of a lack of want or need for URLTA in Kentucky’s small and rural communities.¹⁷⁰ Scholars,

163. Cara L. Stewart & Ryan C. Smither, *Breaking Down Barriers to Justice: Surveying the Practical Application of Kentucky's Landlord-Tenant Laws and Calling for Basic Reform*, 39 N. KY. L. REV. 23, 35 (2012).

164. *Id.* at 34-36.

165. KY. REV. STAT. ANN. § 383.500 (providing that “[t]he General Assembly hereby authorizes cities, counties and urban-county governments to enact the provisions of the Uniform Residential Landlord Tenant Act . . . adopted in their entirety without amendment.”).

166. *Id.*

167. *Id.* (stating that “[n]o other ordinance shall be enacted by a city, county or urban-county government which relates to the subjects embraced in [URLTA].”).

168. Stewart & Smither, *supra* note 163, at 29.

169. Healthy Homes Coalition of Kentucky, *Uniform Residential Landlord Tenant Act for Safe & Healthy Homes*, KENTUCKIANS FOR THE COMMONWEALTH, https://archive.kftc.org/sites/default/files/docs/resources/healthy_homes-urlta_handout_rev_2015.11.11.pdf (last visited Sep. 14, 2023).

170. Stewart & Smither, *supra* note 163, at 31-32.

however, have pushed back against this assumption, concluding that many of URLTA's protections would benefit rural communities.¹⁷¹ In fact, Alan Romero suggests that URLTA's provisions governing habitability are more important in rural areas than in urban communities.¹⁷² An alternative—and likely more plausible—explanation is that small rural communities lack the resources and political infrastructure to obtain these protections.¹⁷³

Regardless of the reason, the lack of uniformity in the law governing rental agreements has created a slew of issues. As one author notes, the “law is applied differently based solely on where the residential property is located,” creating “significant consternation among judges, attorneys, property management companies, landlords, and tenants.”¹⁷⁴ Additionally, the variation in laws can make it more difficult to provide limited representation legal aid, since advice to renters must be more varied and pro se assistance forms must be more complex.¹⁷⁵

In many ways, URLTA seems upstream from evictions, governing the duties of renters and property owners *before* an eviction case is filed. But URLTA influences the eviction process in important ways, such as providing renters with notice requirements and rights-to-cure at the beginning of a potential case. It also offers possible counterclaims for renters as a case progresses. In this way, URLTA has the potential to indirectly impact the eviction process by influencing the relationship between the parties.

C. Potential Places for Renters to Win

Understanding what factors influence if and when tenants “win” is critical to understanding what counts as a “win” in the eviction context. There are several places along the eviction journey that might count as a victory for a renter, and this Part explores them. Although these victories are discussed as “wins,” the reality is that a renter is often not much better off after them. Instead, this framing merely indicates that a renter avoided an even worse potential harm that was likely to occur downstream. In this way, a “win” might be thought of as harm-reducing rather than benefit-securing.

171. See Alan Romero, *Rural Property Law*, 112 W. VA. L. REV. 765, 778-83 (2010).

172. See *id.* at 782-83 (arguing that rural housing is more likely to be substandard than urban housing and that rural renters spend a very high percentage of their income on housing).

173. See *id.* at 782 (discussing a lack of resources to adopt such codes, less political pressure from renters, and community assumptions that people can solve their problems without legal interventions).

174. Stewart & Smither, *supra* note 163, at 31.

175. *Id.*

1. Winning by Avoiding an Eviction Filing

A renter might obtain a favorable outcome when they are threatened with eviction but avoid having a formal eviction case filed against them. Eviction cases are rarely placed under seal, meaning that any person who has a case filed against them will experience a barrier to future renting prospects.¹⁷⁶ Tenant-screening companies often pull these records on behalf of property owners, and many property owners refuse to rent to anyone with their name on a forcible detainer case list.¹⁷⁷ Most jurisdictions allow children to be named as defendants in eviction suits, setting up a lifetime of difficulty.¹⁷⁸

There are many tools that a renter might use to avoid a landlord who has threatened an eviction filing. One approach might be to use URLTA protections—or more limited common law requirements—to pay back rent or cure other noncompliance.¹⁷⁹ Other approaches include negotiating with the landlord for extra time to pay rent, coming into compliance with the rental agreement, or moving out.¹⁸⁰

2. Winning by Settling Before Trial

A renter might also obtain a successful outcome by having their case dismissed prior to trial. One study suggested that more than 70% of landlords prefer to address issues of tenant non-payment outside of court, and 71% supported programs that would help resolve a case after it was filed but before it went to a hearing.¹⁸¹ These data suggest that property owners remain open to resolving a legal case after, or even before, it enters the court system.

Eviction diversion programs allow property owners and renters to reach an agreement before a case goes to trial. These programs can include pre-eviction filing options, like cash assistance, or post-filing

176. Allyson E. Gold, *No Home for Justice: How Eviction Perpetuates Health Inequity Among Low-Income and Minority Tenants*, 24 GEO. J. ON POVERTY L. & POL'Y 59, 60 (2016).

177. *Id.*

178. Emily A. Benfer, *U.S. Eviction Policy is Harming Children: The Case for Sustainable Eviction Prevention to Promote Health Equity*, HARV. L. PETRIE-FLOM CTR. (Nov. 2, 2022), <https://blog.petrieflom.law.harvard.edu/2022/11/02/pandemic-eviction-policy-children/>.

