

## THE 2018 **CLAY** AWARDS

*The 22nd Annual California Lawyer Attorneys of the Year*

### HOUSING RIGHTS

# HELPING A FAMILY FIGHT TO STAY IN THEIR LONGTIME HOME



ELLEN RICHMOND AND CHRISTOPHER LYNCH Munger, Tolles & Olson LLP

## *Guttman v. Chiazor*

A single family's fight to stay in their apartment resulted in a statutory interpretation that affects the more than 100,000 unlawful detainer suits brought in California each year.

A pro bono appellate victory secured by Christopher Lynch and Ellen Richmond of Munger, Tolles & Olson LLP in September on behalf of two renters in

Los Angeles established a statewide right to a jury trial when fighting eviction with a habitability defense.

"This defense, if not the most important, is certainly one of the most important defenses that tenants have," said Lynch, who noted that there were 156,000 unlawful detainer suits in the 2015-2016 fiscal year.

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● Ellen Richmond

The saga leading up to the precedent-setting win began in September 2014, when Charles Chiazor and Hyacinth Pascascio were served with an eviction notice by landlord Phillip Guttman alleging that they had not paid their rent and demanded they leave the Koreatown apartment they had lived in for the past 20 years. He also requested past due rent and damages.

The renters argued that the landlord had breached the warranty of habitability, pointing to a roach infestation, rotting kitchen floor, broken heater and other issues, according to court documents. The tenants said their two children were born and raised in the apartment.

A messy battle played out in Los Angeles County Superior Court: Chiazor and Pascascio prevailed at a jury trial, and Guttman appealed. The landlord then started a second unlawful detainer action. The tenants requested that second suit also be tried by a jury, again claiming the apartment was not habitable. A different

lower court judge ruled there was no such jury trial right. After a bench trial, the lower court ruled in favor of the landlord, even though the judge in the first case — exercising continuing jurisdiction — had determined that the landlord hadn’t fixed the problems found by the jury in the first suit.

Asked to step in for the appeal, Richmond and Lynch said they immersed themselves in the legislative history of the unlawful detainer statutes and found that while the verbatim language was murky, it was clear from the case law that the legislature wanted to protect tenants’ jury trial right.

Richmond said that with a lot at stake, there’s no issue too big or too small, “so we tried to address every issue big and small in the case, and ended up getting an outright victory that will get the tenants the best result.”

The Appellate Division of Los Angeles County Superior Court agreed with the team’s reasoning and held for the

first time on Sept. 8 that defendants do have a statutory right to a jury trial on all factual issues related to the breach of the warranty of habitability defense. The judgment on the second case was reversed.

The *Chiazor* case continues to play out in the lower courts, however. A hearing set for the end of March will address whether or not Guttman made the necessary repairs.

Ingrid Arriaga, an attorney with the Inner City Law Center is handling the case, and said that while the appellate win gave tenants “greater leverage and greater opportunity to protect their rights, especially in Los Angeles, where there is rent control,” the landlord has signaled he will continue to fight to evict the family.

“Many tenants who have faced eviction once see their situation as precarious, so it’s important to continue to do pro bono work on their behalf,” Richmond said.

—Lila Seidman