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Sandra May<sup>1</sup> lives with her three children in a townhouse owned by the Chicago Housing Authority (CHA). Like all public housing, it is affordable. But unlike most public housing in Chicago, where almost all the units are located in dilapidated high-rise buildings, it is attractive and well-maintained.

One night Ms. May's boyfriend came over, accused her of lying to him, and began beating her with a wooden broomstick, hitting her with such force that the broomstick broke in half. He also caused extensive damage to the townhouse, punching holes in the walls, tearing down closet doors, and ripping shelves out of the linen closet. The violence continued until the police, responding to a call from a neighbor, arrived on the scene and took Ms. May to the hospital.

When she returned home, CHA notified her of its intent to terminate her tenancy on the grounds that her Aguest<sup>@</sup> had caused \$1,300 damage to her townhouse. CHA also told her that she was responsible for the cost of repairing this damage. Ms. May could not afford to lose her subsidized tenancy -- her family would be homeless without it -- nor could she afford to pay a lawyer to help her preserve it.

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Linda Wilson's eight year old son, Jacob, had been suffering from an increasingly severe emotional disorder for more than a year when he attacked his sleeping brother with a fork. After wresting the fork away from him and ensuring that his brother was not injured, Ms. Wilson rushed Jacob to the hospital. He was then

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<sup>1</sup>All the clients in this article have been given pseudonyms.

transferred to the Department of Child and Adolescent Psychiatry at Children's Memorial Hospital, one of the best acute care facilities in the country.

Upon his admission Jacob tried to tear his tonsils out of his throat with his bare hands, so the attending physicians gave him an anti-psychotic drug and monitored his condition. Twelve days later they called Ms. Wilson and told her that Jacob was ready to return home.

Fearing that she could no longer take care of Jacob by herself, Ms. Wilson told the doctors that she wanted to leave her son in their care until she could find an appropriate placement for him. Other doctors had already told her that Jacob needed to be in a residential treatment center, and to secure funding for such a placement she had applied to the Department of Mental Health (DMH) for an individual care grant. These grants (which cover the prohibitively high cost of long-term residential care) are extremely difficult to obtain, and DMH rejected her application. Nevertheless she reapplied, knowing that without this grant she would never be able to provide Jacob with the treatment he so desperately needed.

When Ms. Wilson did not come to Children's Memorial to get Jacob, the hospital notified the Department of Children and Family Services (DCFS), which filed a motion for temporary custody on the grounds that Jacob had been abandoned. Ms. Wilson needed a lawyer to help her retain custody of Jacob. But since she had just been laid off and was receiving nothing but unemployment insurance, she could not afford to pay for one.

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Angela Lee, who is blind and disabled, has a subsidized tenancy and pays a reduced rent commensurate with her income. Without this subsidy she cannot afford a decent home for herself and her teenage daughter, so she was distraught when her landlord (a private management company) gave her a notice stating that it was terminating her tenancy because her cat had urinated on the carpet in her apartment.

Ms. Lee believed that she had already corrected this problem by using what little money she had to get her carpet professionally cleaned, and she urged her landlord

to reinspect her unit. The landlord refused, however, and filed an eviction action against her. For the first time in her life, Ms. Lee had to go to court.

When her case was called, Ms. Lee approached the bench and told the judge that she had no attorney because she could not afford one. Instead of asking whether she wanted a referral to an agency that provided free legal services, the judge simply turned to the landlord's attorney and asked him to begin. Three minutes later, the judge ruled in the landlord's favor.

The fact that Ms. Lee was unrepresented virtually assured this outcome. A 1997 study conducted by the Chicago-based Lawyers' Committee for Better Housing found that tenants who go to trial without an attorney win only 4% of their cases, while those who are represented by counsel win 43% of the time. One reason unrepresented tenants fare so poorly is that, in Chicago, just five judges preside over more than 40,000 eviction actions every year. These judges are understandably anxious to get through their cases as quickly as possible. But in their rush to judgment, unrepresented tenants suffer.

The speed with which Ms. Lee's trial was conducted left her confused and disoriented. She didn't even realize that a judgment had been entered against her until two weeks later, when she received notice that deputies from the sheriff's office would soon be coming to evict her. Like Ms. May and Ms. Wilson, she needed but could not afford a lawyer.

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All three women eventually contacted the Legal Assistance Foundation of Chicago (LAF). More than 25,000 low-income individuals call LAF every year seeking free legal representation in civil matters. Although LAF represents a significant number of those who call, it is unable to serve the vast majority of people who need and are financially eligible for its help.