179. Although we often assume that landlords who file evictions do so because they wish to remove a tenant, research shows that may be only part of the goal. Instead, property owners may use the threat of eviction—including actually filing eviction cases—as a way to collect rent and additional fees. See Lillian Leung, Peter Hepburn, & Matthew Desmond, *Serial Eviction Filings: How Landlords Use the Courts to Collect Rents*, EVICTION LAB (Sep. 15, 2020), <https://evictionlab.org/serial-eviction-filings/>.

180. Specifically, evictions for nonpayment of rent. *Id.* Indeed, nearly one third of eviction filings were against the same individuals at the same address—a process the authors called “serial eviction.” *Id.*

181. Deanna Pantin Parrish, *Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs*, AM. BAR ASS'N, 3 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4912986.

interventions like mediation.¹⁸² Resolving eviction cases through these programs is beneficial for renters because they can avoid the negative impacts of having a “Scarlet E” from an eviction judgment on their records.¹⁸³ These programs may also benefit the landlord by making them financially whole—or, at the very least, providing some financial compensation.¹⁸⁴

Resolution of an eviction case looks much like the resolution of any other civil litigation: the parties reach a settlement agreement and dismiss the underlying court case.¹⁸⁵ One practitioner group characterizes the available settlement agreements as: “agree to vacate” (where the tenant agrees to move but is given more time to do so), “pay and go” (where the tenant agrees to move and pay some money to the landlord), and “pay and stay” (where the tenant agrees to pay the landlord and is allowed to remain in the property).¹⁸⁶

Once an eviction is filed, settling that case may be the best outcome for the renter as it is the most likely way to avoid a judgment of eviction and the many resulting consequences. However, there are disparities in bargaining power that exist in the settlement process, and these disparities impact outcomes for renters.¹⁸⁷

Professor Nicole Summers recently analyzed one thousand settlement agreements in Boston and concluded that settlement agreements often work as a sort of “civil probation” for tenants.¹⁸⁸ These agreements often condition a renter remaining in the property on their compliance with certain additional terms not included in the initial rental agreement.¹⁸⁹ If a renter violates these terms, a landlord does not have to restart the eviction process.¹⁹⁰ Instead, the landlord merely has to file a motion to enforce the settlement agreement—a process that has far fewer procedural protections for tenants.¹⁹¹ Summers argues that the widespread nature of these conditions erodes substantive rights, increases the terms a tenant

182. For an overview of interventions and their effectiveness, see *id.* at 4.

183. See Anne Kat Alexander, *Residential Eviction and Public Housing: COVID-19 and Beyond*, 18 IND. HEALTH L. REV. 243, 244 (2021); see also Rudy Kleysteuber, *Tenant Screening Thirty Years Later: A Statutory Proposal to Protect Public Records*, 116 YALE L.J. 1344 (2007).

184. Given that many renters facing eviction are judgment proof, these voluntary programs are often landlords’ best opportunity to receive any financial compensation for back rent.

185. For an overview of eviction settlements, including their limitations, see generally Nicole Summers, *Civil Probation*, 75 STAN. L. REV. 847 (2023).

186. *Types of Settlement Agreements for Non-Payment Eviction Cases*, TENANT L. GRP. (Aug. 5, 2023), <https://tenantlawgroupsf.com/blog/2019/08/types-of-settlement-agreements-for-non-payment-eviction-cases/>.

187. Summers, *supra* note 185.

188. *Id.* at 851.

189. *Id.*

190. *Id.*

191. *Id.*

must comply with, and strengthens the tools available to landlords to evict.¹⁹²

This does not mean that renters should never settle eviction cases. Indeed, it may sometimes be the best outcome for a renter once a legal process has been initiated.¹⁹³ But this does mean that courts should critically examine settlement agreements to ensure they are not unconscionable and do not remove important rights from renters. Similarly, policymakers should consider whether legislation regulating settlement agreement terms might be appropriate.¹⁹⁴

3. Winning at Trial

It is difficult for a renter to win at trial. One study of 2,700 eviction cases found that renters who took their cases to trial won only 5% of the time.¹⁹⁵ This number is not surprising. Litigating a case is challenging for renters due to their limited understanding of the defenses available to them and an inability to effectively present those defenses to a court.¹⁹⁶ Although most tenants are unrepresented at trial,¹⁹⁷ some renters are able to obtain counsel through civil legal aid, pro bono attorneys, or programs that provide limited legal advice.¹⁹⁸ Data suggest that these programs are effective, and that represented renters are more likely to win at trial.¹⁹⁹

192. *Id.* at 854.

193. *See id.* at 894-95 (clarifying that the use of settlement is not in itself a cause for concern; scholars everywhere maintain that the practice inures to the benefit of both parties).

194. *Id.* at 896-99 (as Summers argues, such widespread use of these notoriously one-sided agreements “strips the public of its role in regulating evictions—specifically, in setting the substantive rules for when a landlord has a right to evict, and in shaping the procedures by which eviction determinations are to be made”).

195. Lucia Walinchus, *Tenants on Trial: Investigation Shows Landlords Win 95 Percent of Eviction Cases*, J. REC. (Dec. 31, 2015), <https://journalrecord.com/2015/12/31/tenants-on-trial-investigation-shows-landlords-win-95-percent-of-cases-law/>.

