

**Written Testimony of Lindsey Siegel
Director of Housing Advocacy, Atlanta Legal Aid Society
on behalf of its low-income clients**

On

Taking Account of Fees and Tactics Impacting Americans' Wallets

**Before the United States Senate Banking Committee,
Subcommittee on Financial Institutions and Consumer Protection**

Wednesday, July 26, 2023 at 9:30 AM

Introduction

Good morning Chairman Warnock, Ranking Member Tillis, and members of the committee. Thank you for the opportunity to testify on behalf of the low-income clients of the Atlanta Legal Aid Society about predatory rental fees and the burdens these fees place on the families we serve. My name is Lindsey Siegel, and I'm the Director of Housing Advocacy at Atlanta Legal Aid.¹ Atlanta Legal Aid provides free legal services to families living in poverty in the five-county metro Atlanta area. We assist individuals who have a range of civil legal issues, but today I will focus on the rental housing market and the business model where institutional landlords gouge families living in poverty by charging junk fees that make rental housing unaffordable for many low-income families.

Atlanta Legal Aid's Representation of Low-Income Renters

Since 1924, Atlanta Legal Aid Society has offered free civil legal aid for low-income people across metro Atlanta. With five neighborhood offices, three offices in Children's Healthcare of Atlanta hospitals, three county courthouse projects, a variety of self-help clinics, and countless community education programs, Legal Aid lawyers and volunteers represent low-income individuals in 20,000 cases every year.

¹ In my ten years at Atlanta Legal Aid, I have represented hundreds of low-income tenants in federal and state court to challenge discrimination, address unfair practices, and enforce their civil and legal rights. As Director of Housing Advocacy, I lead the organization's housing litigation and advocacy strategy, represent clients directly, maintain expertise on local and national housing protections, and serve as a resource to other lawyers and housing advocates.

Atlanta Legal Aid is all too familiar with the burdens facing low-income renters. Since the pandemic began, roughly half of the individuals we serve each year contact us about a landlord-tenant legal problem.² We represent tenants in a range of rental housing issues, including eviction defense, challenging illegal practices, connecting tenants with rental assistance, filing lawsuits to address discrimination and systemic inequities, and more.

Ms. Dixon³ is a single mother who found an apartment in the fall of 2020. At the height of the pandemic, she searched online for a place she could afford. She found a two-bedroom apartment that advertised a rent of just under \$1,400 per month. This rate was at the top end of what she could afford, but she looked at her budget and determined it would be possible. The apartment listing did not list any other fees she would be required to pay. She applied for the apartment and paid \$525 through the landlord's online portal which was supposed to cover her \$50 application fee, a \$175 move-in fee, and a \$300 screening fee. All these fees were nonrefundable. She was not able to see the lease or the apartment she'd be renting, but she knew if she did not pay sight unseen, she would lose the apartment to someone else.

A few weeks later, Ms. Dixon's landlord approved her application. She finally received and reviewed a copy of her lease two days before she was slated to move in. It was 50 pages long and contained 8 different addenda. She expected to pay her rent and pay for water. She didn't expect to be responsible for a package locker fee, a trash removal fee, a separate valet trash fee, a pest control fee, a technology package fee, an insurance fee, and a credit reporting fee, all of which were buried in the lease agreement. She also didn't know she would be charged a one-time \$200 approval fee. To make matters worse, Ms. Dixon's landlord did not accept the rent by cash, check, or money order. She either had to pay through Money Gram, which itself charges a fee, or pay through the landlord's online portal, which charged her an astonishing \$72 per month 'convenience fee.' When Ms. Dixon contacted our office a year later, she was paying \$230 more per month than her expected rent.

Junk fees disproportionately harm low-income families.

When landlords surprise low-income tenants with hidden fees or charge them more than the cost of actually providing a service, they make rental housing even more unaffordable and exacerbate the challenges that low-income renters are already facing to maintain housing and financial security for their families.⁴ Many of the renters Atlanta Legal Aid serves have already

² Before the pandemic, about one third of Atlanta Legal Aid cases involved a landlord-tenant issue.