A 1989 study commissioned by the Illinois State Bar Association found that only 20% of the overall need for free legal assistance in Illinois is being met on an annual basis. According to this study -- the most recent one to examine the legal needs of the poor in Illinois -- the overwhelming gap between the need for and provision of

free legal services could be attributed in large part to the lack of adequate funding for programs like LAF.

Since this study was published, the funding crisis has only gotten worse. Accounting for inflation, Congress has reduced by almost 40% the amount of money it allocates to the Legal Services Corporation, which funds LAF and other legal services programs across the country. Under these circumstances LAF cannot possibly provide free legal assistance to the majority of people who qualify for it. To understand the importance of such assistance, one need only consider how it helped Ms. May, Ms. Wilson, and Ms. Lee.

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On Ms. May's behalf, LAF obtained an order of protection that prohibited her former boyfriend from harassing, stalking, or coming within 100 yards of her. This order provided Ms. May with both a degree of protection and a sense of power. It could also be offered as evidence that she had done everything she could to prevent her former boyfriend from returning to her home and causing another disturbance.

LAF then tried to resolve the housing dispute by reminding CHA that Ms. May was a victim, and that evicting her would be tantamount to punishing her for getting attacked. CHA rejected this argument and, maintaining that Ms. May was responsible for the actions of her former boyfriend, filed an eviction action against her.

While this case was pending, CHA changed the locks on Ms. May's doors. Lock-outs are strictly prohibited in Illinois, so LAF filed (and the judge granted) an emergency motion to force CHA to let Ms. May back into her townhouse immediately. LAF also filed a counterclaim against CHA for its willful violation of the law. CHA ultimately agreed to settle all claims by dismissing its eviction action, forgiving Ms. May the cost of repairing her unit, and paying her \$1,000 for locking her out of her apartment.

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In the Wilsons' case, DCFS won its motion for temporary custody and argued that it should be allowed to transfer Jacob from Children's Memorial, where the cost of

care was extremely high, to any facility it deemed appropriate. Fearing that DCFS would consider nothing but cost in making its determination, LAF argued that Jacob needed a stable environment where he could receive psychiatric care from highly trained professionals, and that his condition would probably deteriorate if he was transferred to a facility that was not equipped to meet the needs of severely disturbed children. After hearing testimony from several witnesses, including a psychiatrist, the judge ordered DCFS to continue paying for Jacob's treatment at Children's Memorial until the next court date.

Two weeks later, DMH granted Ms. Wilson's second application for the individual care grant. It told her, however, that she could not use this grant until she regained custody of Jacob and located a residential treatment center that would accept both Jacob and DMH funding.

While continuing to oppose each of DCFS's renewed efforts to remove Jacob from Children's Memorial, LAF helped Ms. Wilson look for an appropriate center. Six months later she found one, so LAF filed a motion to return Jacob to his mother's custody. The judge granted this motion and Ms. Wilson transferred Jacob from Children's Memorial to a residential treatment center in Wisconsin, where he receives individual and group counseling, attends special education classes, and enjoys frequent visits from his family. He can remain there, at no cost to his mother, until he turns eighteen.

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LAF agreed to represent Ms. Lee after inspecting her apartment and confirming that she had corrected the problem set forth in the termination notice. It then discovered that her landlord had accepted her rent shortly after serving her with this notice. Had Ms. Lee brought this fact to the judge's attention during her trial, she would have won. (In Illinois, a landlord waives its right to pursue an eviction action if, after learning about the incident giving rise to the action, it accepts the tenant's rent.)

LAF decided to present Ms. Lee's waiver defense through a post-trial motion. At the hearing on this motion, the landlord's attorney argued that Ms. Lee had forfeited her right to assert any defense she could have raised at trial. This was a

legally compelling argument because litigants are usually entitled to no more than one proverbial bite at the apple.

LAF, however, argued that Ms. Lee should not be punished for failing to raise her defense in a timely manner since she was unfamiliar with the law and had attended her trial without benefit of counsel. LAF also emphasized the importance of what was at stake -- a disabled woman's ability to stay in the only decent housing she could afford -- and urged the Court to exercise its discretion to consider Ms. Lee's defense. The Court accepted LAF's arguments and dismissed the eviction action.

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These cases are not unusual. Every year LAF represents hundreds of tenants who face unwarranted evictions from the only housing they can afford, hundreds of women who have been beaten by their husbands or boyfriends, and hundreds of parents who risk losing custody of their children. (This is in addition to all the foreclosure, welfare, disability, consumer, bankruptcy, immigration, discrimination, and employment cases LAF handles.) Nevertheless, for every tenancy preserved, every woman protected, and every family reunited, there are at least four people who do not get the free legal assistance they need.