196. For a wonderful overview of the challenges that face pro se litigants, see Paris R. Baldacci, *Assuring Access to Justice: The Role of the Judge in Assisting Pro Se Litigants in Litigating Their Cases in New York City's Housing Court*, 3 CARDOZO PUB. L. POL'Y & ETHICS J. 659, 661 (2006).

197. Liel Sterling & Maria Roumiantseva, *New Report Illustrates How Right to Counsel Prevents Evictions and their Discriminatory Impacts on Communities*, AM. CIV. LIBERTIES UNION (May 11, 2022), <https://www.aclu.org/news/womens-rights/new-report-illustrates-how-right-to-counsel-prevents-evictions-and-their-discriminatory-impacts-on-communities> (noting that nationwide, only 3% of renters are represented at trial).

198. An excellent example of a tool to connect those facing evictions to resources can be found at *StopMyEviction.org*, www.stopmyeviction.org. There, a person threatened with eviction can get access to upstream resources (such as rental assistance and mediation programs), a renter defense toolkit (which contains links to things like court dockets, an “Eviction 101” guide, and a guide for requesting a jury trial), and information about available legal services.

199. *The Right to Counsel for Tenants Facing Eviction: Developments*, NAT'L COAL. FOR CIV. RIGHT TO COUNS., https://civilrighttocounsel.org/wp-content/uploads/2023/11/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf.

Although no study has yet empirically studied this issue, it is likely that most tenants who prevail in court proceedings have at least some access to legal services.

4. Winning by Failing to Execute Eviction

A renter may also win if a landlord does not execute the warrant for eviction—meaning the landlord does not actually remove a renter from the property despite winning the legal right to do so. This could occur because the tenant has appealed the judgment and requested a stay pending appeal, or because a judge vacated a previously entered judgment and warrant.²⁰⁰ Just like other civil litigation, an appeal may offer an opportunity for the parties to negotiate again, with a property owner potentially being willing to reach an agreement with a renter to avoid further litigation.²⁰¹

III. EMPIRICAL EVIDENCE

A. Methodology

This Section empirically examines a Study conducted by the Authors of this Article to determine when renters “win” in eviction cases. It does so by analyzing eviction records to understand what variables impact positive outcomes for renters. The data analyzed in this Section was provided by the Kentucky Administrative Office of the Courts (AOC).²⁰² The data the AOC tracked was limited in scope but not in scale. Principally, it tracked the eviction warrants issued at the outset of a case, case outcomes, and ZIP codes of the parties to an eviction proceeding in all 120 Kentucky counties from 2018 to 2022.²⁰³ This totaled over 500,000 unique party observations associated with over 240,000 cases. These data, although missing some values for certain observations, were input by the staff of circuit court clerks from each county. After cleaning the data, combining relevant records, and creating the variables described below, the dataset comprised over three hundred variables and 202,572 fully-coded case observations.

200. See *I've been evicted. Now what do I do?*, LEGAL AID SOC'Y NE. N.Y., <https://www.lasny.org/lifelines/ive-been-evicted-now-what-do-i-do/> (last visited Oct. 16, 2023) (explaining legal options to New York residents who have had an eviction entered against them).

201. Although we could find no statistics on this outcome, we know from our own experience and conversations with relevant stakeholders that it is extremely rare.

202. *Administrative Office of the Courts*, KY. CT. JUST., <https://kycourts.gov/AOC/pages/default.aspx> (last visited Oct. 16, 2023).

203. We note that the data provided by the AOC included the mailing ZIP codes of the participants and was not necessarily indicative of the physical location of any party.

1. Dependent Variable: A Renter Favorable Outcome

The original case records included robust information about case outcomes, allowing us to create a variable to code for renter-positive outcomes—what we think of as a case where the tenant “wins.” Cases with outcomes of settlement, dismissal before trial, and other versions of judgment for the tenant (including summary judgment) were included in the renter-positive outcomes.

In all of our records, a renter already had an eviction case filed against them. Thus, we considered it a renter-positive outcome if that person escaped the legal process without a judgment of eviction. This is certainly not the only place in the process where a tenant might obtain a favorable outcome. However—given the records we had access to—it is the only place in the proceeding that we had the ability to analyze.

2. Control and Independent Variables: Characteristics of Parties and Places

Based on the existing literature, we hypothesized that there were several things that might impact a tenant’s likelihood of winning. That is why we used the ZIP codes in the original case records to map in additional United States Census data. Using Census data, we were able to map the following control variables onto the original data: unemployment rate; median rent; percentage of vacant units; percentage of renter-occupied units; percentage of single-family housing units; percentage of population that comprised women, people of color, and women of color; percentage of residents with less education than a four-year college degree; percentage of children in poverty; and mean household income. The use of Census data allowed for the addition of a series of control variables, which we tracked in order to confirm whether they impacted eviction outcomes in Kentucky—and more importantly, to ascertain whether other independent variables would likewise impact eviction outcomes, net of the effect of the control variables.

Specifically, we created several new independent variables for purposes of examining their relationship with eviction outcomes: whether the eviction matter was filed in a rural county (defined as one with less than 125,000 residents),²⁰⁴ whether the eviction matter was decided during the COVID-19 pandemic emergency (i.e., between mid-March 2020 and the end of October 2021); whether the tenant rented a unit within a URLTA jurisdiction; whether the tenant was represented by an attorney;

204. This definition meant that the five most populous counties and the four most populous cities in Kentucky were all included within the definition of “urban.” The remainder of the state was categorized as rural under this definition.

whether the tenant was served a “set out” warrant,²⁰⁵ and whether the landlord resided outside of the ZIP code or state of the tenant. Together, these variables comprised our primary independent variables.