³ I am using a pseudonym to protect our client's identity; the facts have not been changed.

⁴ See Ariel Nelson, April Kuehnhoff, Chi Chi Wu, and Steve Sharpe, [Too Damn Hight: How Junk Fees Add to Skyrocketing Rents](#) (Mar. 13, 2023).

seen skyrocketing rents and monthly rent increases of \$300 or more each time they've renewed a lease in the past three years.

Because three out of every four families who qualify for federally-subsidized housing don't have it,⁵ most low-income families already struggle to find the most affordable private housing they can. In Georgia, 46% of all renters are cost-burdened, meaning they pay more than 30% of their income on housing costs.⁶ The unaffordability is most pronounced for Black renters, 54% of whom are cost burdened, and over half of those severely so, meaning they pay more than 50% of their income on housing.⁷

Although junk rental fees affect all aspects of the rental market, they place a disproportionate burden on the livelihoods of low-income families. Atlanta Legal Aid's low-income clients understand the risk of not paying rent, and the vast majority will avoid it at all cost. As Matthew Desmond put it, the rent eats first.⁸ Families who can't afford junk fees will cut from other areas in their lives: food, medicine, clothing, transportation to work, doctor's visits, or internet that their children need to complete school assignments. They will forgo other basic needs to avoid becoming homeless.

Investor landlords drive fees.

In the communities Atlanta Legal Aid serves, institutional and investor landlords are the main culprits of using junk and hidden fees to help drive profits. And these companies have invested heavily in the Atlanta area since the 2008 recession. The Atlanta Journal Constitution recently reported that across metro Atlanta, 65,000 single family homes have been converted to an investment product by Wall Street companies in the last decade.⁹ Just two companies—Invitation Homes and Progress Residential, own 10,000 properties each in Atlanta. Many of the low-income families we serve who rent single family homes have an institution as their landlord. In 2022 research conducted through UC Berkeley, the authors reported that Invitation Homes, one of the largest institutional landlords of single-family homes in the country, was on track to earn more than \$30 million in what they deem 'ancillary fees' that year alone.¹⁰

⁵ Peggy Bailey, [Addressing the Affordable Housing Crisis Requires Expanding Rental Assistance and Adding Housing Units](#), Center on Budget and Policy Priorities (Oct. 27, 2022).

⁶ Federal Reserve Bank of Atlanta, [Southeastern Rental Affordability Tracker](#) (2023).

⁷ *Id.*

⁸ Matthew Desmond, *Evicted: Poverty and Profit in the American City*, p.302 (Penguin Books, 2017).

⁹ Brian Eason and John Perry, [American Dream for Rent: Investors elbow out individual home buyers](#), Atlanta Journal Constitution (Feb. 9, 2023).

¹⁰ Desiree Fields and Manon Vergerio, [Corporate landlords and market power: What does the single-family rental boom mean for our housing future?](#) UC Berkeley (Apr. 13, 2022).

Investor owners of multi-family properties, like the owner of Ms. Dixon's apartment, are just as fond of using junk fees to drive up the cost of housing. And like investors of single-family homes, they unfairly compete against local landlords by masking their actual prices. So far, this trend has not infected so called mom-and-pop landlords or smaller landlords with strong ties to the communities Atlanta serves. One landlord recently summed it up best—many local landlords are community landlords: they live, work in, and have ties to their communities. These investment companies are commodity landlords.

The low-income renters coming to Atlanta Legal Aid have an extreme power imbalance with their landlords—the high demand for rental housing, especially at the more affordable end of the market, makes some landlords believe they can easily get away with unfair and deceptive lease terms and rental practices. The bait and switch Ms. Dixon experienced, where the landlord advertised the rent as one price only to raise it much higher with junk fees, is a far too common practice of many investor landlords in the Atlanta area. When a low-income renter pays hundreds of dollars in application and upfront fees before even seeing a lease, they feel stuck. These renters often can't afford to walk away from a lease with hidden fees and pay that same amount to apply somewhere else, even once they realize the rent will be unaffordable.

