GROUND RULES PODCAST TRANSCRIPT
EPISODE 8: THREE DECADES OF LANDLORD-TENANT LAW WITH MARTIN MELTZER

Editor's note: This version preserves the Q&A format and core substance of the conversation while lightly tightening for readability, correcting transcript artifacts, and maintaining the original conversational style.

INTRODUCTION

David Shamshovich
Welcome everybody to another episode of Ground Rules. Today we have the man, the myth, the legend himself, Marty Meltzer of Belkin Burden Goldman. He also happens to sit right next door to me and hears me speak very loudly all day!

Marty talks about his early career and some of the trials he's handled as a litigator. In past episodes, we've focused more on real estate, brokerage and development. This one deals with what happens once the asset is in place and you have tenants. How do you collect rent? How do you handle an eviction? How do you balance the business realities with the fact that you're dealing with people and their homes?

Marty gets into all of that.

Camila Almeida
He taught us a lot about how the litigation process actually works. Unfortunately, litigation is part of the real estate business. If I were involved in one of these cases, I'd want Marty behind me.

David Shamshovich
No question. Without further ado, Marty Meltzer of Belkin Burden Goldman.

David Shamshovich
Welcome to another episode of Ground Rules. Today we have Marty Meltzer, a partner with the firm who has spent more than three decades working on one of the most contested relationships in New York real estate: landlord and tenant.

Much of that time has been spent in the courtroom, where those disputes actually play out.

Marty, welcome to Ground Rules. Before we get into Housing Court and how landlord-tenant law has changed, how did you get into law in the first place?

Martin Meltzer
My career started with my father's suggestion. I went to undergraduate school and had a degree in psychology and two minors, one in business law and one in Holocaust studies. I also was very good in photography, and I thought I'd pursue photography as a career.

That didn't happen!

I took a job at Little Caesars making pizzas. Pizza pizza! (laughs)

After about three months of me wasting my life away making pizza at Little Caesars, my father invited me to come back to New York from Florida and join him in the construction and restaurant business. My dad was an entrepreneur. After World War II, he got into the luncheonette business, the pipe and tobacco business and other retail stores. He was a salesman.

When he was selling real estate, he met a fellow named Lorenzo, directly off the boat from Sicily, who worked under my father at this real estate company. Lorenzo wanted to open up a pizzeria.

David Shamshovich
And you already had Little Caesars on the résumé! (laughs)

Martin Meltzer
Well, not yet. I was a young teenager at the time. I did serve slices behind the counter, but I think that sparked my interest because I always wanted to make a pizza after that the right way.

Fast forward to after college, around 1982 or 1983. I started helping my dad in the construction and restaurant business, where I learned all aspects of construction and eventually learned how to make pizza. I wound up running three restaurants at the same time.

David Shamshovich
Were you building the restaurants yourselves?

Martin Meltzer
What we would do was spot locations, usually in shopping centers, and take over an existing store, either a pizzeria or a deli. We would modify or reconstruct it and then open up.

Thank goodness my father had an eye for picking locations.

David Shamshovich
Eventually you pivoted to law school. Was that always the plan?

Martin Meltzer
No. I never had the thought of going to law school.

For the three years I worked with my dad, every day, without exception, he would implore me to apply to law school. It got so contentious that after three years, I took my entrance exams, got accepted and went. I just couldn't handle him nudging me anymore.

David Shamshovich
Why was becoming a lawyer so important to him?

Martin Meltzer
My older brother Philip went to law school, begrudgingly, probably more so than I did. He was more artsy and into music.

He became a very successful lawyer, clerked for a federal judge in Brooklyn and worked for an incredibly successful real estate litigation firm in New York City.

My father had this grand idea that my brother Philip and I would become law partners one day.

We talk to each other three times a year! (laughs)

David Shamshovich
So that never quite happened. Did you know you wanted to litigate?

Martin Meltzer
I had no idea what to expect.

While in law school, I was on the moot court board doing appellate arguments. I was the competition editor for one year on the moot court society. I also took externship programs where I volunteered for the Legal Aid Society's criminal division and learned the ins and outs of criminal practice.

I decided criminal law wasn't for me then, or now. I would never do that. I liked the activity involved, but I still had no real concept of what an attorney in court did. I wound up taking my first job at another firm. Basically, the day I was hired, they said, "You're going to court."

Between a group of five, six or seven attorneys, we handled up to 100 cases a day. We got our feet wet very fast. Within a week, I was doing trials. You either swim or drown.

LEARNING HOUSING COURT ON THE FLY

David Shamshovich
What kind of training did you get before walking into Housing Court?

Martin Meltzer
The only training we had was shadowing a more senior attorney who may have had six more weeks of experience! (laughs)

You basically go in and listen. You have to be an incredible listener. You have to be incredibly patient, and you have to be intuitive.
You have to read the judges. You have to read the tenant if they're unrepresented. If they're represented, you have to understand who their attorney is, whether they're from some form of legal services, what their background is, whether they're private counsel and what type of firm they come from.

Those are just some of the things we need to digest to deal with the other side and get a result. The key thing we're hired to do is zealously advocate for our clients. Your client is number one.