We begin by analyzing descriptive results yielded from analyzing several of these key variables. To conclude our analysis, we built a regression model based on these variables. This regression model allowed us to understand how each variable impacted a renter’s likelihood of achieving a renter-friendly outcome in an eviction case. Put another way, we were able to understand the relationship between each variable and the likelihood of avoiding a judgment of eviction. The findings of this regression model, and other analyses we performed, are discussed below.

B. Findings

Our first finding is around overall case outcomes. More than half of the eviction cases filed by property owners resulted in eviction (55.25%). Meanwhile, renters escaped eviction judgments in less than half of the eviction cases filed by property owners (44.75%). These findings are included in Table 1 below.

Table 1: Eviction Outcomes

Outcome	Frequency
Landlord Wins	111,921 (55.25 %)
Tenant Wins	90,651 (44.75%)
Observations	202,572

We next looked at the frequency of certain outcomes in rural and urban areas. We reviewed 72,592 (or 35.84%) observations from rural areas and 129,980 (or 64.16%) observations from urban areas. Within urban areas, 46.20% of those who received an eviction filing were eventually evicted (60,054 eviction judgments out of 129,980 eviction filings). In contrast, 71.45% of those in a rural area who had a case filed against them were later evicted (51,867 eviction judgments out of 72,592 eviction filings).

205. The AOC database referred to this as an eviction warrant, however we have termed it a “set out warrant” here to help clarify what the document is and its role in the eviction process.

These differences between urban and rural areas were statistically significant and are identified in Tables 2 and 3 below.

Table 2: Evictions by Renter Location

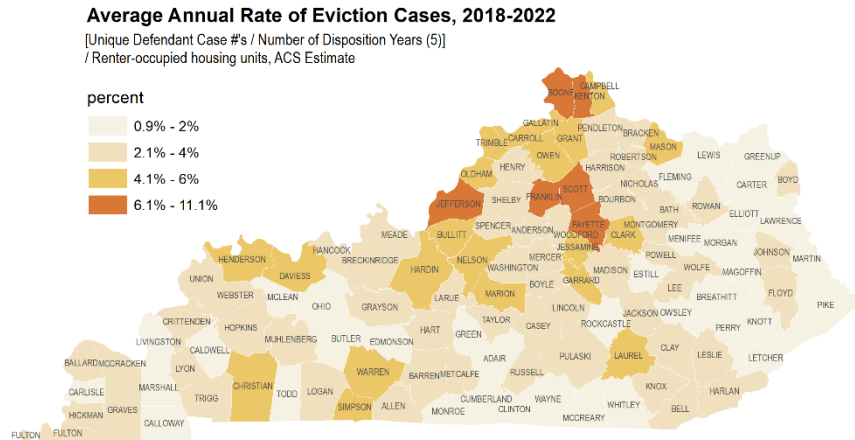
Eviction Judgment	Urban	Rural
Evicted	60,054	51,867
Not Evicted	69,926	20,725
Total	129,980	72,592

Table 3: *t*-Test for Eviction Judgment *viz* Urban vs. Rural

Group	Observations	Mean	Std. Error	Std. Dev.
Urban	129,980	0.46202	0.00138	0.46473
Rural	72,592	0.71450	0.00167	0.45165
Combined	202,572	0.55249	0.00110	0.49723
Difference		-0.25247	0.00223	
$\Pr(T < t) = 0.0000; t = -1.1e+02$				

We also examined the eviction filing rate in each county to determine if there were any eviction “hot spots.” We created a map to show the intensity of eviction in each county, with those having higher rates of eviction filing (per population) in darker colors and those with lower rates of eviction in lighter colors. This map is provided below as Figure 1.

Figure 1: Average Annual Rate of Eviction Cases per County



We also examined the frequency with which parties were represented in eviction proceedings. We found that, overall, renters were represented a shockingly low 2.05% of the time. When we broke this variable out into urban and rural areas, we found that renters in urban areas were represented in 2.24% of cases, while rural renters were represented in 1.71% of cases. This difference in urban and rural areas was also statistically significant. The findings with respect to urban and rural representation are summarized in Tables 4 and 5 below.

Table 4: Evictions by Renter Location and Representation

Representation Status	Urban	Rural
No Representation	127,070	71,352
Represented	2,910	1,240
Total	129,980	72,592

Table 5: *t*-Test for Legal Representation *viz* Urban vs. Rural

Group	Observations	Mean	Std. Error	Std. Dev.
Urban	129,980	0.02238	0.00041	0.14794
Rural	72,592	0.01708	0.00048	0.12957
Combined	202,572	0.02048	0.00031	0.14165
Difference		0.00530	0.00065	
$\Pr(T < t) = 0.0000; t = 8.0856$				

Notably, having an attorney impacted a renter's likelihood of winning a case. Unsurprisingly, renters who were represented were more likely to obtain a favorable outcome. Renters without representation were evicted 65.78% of the time, while renters who had representation were evicted only 45.01% of the time. The number of renters who had counsel but nevertheless had a judgment of eviction entered against them was higher than we anticipated. Nevertheless, the differences between the two groups were statistically significant. These results are summarized in Tables 6 and 7 below.

