

# Eviction Representation Project (ERP)

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# Eviction Moratorium is still in effect through Executive Order 20-79

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- On August 12th Governor Walz extended the Peacetime Emergency Order which will expire on September 11th.
- The Eviction Moratorium is still in place through [Executive Order 20-79](#)  
There are a few exceptions:
  - Cases where the tenant seriously endangers the safety of others on the property
  - Cases where the tenant has violated Minn. Stat. § 504B.171 subd. 1
  - Cases where the tenant has caused significant property damage
  - Cases where an owner or an owner's family member needs to move into the home



# Upon Expiration of the Moratorium

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- We will be given a few weeks notice after the Moratorium is lifted and before cases will proceed.
- At that time we will email anyone who has expressed interest in taking cases.
- Heading Into the Great Unknown . . . . .
  - We have established a process for distributing cases, but we are confident we will have to adjust as we go.

# Who we are

## ERP Overview

- ERP in Hennepin County is a collaboration between VLN and Mid-Minnesota Legal Aid and supported by Hennepin County, the City of Minneapolis, and private foundations.
  - It was also a key component of Minneapolis Mayor Jacob Frey's More Representation Minneapolis initiative
- The goal of the ERP is to engage and train volunteer lawyers to provide full representation legal services to as many tenants going through an eviction as possible on an ongoing basis.
- We would also like to expand this program to Ramsey and Anoka Counties.

# Why Volunteer with the ERP

- **The Coming Flood of Evictions**
  - The State of Minnesota has had an Eviction moratorium in place since March 23, 2020. Hennepin County Housing court hears on average 500 eviction cases every month. Therefore, it is being estimated that when the moratorium is lifted there could be a back-log of 2500 evictions that did not get filed in Hennepin County alone.
- **Legal Representation Makes a Difference for Tenants**
  - A study conducted by VLN and Legal Aid confirmed tenants who are represented in Housing Court do much better than tenants who represent themselves. The study found that fully represented tenants win or settle their cases 96% of the time, clients receiving limited/brief services (HCP) win or settle 83% of the time, and those without any legal services win or settle only 62% of the time.

# Why volunteer with ERP

- **Legal Representation in Settlements makes a difference.** Even assisting a tenant in negotiating a settlement agreement with a landlord can be beneficial to the tenant.
  - Fair payment plan
  - Expungement
  - Positive Rental Reference Language



# Pre-Covid 19 Initial Appearance Process

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- Tenant would receive an Eviction summons and complaint must be at least 7 days before the eviction initial appearance hearing – strict service requirements per Minn. Stat. § 504B.331
- In Hennepin county, initial appearance calendars were M, W & F with approximately 40 cases for each calendar. Tenants would check-in and then have time to talk with legal services, emergency assistance and mediators
- One of Three outcomes - default judgment or dismissal, settlement or set for trial

# Pre-Covid 19 Initial Appearance

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- In Ramsey County initial appearances were held Tuesday and Thursday mornings with approximately 25 cases each day.
  - Legal Clinic Services
  - Mediation Services and Emergency Assistance
- In Anoka County initial appearances were held Monday and Wednesday morning with approximately 5-10 cases held each day.
  - Legal Clinic Services
  - Mediation Services and Emergency Assistance



## Post-Covid-19 Initial Appearance Process

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- On July 22nd, Hennepin County issued a standing order to address how cases will proceed for the 60 days after the expiration of the Peacetime Emergency - (HF 4556, sec. 16(a) suspends the running of statutory deadlines for 60-days after the peacetime emergency)
  - The Order Prioritizes cases into four priorities
  - Requires the landlord or landlord's agent to affirm under oath that the landlord has a good faith and reasonable belief the property is not a "covered property" under the CARES Act
  - Institutes a 7-day adjournment

## Post-Covid 19 Initial Appearances in Hennepin County based on Hennepin County's standing order

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- The tenant will receive the Summons and Complaint in the same time frame per Minn. Stat. § 504B.331
  - The Summons will instruct the tenant of the date and time of an in-person hearing. Hennepin will have two calendars hearing 2 cases every 30 minutes.
  - The Summons will also instruct the tenant on how she/he can request a zoom or telephonic hearing.
  - The Summons will also include information on how to obtain legal, financial and mediation assistance.
- At the initial appearance hearing the court will give the parties an automatic 7-day adjournment and a pretrial hearing will be set for 7 days out.



