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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

August 16, 2024

The Honorable Kristen Clarke
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Assistant Attorney General Clarke,

I am deeply concerned about the rise of corporate landlords using automated technologies to file serial and sometimes erroneous evictions, intensifying housing insecurity across Minnesota and nationwide. For that reason, I write to call your attention to a concerning trend of automated eviction filings, many of which are using artificial intelligence. These practices, which were raised in a hearing at the Subcommittee on Housing, Transportation, and Community Development earlier this year, could be violations of federal civil rights law. I appreciated your leadership of the recent interagency convening on Advancing Equity in Artificial Intelligence, and I hope you will look into this emerging practice along with the other AI-related issues your Division is reviewing.

The affordable housing crisis in this country has intensified the eviction crisis. The United States has the highest rate of evictions among OECD countries and double the rate of evictions of most other countries.¹ Eviction filings affect 7.6 million Americans a year and there was a 10.5 percent increase in filings between 2022-2023.² These filings disproportionately impact Black renters, women, and families with children. Women account for 60 percent of eviction filings and while roughly one-fifth of renters are Black, Black Americans receive over half of all eviction filings.³

Evictions have lasting, detrimental impacts on a family's housing stability and overall well-being. Following an eviction, families are more likely to experience homelessness, a loss of earnings, lower credit scores, hospital visits, and mental-health concerns.⁴ Mothers who

¹ OECD Affordable Housing Database (2024). *Evictions*.

² Hepburn, P., Grubbs-Donovan, D., & Hartley, G. (2024). *Preliminary Analysis: Eviction Filing Patterns in 2023*. The Eviction Lab.

³ Ibid.

⁴ Collinson, R., Humphries, J.E., Mader, N.S., Reed, D.K., Tannenbaum, D.I., & van Dijk, W. (2022). *Eviction and Poverty in American Cities*. National Bureau of Economic Research.

experience eviction report more parenting stress, negative health outcomes for their family, material hardship, and higher rates of depression.⁵ For children, experiencing eviction is associated with adverse outcomes affecting their academic performance and cognitive and socio-emotional development.⁶ This is especially concerning as childhood is the most common age to experience eviction in the United States.⁷

Increasingly, and especially among corporate property management companies, landlords appear to be engaging in serial eviction filing as a means of rent collection and using the court as a first rather than a last resort.⁸ These serial eviction filings are often enabled by automated services, or “one-click-eviction” software such as Nationwide Evictions, ClickNotices, CaseAct, Connect2Court, and EasyEviction.⁹ Large landlords file evictions at two to three times the rate of smaller landlords and these eviction filings are often over less money owed.¹⁰ When tenants who are even just days behind on their rent are threatened with an eviction filing, they have to pay on average \$180 in court fines and late fees, increasing their housing cost burden.¹¹ Renters in Minnesota have reported paying over \$400 in court fees and still having evictions on their record, making it even harder to repay their late rent or find more affordable housing.¹² Eviction filings hinder a family’s ability to find future housing, especially when automated tenant screening services may flag these filings for landlords with errors, little context, and regardless of if the eviction was enacted or not.¹³

For landlords, these tools accelerate and automate evictions while depersonalizing the process. Some automated eviction technology companies argue they are upholding the Fair Housing Act by treating all tenants equally, thus reducing the opportunity for landlord bias to create disparate impacts.¹⁴ While I recognize and appreciate the potential for these technologies to reduce bias, in this application, I remain concerned about a disparate impact of serial eviction filings, along with limited accountability for errors in automated eviction processes and the lack of recourse for tenants. The legal system is often inaccessible and overburdensome for tenants facing eviction: only 3 percent of tenants have legal representation in eviction proceedings compared to 80

⁵ Desmond, M. & Tolbert Kimrbo, R. (2015). *Eviction’s Fallout: Housing, Hardship, and Health*. Social Forces.

⁶ Ramphal, B., Keen, R., Okuzuno, S.S., Ojogho, D., and Slopen, N. (2023). Evictions and Infant and Child Health Outcomes: A Systematic Review. *JAMA Network Open*.

⁷ Graetz, N., Gershenson, C., Hepburn, P., Porter, S.R., Sandler, D.H., & Desmond, M. (2023). A Comprehensive Demographic Profile of the US Evicted Population. PNAS.

⁸ Leung, L., Hepburn, P., & Desmond, M. (2020). *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*. Social Forces and Gardboden, P.M.E. & Rosen, E. (2019). *Serial Filing: How Landlords Use the Threat of Eviction*. *City and Community*.

⁹ Capps, K. (2020). Landlords Are Using Next-Generation Eviction Tec. *Bloomberg*.

¹⁰ Gomory, H. (2021). *The Social and Institutional Contexts Underlying Landlords’ Eviction Practices*. Social Forces.

¹¹ Leung, L., Hepburn, P., & Desmond, M. (2020). *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*. Social Forces.

¹² Lewis, B. (2019). *The Illusion of Choice: Evictions and Profit in North Minneapolis*. University of Minnesota Center for Urban and Regional Affairs.

¹³ Kirchner L., & Goldstein, M. (2020). *Access Denied: Faulty Automated Background Checks Freeze Out Renters*. The New York Times.

¹⁴ Ibid

percent of landlords.¹⁵ This tenant disadvantage is amplified by eviction courts that often have complex, confusing, and inconsistent rules and processes.¹⁶ Automated eviction filings have the potential to further strain overburdened eviction courts, intensifying the disadvantage for unrepresented tenants.

Automated technologies have made errors in eviction filings and have potential for bias. In Minnesota, a lawsuit was filed against a law firm that advertised its ability to “automate” the eviction process and enable landlords to file evictions faster. The case asserted violations of the Fair Debt Collection Practices Act based on an automated eviction filing system, which allegedly enabled the defendant to file thousands of complaints without adequate investigation or accuracy controls. The defendant had to change their practices and provide monetary relief and expungements for impacted renters. In Los Angeles, a law firm specializing in mass evictions allegedly used a generative large language model in a filing which cited incorrect and fictitious cases.¹⁷ Another concerning use of these technologies is in facial recognition and biometric detection cameras, which have been shown to have tremendous potential for racial bias, being placed in buildings to detect lease violations and facilitate evictions.¹⁸

You may recall the rampant, abusive practice of “robo-signing” that upended the mortgage market around the 2008 financial crisis. We shouldn’t allow a similar rush toward automation to now undermine longstanding protections against wrongful eviction filings. The burden to combat unjust evictions should not be solely on renters. I appreciate the Civil Rights Division’s commitment to holding entities accountable for discriminatory outcomes from artificial intelligence, algorithms, and automated decision-making tools. I encourage the Civil Rights Division to apply their holistic approach to enforcement, education, interagency coordination, and policy to prevent unfair and erroneous evictions.

Thank you for your consideration and I look forward to working with you to strengthen protection of the rights of our nation’s renters.

Sincerely,



Tina Smith
Chair
Subcommittee on Housing, Transportation, and
Community Development

¹⁵ American Civil Liberties Union and National Coalition for a Civil Right to Counsel. (2022). *No Eviction Without Representation*.

¹⁶ Fleming-Klink, I., McCabe, B.J., & Rosen, E. (2023). *Navigating an Overburdened Courtroom: How Inconsistent Rules, Shadow Procedure, and Social Capital Disadvantage Tenants in Eviction Court*. City & Community.

¹⁷ Wagner, D. (2023). *This Prolific LA Eviction Law Firm Was Caught Faking Cases in Court. Did They Misuse AI*.

¹⁸ Keppler, N. (2023). *Meet the Spy Tech Companies Helping Landlords Evict People*. Vice.