Table 6: Outcomes by Representation

Representation Status	Evicted	Not Evicted
No Representation	110,484	87,938
Represented	1,437	2,713
Total	111,921	90,651

Table 7: *t*-Test for Eviction Outcome *viz* Legal Representation

Group	Observations	Mean	Std. Error	Std. Dev.
Not Represented	198,422	0.55681	0.00111	0.49676
Represented	4,150	0.34626	0.00738	0.47583
Combined	202,572	0.55249	0.00110	0.49723
Difference		0.21054	0.00778	
$\Pr(T < t) = 0.0000; t = 27.0457$				

We next used a logistic regression model to determine which of the variables we examined significantly impacted renter-positive outcomes—in other words, what variables predicted if a renter “won” by avoiding a judgment of eviction. Only two variables were *not* statistically significant: the unemployment rate within the ZIP codes of the litigants and the mean household income within the ZIP codes of the litigants. This means that unemployment rates and mean household income rates have a spurious relationship with whether a tenant is likely to obtain a favorable outcome in an eviction case within our sample. All other variables for which we controlled or tested were statistically significant.

First, a few variables had marginal, but positive, statistically significant relationships with tenant-positive outcomes. For example, an increase in median rent of one hundred dollars was associated with a 4.5% increase in the likelihood of a tenant-positive outcome. This means that renters who live areas with higher median rents are less likely to have a judgment of eviction entered against them. Likewise, a 1% increase in vacant rental units within a ZIP code was associated with nearly a 1% increase (0.77%) in the likelihood of a tenant-positive outcome. This indicates that people renting in areas with more vacant units are somewhat more likely to have an eviction judgment entered against them.

But many variables were negatively (yet statistically significantly) related to tenant-positive outcomes. For example, when the percentage of women of color within a ZIP code increased by 1%, the likelihood of a tenant-positive outcome decreased 0.17%. In other words, renters living in an area with a higher percentage of women of color are slightly more likely to have eviction judgments entered against them. And when the percentage of residents with less education than a four-year college degree or the percentage of children in poverty increased by a percentage point, the likelihood of a renter-positive outcome decreased (by 0.53%

and 0.97%, respectively). Again, this suggests living in an area with higher levels of child poverty or lower levels of education makes eviction marginally more likely for a renter. Similarly, as mean household incomes increase within a ZIP code, the likelihood of a tenant-positive outcome modestly drops (0.00001%).²⁰⁶ Somewhat unexpectedly, this means that living in an area with a higher average income could mean that a renter is more likely to be evicted, though the effect size is admittedly small and shy of statistical significance.

URLTA has a direct impact on a renter's likelihood of achieving a positive outcome in their eviction case. Our data indicate that eviction matters decided in URLTA jurisdictions resulted in a 32.44% increase in the likelihood of renter-positive outcomes, all other things being equal. This means that tenants living in URLTA jurisdictions are far more likely to win than those in non-URLTA jurisdictions.

URLTA, however, does not actually impact the eviction process itself. For that reason, one might expect it to have no relationship to a party's likelihood of having a judgment of eviction entered against them. Instead, it had one of the strongest effects of any variable we examined. Because of this, we posit that this Study is the first to demonstrate how URLTA impacts the eviction process.

We also identified a strong, negative association between Kentucky's rural counties and tenant-positive outcomes. The 115 counties in Kentucky with populations less than 125,000 residents were far more likely to have tenant-negative outcomes (i.e., instances where a renter "loses," or has an eviction judgment rendered against them) compared to the five counties with populations above that cutoff. Our estimates indicate that in rural counties, defendants had more than a 55% decrease in their likelihood of "winning," just by virtue of where they lived. Moreover, this effect persists even when controlling for URLTA and the COVID-19 pandemic, among other covariates.²⁰⁷

The effect of a rural filing location is staggering. All else equal, people in rural communities are much more likely to have an eviction judgment entered against them.

We now turn to our findings of two results involving the litigation process in eviction proceedings. After a property owner has filed an eviction action, that owner must move the court to issue an eviction warrant in order put the renter on notice of the eviction proceeding that has commenced. Landlords moved for, and the court issued, this warrant

206. Note that the estimate for this variable was not statistically significant at conventional levels ($p < 0.111$).

207. Indeed, our estimates show that eviction matters decided during the COVID-19 pandemic, or mid-March 2020 through the end of October 2021, resulted in a 64.59% increase in the likelihood of tenant-positive outcomes, net of all other factors.

in nearly every case (98.82%). Yet, cases in which the renter was represented by counsel were less likely (92.34%) to have this initial warrant issued against renters. This suggests that there is something about the presence of counsel that makes it slightly less likely that a court will issue an initial warrant—the first step in the court process for a person to be evicted. This finding could suggest that the attorney representing the renter plays a role in marginally deterring the court from issuing this warrant as a matter of course. In addition, this finding hints at the possibility that the attorney for the renter is able to negotiate with the landlord before the warrant can be issued, potentially leading to better outcomes for represented tenants.

Last, we make a final finding with respect to out-of-ZIP-code and out-of-state landlords. In eviction proceedings where the landlord resides outside of the defendant's ZIP code, the likelihood of a tenant-positive outcome diminishes by nearly 51%. Therefore, tenants who do not live in the same area as their landlord are much more likely to be evicted. This result suggests that these landlords are far more likely to see the eviction proceeding through to a final judicial determination. It further indicates that a judicial determination is more likely to favor the landlord.