Taking all those factors together, you have to figure out very quickly in Housing Court, where each judge might have 50 to 70 cases a day, how to get an incredibly good result in a matter of a few minutes.

HOW HOUSING COURT CHANGED

David Shamshovich
Looking back across your career, how different is Housing Court today?

Martin Meltzer
That's a very interesting question. In my view, 2017 was really the trigger point for drastic changes in Housing Court. In 2017, New York became the first state to have what we'll call right to counsel in Housing Court. Whether that's a good thing or a bad thing is a topic for another day, but it was supposed to level the playing field between litigants.

Then in June 2019, the HSTPA, the Housing Stability and Tenant Protection Act, came into effect. That changed a significant part of landlord-tenant practice, including the Real Property Actions and Proceedings Law, which governs how things work in court.

Then, more recently, the Good Cause Eviction Law was passed, which further changed the landscape of housing. With those three major things, it wasn't like a pendulum gradually moving. This was like a tidal wave or a tsunami. Before 2017, depending on who the mayor was, who was on the City Council or who was on the Rent Guidelines Board, for example, the pendulum might move a little bit one way in favor of tenants or one way in favor of landlords.

But in 2017, in my view, that was the beginning of this drastic change that has harmed property owners, small, medium and large.

David Shamshovich
How did those changes affect what actually happens in court?

Martin Meltzer
We could talk about the laws and what happens in court for many hours, but I'd like to focus on one aspect of the Real Property Actions and Proceedings Law that drastically affects property owners. Before the HSTPA, RPAPL Section 745, also known as the rent deposit law, was an important procedural tool for property owners.

Basically, if a tenant asked for two adjournments in a court proceeding, the landlord's attorney could ask the judge to trigger the rent deposit law. We would walk away with a court order saying the tenant had to pay all the rent that accrued since the filing of the case, which could have been a couple of months, and ongoing rent throughout the proceeding.

If the tenant missed one of those payments, the court was empowered to strike the tenant's answer, basically meaning the tenant had not appeared, and enter judgment for the landlord. The HSTPA basically obliterated that procedure.

Although the statute still exists, there's no more striking of the answer. The request to the court has to be made in writing through what's called a motion. That adds at least a month to the procedure, whereas before the HSTPA we could generally ask the court verbally.

Let me take an aside. When a tenant comes to court owing money, and most cases are nonpayment cases, many people have legitimate reasons for not paying rent. They had to pay a medical expense. They had a car repair. They got laid off from work. They're trying to figure out a way to pay.

For the most part, the people who come to court with those problems are decent, working New Yorkers who have had a hiccup in their lives. We as counsel should recognize that. I think I do a pretty good job of that, as do my colleagues. But there are also tenants who game the system.

I've had tenants claim they're sovereign citizens. One delayed a case for almost two years, walking away owing more than $150,000. If the rent deposit law were still in effect as it previously operated, that financial harm to our client would never have happened.

In another case, we obtained a judgment of more than $100,000. I later located a piece of investment property the person owned in upstate New York.

The client had to decide whether we should attach it and foreclose on the home. The problem was that the home was worth only about $100,000, and the legal expenses associated with doing that work could consume a substantial portion of the recovery.

So the client has to decide whether it's worth spending the money to pursue it or wait on the judgment.

SCREENING TENANTS AND PREVENTING PROBLEMS

David Shamshovich
Given those risks, what can landlords do before a problem gets to court?

Martin Meltzer
There are things that can be done, but there have also been changes in the law that affect the ability to vet or screen tenants. A landlord cannot use prior landlord-tenant history to determine whether they will rent to a tenant. If there were a judgment against a tenant for nonpayment of rent, that information cannot be used to deny a rental applicant.

There are many protections for tenants, including anti-discrimination laws, income-based discrimination laws and other protected classes. Those are important protections. But one thing that remains crucial, and I have this discussion with clients often, is to always review the application a tenant submits.

I've had many cases over the years where, well after the person became a tenant and we're now in Housing Court, I look at the original application and information is missing. There's a partial Social Security number. The references are scribbled. Phone numbers are inaccurate. Information about references or family members may be incomplete.

Many years ago, I handled cases involving a family, or people with the same last name, who went from building to building using similar or false information and defrauding landlords.

They would get into an apartment and load it up with family members. It could take me almost a year to get them out. Sometimes they would significantly damage the apartment or use it as a place of business. Once the marshal was heading to the door, they would go apply somewhere else.

I haven't had many of those recently, but there was a wave over the course of three or four years when that happened. If landlords train their leasing agents properly, incomplete information can be discovered and addressed lawfully before a lease is signed. For example, Camila, if you applied to me for an apartment and I saw an incomplete application, I could say, "Camila, I'd like to review this and submit it, but there are several pieces of information missing. Here it is. Please complete it."

Camila Almeida
That's a general problem we see. We review a lot of leases, and management companies don't always review the applications closely. We get leases and forms that are pre-filled and missing information, and unless we flag it, they don't necessarily go back for it.

Martin Meltzer
And even when you flag it, sometimes it's already after the fact.