Application and tenant screening fees are an unregulated source of profit.

Of particular concern are how many institutional landlords charge high application fees, ostensibly to conduct a tenant background check. These fees often far exceed the cost of running a report, and most renters have to pay them several times before finding a home to rent.

Many of our low-income clients spend hundreds of dollars on application fees before being accepted. A renter applying often has no way of knowing whether the landlord actually checked their credit, or even if the home is still available. When their application is denied, they hardly ever find out the exact reason for their denial. Then, when a rejected tenant applies for the next home, she is forced to pay the fee again, for the same background check. And though products exist to enable an applicant to pay one time for a report that can be used repeatedly within thirty days, very few landlords accept those reports.

One property manager reported to Atlanta Legal Aid that she was aware of some unscrupulous companies using these fees to unfairly profit by collecting applications from more renters than they have homes available. She described how one company in particular kept rental homes listed on its website for weeks after it had already found a renter, because by charging \$75 per adult in the household, the company could continue to collect without actually considering each tenant's application.

Renters of color are particularly harmed by unregulated application fees. They are far more likely to be turned down after paying an application fee and often pay more in application fees before being accepted. A recent Georgetown Law Review article surmised that high application fees likely steer renters of color toward lower quality housing in lower opportunity areas where they perceive their chances of being approved are higher.¹¹ In other words, the ubiquity of application fees is likely driving residential segregation. Atlanta Legal Aid has seen the effects play out with the renters of color we serve—those who used to live in intown neighborhoods have been pushed further outside the city, to areas where schools are lower performing, transportation is more challenging, housing is lower quality, and jobs are harder to find.

Fees should be both transparent and fair.

As the White House recently announced, a lack of transparency is just one of the problems of junk fees.¹² Even when fees are disclosed to tenants, many cover services that used to be included in the rent, that tenants don't want or can get cheaper on their own, or that cost far less than the landlord is charging. Many institutional landlords are charging fees that in no way mirror the cost of providing that service—for instance, by charging two trash fees to each renter per month, by charging a \$10 mandatory HVAC filter fee each month, or by imposing a \$40 fee each month to send a late rent letter (in addition to a hefty late fee). Or they charge fees for services tenants would expect to be included in the rent, like a \$10 common area electric fee or a \$25 property management fee. Many investor landlords also profit by prohibiting tenants from paying rent by cash or money order. Instead, like Ms. Dixon, many of Atlanta Legal Aid's clients have to pay extra just to pay their rent through an online portal.

The federal government can step in to help low-income tenants.

The proliferation of these abusive fees demonstrates the need for specific protection for tenants. Even in states with good legal protections, tenants usually need legal representation to have any hope of effectively challenging junk fees. In states with poor or nonexistent legal protections or where legal representation is not available, such challenges may not be possible.

¹¹ Eric Dunn, The Case Against Rental Application Fees, 30 Geo. J. on Poverty L. & Pol'y 21 (2022).

¹² The White House, [FACT SHEET: Biden-Harris Administration Takes on Junk Fees in Rental Housing to Lower Costs for Renters](#) (July 19, 2023); *see also* Domestic Policy Council and National Economic Council, [The White House Blueprint for a Renters Bill of Rights](#) (Jan. 2023).

Atlanta Legal Aid participated in the response to the request for public comment that the Consumer Financial Protection Bureau and Federal Trade Commission used to learn more about unfair and deceptive tenant screening practices. CFPB in particular has an opportunity to investigate and initiate enforcement actions against companies whose tenant screening practices are unfair and deceptive, and harm consumers. Atlanta Legal Aid also attended listening sessions with the U.S. Department of Housing and Urban Development to share our clients' stories about the burden junk fees have on their financial security. Stronger federal regulation could help define what is excessive and give states, advocates, and renters new tools to combat these fees. We are glad that this subcommittee, the White House, HUD, FTC, and CFPB are all concerned about fairness and transparency in the rental market.

Thank you for the opportunity to share our clients' experiences with you today. I look forward to answering any questions you have.