We provide a summary of the above findings in Table 8 below. This table provides a list of the variables and their contribution to the regression model. They can be read to describe the impact on the dependent variable for each one unit (often 1%) change in an independent variable. Put another way, as each independent variable (such as median rent, percent vacant units, percent women of color, etc.) changes by 1%, how does the percent likelihood that a tenant will obtain a positive outcome subsequently change? And the coefficients—represented in odds ratios—are interpretable in their distance from a mean of one (1). In other words, positive likelihoods exceed one (1), where negative likelihoods are subtracted from one (1).

All of the statistically significant variables were so at a $p < 0.01$ level, meaning there is less than a 1% chance that the relationship observed was because of chance.

Table 8: Probability of Tenant-Positive Outcome (Logistic Regression)

Variables	Baseline Model
Percent Unemployment Rate	1.0030 (0.0034)
Median Rent	1.0005*** (0.0001)
Percent Vacant Units	1.0077***

2024]	RURAL RENTING	33
		(0.0019)
Percent Renter Occupied	0.9879***	(0.0013)
Percent Units One Unit	0.9949***	(0.0009)
Percent Female	1.0169***	(0.0044)
Percent People of Color	1.0497***	(0.0055)
Percent Women of Color [Interaction]	0.9992***	(0.0001)
Percent Less than a Four-Year Degree	0.9948***	(0.0012)
Percent Children in Poverty	0.9903***	(0.0010)
Mean Income Household	0.9999	(8.44e-07)
Rural County (<125,000 population)	0.4429***	(0.0108)
COVID-19 (2020 and 2021)	1.6459***	(0.0242)
URLTA	1.3244***	(0.0315)
Defendant Represented by Attorney	1.9234***	(0.1026)
Eviction Warrant	0.0118***	(0.0006)
Out-of-ZIP Landlord	1.1392***	(0.0171)
Out-of-State Landlord	1.6771***	(0.3076)
Out-of-ZIP and -State Landlord[Interaction]	0.6437***	(0.1635)
Constant	1.404	(0.2927)
Observations	200,966	

Clustered standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

NOTE: R-squared value = 0.2495

IV. IMPLICATIONS

The most staggering result of our analysis is the large and negative impact that being from a rural community has on a renter in the eviction process. Once a landlord has filed an eviction action against a renter, those in rural areas are more likely to have that eviction proceed to a judgment as compared to those in urban areas. Our findings suggest that people living in rural areas are almost 50% more likely to have a judgment of eviction entered against them than are those in urban areas.

The next question is: why? Answering this question is complicated and will require further study. It may be that rural courts have fewer resources—such as pro bono assistance packets, mediation initiatives, or specially trained court personnel—available to assist those under threat of eviction and that this lack of resources impacts individual case outcomes. One recent study found that court clerks in rural counties were significantly less likely than those in urban areas to provide litigants with information about supportive services in domestic violence cases.²⁰⁸ It may be that the same holds true for eviction and that those under threat of eviction receive insufficient information about the resources available to them. This is an area that future studies should examine.

A second possibility may be related to transportation challenges.²⁰⁹ Some studies have shown that those living in rural communities are less likely to live close to resources that could help them navigate their legal issues.²¹⁰ If people in rural communities live further away from resources, like legal aid organizations and housing advocacy groups, they may have less meaningful access to those effective services. Another possibility is that people living in rural areas are more likely to live far away from the courthouse where proceedings take place, and this physical barrier could make it more likely they will have a default judgment entered against them.²¹¹ This, again, is an area in need of future study, and researchers should seek to identify the role that transportation plays in the rural eviction context.

Another important finding is about the effectiveness of URLTA. As discussed previously, individuals who have an eviction filed against them in an URLTA jurisdiction are more likely to resolve their case before judgment than those in a non-URLTA jurisdiction. To our knowledge, we are the first to empirically demonstrate the impact of this upstream policy

208. See Cassie Chambers Armstrong, *Just a Place or a Just Place*, HARV. C.R.-C.L. L. REV. (forthcoming 2024).

209. See Hoffman & Strezhnev *supra* note 110.

210. Corinne Peek-Asa, et al., *Rural Disparity in Domestic Violence Prevalence and Access to Resources*, 20 J. WOMEN'S HEALTH 1743 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3216064/>.

211. See Hoffman & Strezhnev, *supra* note 110.

on eviction.

In some ways, this result is puzzling. As explained above, URLTA primarily governs the obligations of the parties in a rental contract. It lays out specific terms that each party—by virtue of living in a place that has enacted URLTA—has agreed to. These terms are more renter-friendly than the common law, yet URLTA does not alter the eviction process itself. It does not require landlords to negotiate with renters or change a property owner’s rights under state eviction law. Instead, URLTA operates upstream from eviction.

So why, then, does URLTA impact the eviction process in such a profound way? Here, too, more research would be beneficial to better understand this effect. A potential answer could be that URLTA gives renters more leverage in the eviction process. Perhaps those renters have counterclaims they could bring against a landlord because of URLTA, and those counterclaims make a landlord more likely to negotiate. If a landlord tries to evict a renter for nonpayment of rent, for example, the renter might raise a counterclaim that the landlord failed to supply “a reasonable amount of hot water” as required by URLTA.²¹² Perhaps, in the face of this leverage, landlords are more likely to try to resolve a case before trial.