# Hennepin County 7-day Adjournment

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- After the hearing, the tenant will meet with a Hennepin County employee doing intake to assess needs. Referrals will be made.
  - Emergency Assistance
  - Legal Services (VLN or MMLA)
  - Mediation ( Conflict Resolution Center or Community Mediation and Restorative Services)
- If a tenant is referred to VLN, VLN staff will meet with the tenant to determine if full representation is needed.



## Goal of the 7 day-Adjournment Settle Cases - Negotiating During the Adjournment

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During the 7-day adjournment tenants can work with attorneys or mediators to settle the case



Any settlement reached can be approved by the court prior to the pretrial hearing if the agreement identifies that the tenant used the legal or mediation resources and the hearing will be cancelled.

# Trial

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- If a case fails to settle before or at the pretrial date. The case will be set for trial.
- Pre-Covid trials were generally set out around 7 days.
- The referees in Hennepin County have indicated they would schedule trials at least 7 days and at times 2 weeks out.

# Ramsey and Anoka Counties Post-Covid 19 Initial Appearance Calendars

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- Ramsey is planning staggered calendars
  - Tuesdays and Thursdays, mornings and afternoons
  - Hearings will be in-person, phone appearances, and zoom.
  - Ramsey is still deciding on whether to implement a 7-day adjournment process similar to Hennepin County
- Anoka will have initial appearances on Mondays and Wednesdays and is still in the planning stages of how to stagger cases.
  - Anoka is also considering implementing the 7-day adjournment



## Precautions The Courts are Taking in the face of Covid-19

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- The Minnesota Judicial Branch has a Covid-19 Preparedness Plan that establishes safety standards in the courthouses. You can find it [here](#). Some highlights are:
  - Face Masks are required in the courthouses. Only the judicial officer can tell you when to take off your mask.
  - Plexiglass is put in the courtrooms.
  - Courtrooms will allow no more than 10 people. Tables and chairs will be marked where people can sit.
  - Cleaning -Floors, tables and elevators will be disinfected

## We Need You!

### How can an attorney volunteer with ERP?

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- Pre-covid: Attorney would take a 3-hour shift. Attend an initial appearance calendar at housing court and would be assigned a case. The case would either dismiss, settle or go to trial.
- Post-covid: Attorney commits to being available (from their own home or office) on a certain date to take an eviction case off the initial appearance calendar.
  - VLN staff will either identify a case before the initial appearance, because the tenant proactively contacted VLN before the initial appearance, or at the initial appearance calendar when VLN staff does an intake with the tenant.



# Volunteering with ERP

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## 7-day Adjournment

- Attorney commits to taking a client from a specific initial appearance calendar.
- Tenant will either be identified before the initial appearance or during the initial appearance.
- VLN staff will provide attorney with all the needed paperwork and client information.
- Attorney will have 7 days to negotiate a settlement or a trial date will be set at the pre-trial hearing

## No 7-day Adjournment

- Attorney commits to taking a client from a specific initial appearance calendar AND being available for a 3-4 hour shift that day.
- Tenant will either be identified before the initial appearance calendar or at the initial appearance calendar.
- VLN staff will provide attorney with all the needed paperwork and client information.
- Attorney will meet with the client virtually or via phone and immediately work to negotiate a settlement or set the case for trial.



# Connecting with the Client

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- Once a case is assigned it will be the attorney's choice on how to connect with the client.
  - Telephone
  - Virtual platform
- We will have E-signing capabilities and can assist with having documents signed.

Attorney  
Commits  
to taking  
a case on  
a certain  
date

Initial Appearance  
Calendar

Case  
Identified as  
Good for  
Representation

VLN Housing  
Coordinator  
Reaches out to  
Volunteer Attorney

Volunteer Attorney  
Connects with client  
(and either immediately  
negotiates or has 7 days  
to negotiate with  
landlord.)

Flow of Cases to ERP  
Attorneys



New to ERP?

Eviction Defense Resources on our Website <https://www.vlnmn.org/>

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- [Larry McDonough's Eviction Defense Manual](#)
- [Eviction Defense Checklist](#)
- [Answer Form Created by Larry McDonough](#)
- [MMLA's Settlement Form](#)
- [VLN Retainer Agreement](#)
- [Statute 504B](#) – Landlord Tenant Statute

## New to ERP?

### Links to Trainings to watch Before volunteering for ERP

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#### Larry McDonough's Eviction Prevention Training for Lawyers on ProJusticeMN

- This Training can be found [here](#). You will need to register with ProJusticeMN to gain access to this training.

#### Mid-Minnesota Legal Aid's Training to Volunteer Attorney's on Settling an Eviction case.

- This training can be found [here](#).



# For More Information

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