A second possible explanation is that the presence of URLTA in a jurisdiction fundamentally changes the way that landlords and tenants interact. Because URLTA imposes more obligations on landlords, they may be more accustomed to working with renters on various issues, including the eviction process. In short, because URLTA forces more interaction and collaboration between landlords and tenants in non-eviction contexts, more interaction and collaboration in the eviction context is likely to follow.

The findings outlined in this Article related to landlord location support this theory. To summarize, renters who live in the same state, ZIP code, or both as the property owner are less likely to have a judgment of eviction entered against them. This suggests that, at some point after an initial eviction filing, landlords and renters who live in the same community are more likely to reach an agreed-upon resolution. This aligns with previous research showing that smaller landlords are less likely to pursue eviction than larger landlords.²¹³ Our findings suggest the reason may be the relationship between the landlord and the renter. Smaller landlords are

212. UNIF. RESIDENTIAL LANDLORD & TENANT ACT § 2.104 (UNIF. L. COMM’N 1972); *see* KY. REV. STAT. § 383.595 (incorporating that requirement). Of course, this theory only works if a renter knows about their available counterclaims, which seems unlikely where a renter is not represented by counsel. Since only 2%–3% of renters in our Study were represented, it seems unlikely that this explanation can fully account for the large effect we observed.

213. Gomory, *supra* note 85; Raymond et al., *supra* note 91, at 317.

more willing to work with renters, likely because they have a relationship. These interpersonal connections may encourage the parties to reach a resolution short of an eviction judgment.

Overall, these findings demonstrate the importance of policy interventions that foster dialogue between renters and property owners, as well as further research to explore these findings. We assume that it is optimal for both parties to halt an eviction proceeding prior to judgment. This decreases the cost to the landlord in terms of attorney's fees, lost rent from a holdover tenant, and opportunity costs from filling the unit.²¹⁴ It is also beneficial to the renter; it avoids the many negative impacts of an eviction judgment and the additional fines and fees that come from the court process. Our findings collectively suggest that encouraging relationships between renters and landlords may help reach this optimal outcome.

To that end, policies that promote mediation may be helpful. One study that interviewed tenants, landlords, and service providers found that key stakeholders believed mediation would help parties reach better outcomes in eviction cases, and suggested building “an ecosystem of strategies that support mediation.”²¹⁵ They identified a lack of awareness about mediation as a barrier to its utilization, and noted that individual landlords and small-scale companies were more likely to be interested in this resolution strategy than large landlords.²¹⁶

Jurisdictions that have sought to expand access to mediation have done so in various ways. Washington University School of Law launched a mediation clinic in conjunction with various partners.²¹⁷ The program reports that, in all cases it mediated in 2018, 53% resulted in dismissals, decreasing the percentage of eviction judgments that year by 40%.²¹⁸

In other cities, government plays a more prominent role. In 2023, Louisville, Kentucky, spent two million dollars to contract with a mediation group to make services available to resolve eviction suits.²¹⁹ Other scholars have advocated for governmental policies that make mediation mandatory before a landlord can file an eviction case for

214. One study, for example, estimated that the average cost of an eviction is six thousand dollars for private landlords and ten thousand dollars for a local housing authority. Brian Bieretz et al., *Getting Landlords and Tenants to Talk*, URB. INST. (Apr. 2020), https://www.urban.org/sites/default/files/publication/101991/getting-landlords-and-tenants-to-talk_3.pdf.

215. *Id.*

216. *Id.*

217. Karen Tokarz et al., *Addressing the Eviction Crisis and Housing Instability Through Mediation*, 63 WASH. U. J.L. & POL'Y 243 (2020).

218. *Id.* at 246.

219. Dakota Sherek, *New eviction mediation program in Louisville offers solutions for tenants, landlords*, WDRB (Jun. 13, 2023), https://www.wdrb.com/news/new-eviction-mediation-program-in-louisville-offers-solutions-for-tenants-landlords/article_c947721e-0a19-11ee-9eb4-9b647685a91e.html.

nonpayment of rent.²²⁰ These scholars note that mandatory mediation in the foreclosure context has proven successful.²²¹

These findings also speak to the potential impact of initiatives to encourage local ownership of current rental properties. Our data suggest that renters benefit when their landlords live in the same community. To that end, local governments might explore loan incentives and economic development programs to encourage those who live in economically challenged areas to purchase property there. Other policy levers might include real estate financing options that allow lower-income individuals to collectively purchase rental housing in disadvantaged communities.²²²

Another finding that is worth highlighting relates to legal representation. As the right-to-renters-counsel movement continues to grow, policymakers need data to make informed decisions about these programs. Our analysis informs these conversations in several ways.

We found that overall representation in eviction court was startlingly low for renters, with less than 3% being represented. This alone is not surprising (and is in line with existing literature), but the geographic differences in representation are startling. Only 2.37% of renters in rural areas have access to an attorney. Many rural areas are legal deserts with limited attorney access.²²³

There are several factors that likely contribute to this disparate access to legal services. Right-to-counsel initiatives are concentrated in urban areas.²²⁴ Therefore, those in rural areas are less likely to be eligible for or benefit from these programs. Additionally, lawyers who want to practice in rural areas face many unique barriers, including lower salaries and economic constraints.²²⁵

This difference in access matters because results indicate that attorneys lead to better outcomes. Our Study revealed that renters with attorney representation were modestly less likely to have an eviction warrant—the first step toward an ultimate eviction judgment—entered against them. By contrast, renters without attorney representation were significantly more

220. Deena Greenberg et. al., *Discrimination in Evictions: Empirical Evidence and Legal Challenges*, 51 HARV. C.R.-C.L. L. REV. 115, 153 (2016); Rebecca Hare, *Mitigating Power Imbalance in Eviction Mediation: A Model for Minnesota*, 38 LAW & INEQ. 135, 136 (2020).

221. Greenberg et. al., *supra* note 220.

222. For an overview of what these financing options might look like, and examples of some successes, see Elwood Hopkins et al., *How states can empower local ownership for a just recovery*, BROOKINGS (Jul. 23, 2020), <https://www.brookings.edu/articles/how-states-can-empower-local-ownership-for-a-just-recovery/>.

223. Nick Devine, *Equality Before the Law: Ending Legal Deserts in Rural Counties*, GEO. J. ON POVERTY L. & POL'Y (Nov. 3, 2020), <https://www.law.georgetown.edu/poverty-journal/blog/equality-before-the-law-ending-legal-deserts-in-rural-counties/>.

224. NAT'L COAL. FOR CIV. RIGHT TO COUNS., *supra* note 106.

225. Peralte C. Paul, *Lawyers a Luxury in Rural Georgia*, ATLANTA J. CONST. (Apr. 1, 2010), <https://www.ajc.com/news/local/lawyers-luxury-rural-georgia/FRCFVczUWhbHa2g6n2YWxO/>.

likely to have a final judgment of eviction entered against them. In short, they fared better at every stage of the eviction process that this Study examined.

Future efforts must try to ensure that people in rural areas have the same access to attorneys as those in urban areas in eviction proceedings. Possible policy solutions include increased legal aid funding, pilot projects in rural areas, statewide right-to-counsel initiatives, and more. Policymakers should also consider leveraging technology to connect those living in rural areas with resources that are often clustered in urban centers.²²⁶

Finally, we note briefly that many of the additional findings on our control variables mirror those of previous researchers.²²⁷ Like others, we find that the racial, gender, educational, and income demographics of an area impact the likelihood that a resident will experience an eviction. In that way, we build upon the other important work being done in these areas.²²⁸

Importantly, our results demonstrate that the characteristics of geographic areas do, in fact, impact the outcomes of *individuals*. However, we did not include individual level data in our analysis, because the dataset had been de-identified before we received it. Instead, we used only ZIP code level population data. This allows us to show that people living in areas with more women, people of color, and markers of economic struggle are more likely to experience a completed eviction—regardless of their individual characteristics.

Although we are not the first to demonstrate these types of associations, they are an important reminder of the importance of investing in struggling and historically marginalized communities. These communities experience unique challenges regarding eviction and require unique solutions.

CONCLUSION

Eviction is an enormously impactful, yet significantly understudied, legal proceeding.²²⁹ Our results add to a growing body of literature that

226. For example, courts in rural areas might use teleconferencing technology to provide limited assistance legal representation from legal aid attorneys physically located in urban areas. Courts in rural areas could also adopt more lax policies related to virtual appearances in eviction proceedings designed to allow lawyers to represent renters remotely.

227. *See, e.g.,* Wedeen, *supra* note 18; *see also* Hepburn, Louis & Desmond, *supra* note 18; *see also* Matthew Desmond, *supra* note 77.

228. *See, e.g.,* Wedeen, *supra* note 18; *see also* Hepburn, Louis & Desmond, *supra* note 18; *see also* Matthew Desmond, *supra* note 77.

229. *See* Summers, *supra* note 185 (noting that there are ten times as many eviction cases filed in the United States as there are federal district court cases filed in the entire United States).

seeks to analyze eviction and draw empirical lessons from it. It is only by thoroughly understanding this legal process that we will be able to design effective interventions to reduce it and its harmful effects.

This work matters because of the way eviction permanently and devastatingly impacts people's lives. There are costs of eviction to all parties involved, but renters are most directly and permanently impacted. This Study confirms what others have before: those who are already vulnerable are the most likely to pay the highest price. We hope these results will contribute to the conversation of those working to untangle this knotted policy problem.

As this conversation progresses, we must include voices from rural communities. Low-income people living in rural communities face myriad challenges, many of which are documented here. To date, they have been largely overlooked in the eviction literature, despite the fact that—in our Study alone—we found tens of thousands of cases of people living in rural areas and having judgments of eviction entered against them. We must continue to better understand rural renters, the communities they live in, and how eviction shapes their lives.

We have reason to believe that the lessons we learned from Kentucky are true in other places. To that end, future research should seek to better understand the impact of rurality on the eviction process and housing insecurity more broadly. So too should researchers seek to understand the additive effect we observed regarding URLTA laws and the mechanism by which this effect operates. Our findings around in-area landlords who share a community with their renters also represent a good place for future research and a possible place for policy intervention.

Finally, we note that this Study examines only a slice of the eviction process: the time between when a landlord files an eviction case and that case concludes. There are many other important markers in this process that are outside the scope of these results, such as pre-filing interactions and negotiations between renters and property owners. Future studies should also seek to understand how landlords make decisions around filing eviction cases and how these decisions may vary in urban or rural areas. Such research is necessary to developing a robust picture of rural renting.