Many institutional clients who own multiple properties in New York City, in different boroughs and even in other cities around the country, have sound internal training programs.

When issues come up, they reach out to me or others at the firm and ask what we would do. With that teamwork, we hope it helps the clients screen and vet tenants appropriately under the current laws.

GOOD CAUSE EVICTION AND DEVELOPING CASE LAW

David Shamshovich
Good Cause Eviction was once something people weren't sure would actually become law. What are you seeing now?

Martin Meltzer
I haven't personally litigated any of those cases yet. I know other partners and attorneys in the office have.

But Good Cause Eviction shouldn't be a surprise to anybody in New York. It existed in other jurisdictions in other states. It was just a matter of time before it happened here.

There are exceptions to Good Cause Eviction, but various aspects of the law are not worded precisely.

If a case is challenged by a tenant in court, judges in different boroughs can view the law differently. We have decisions from judges in Brooklyn, Queens and Manhattan who have ruled differently on the same issue.

Then, when a decision comes down from Housing Court, another lawyer will use that decision in a different borough even though it isn't controlling law.

Housing Court is basically a trial court at the lowest level. Unless there's an appellate case, Housing Court decisions are really informational in my mind. A decision may be very artfully and thoroughly written, but that doesn't mean it's controlling law.

So the law is developing now. For example, one ground allowing a landlord to proceed against a tenant covered by Good Cause Eviction is nonpayment of rent. What does that mean? You can bring a nonpayment proceeding, but does it also mean you can terminate the tenancy under Good Cause Eviction? What do you do as the attorney? What does the client do? Do you serve a rent case and then bring the lease-termination case based on the nonpayment?

A nonpayment case, even though the ultimate result can be eviction if the tenant doesn't pay after a judgment is obtained, is really about money. A holdover or termination case is primarily about possession, even though there may be an ancillary monetary claim. So one thing I do is bring the nonpayment proceeding and then use that same unpaid rent, along with anything that has accrued since, as a basis for the non-renewal.

That gives you something to back it up. There isn't really a question that the money was owed and that a case had to be started to compel payment.

It's one more notch in the belt, if you will, supporting the case for non-renewal. Many judges don't accept that. But remember the zealous advocacy part. We have to ask whether we're using the tools we have under the structure of the law to get the best result for the client, whether that's payment in full or possession.

WHY "SUMMARY PROCEEDINGS" AREN'T VERY SUMMARY

David Shamshovich
How long can a typical nonpayment case take today?

Martin Meltzer
The boroughs differ between Manhattan, Brooklyn, Queens and the Bronx, but I'll focus on the three main boroughs we deal with most.

Before you even get a trial date, there can be several months of delay at the first level. That's called the resolution part, meaning a judge who won't try the case but is there to try to get people to settle. If you can't settle within that first two or three months, the case gets referred to the trial part. That procedure can take another six or seven months. Now we're looking at about 10 months before you have a trial.

In the trial part, you get a pretrial conference. That can take 30 days. Then it gets adjourned for trial. In July 2026, if I get sent to a trial judge, trial dates are being given in November. Remember, these are called summary proceedings under the RPAPL.

For the 37 years I've practiced law, nothing has been summary about this! I hope my lifespan is as summary as these proceedings. I may well live into my hundreds if they're associated in any way! (laughs) When the case is served, the tenant has 10 days to respond. Let's assume the tenant responds. The court then assigns a court date. The statute under the RPAPL requires the court to give a court date no less than three and no more than eight days from the date the tenant files the answer.

It hasn't always worked that way in practice. Now consider the economic effect. If you're getting a court date months after the tenant answers, that tenant already owes several months of rent. As the process continues, it can become half a year's rent, then a year or more.

Unless the tenant receives rental assistance from a government source, that tenant may ultimately leave owing a substantial amount of money. That's devastating to a property owner, especially a small property owner who owns 10 or fewer units, lives in the building and may have spent a lifetime building toward retirement. Meanwhile, water costs are increasing. Property insurance is increasing. Real estate taxes are increasing.

Those expenses don't stop because the rent isn't coming in.

A CLIENT COMES TO HOUSING COURT

David Shamshovich
You've accumulated some incredible Housing Court stories over the years. Give us a sense of what this practice actually looks like.

Martin Meltzer
Before I get to those, we have a client whose headquarters are based in Boston. Their asset manager wanted to understand our billing because he reviewed our invoices and authorized payment.

He couldn't understand why a particular tenant's account was being billed over the course of months, if not a year. I invited him to New York to come

with me to court. He took the train from Boston. We met in court, and I brought him into two or three courtrooms. It wasn't even a very busy day. He looked at me and said, "Thank you. Never invite me again!" (laughs) You have to have a certain temperament as an attorney to go to court day in and day out, especially for the decades that I and some of my colleagues have done it. You need internal fortitude. You need a certain knack for dealing with people, with negativity and with pushback from the other side. You have to be forceful. I don't mean loud. I mean forceful in the sense of sticking up for your client's rights, advocating, knowing the case law, knowing law that changes from week to week or month to month and using those tools to shorten what has become a very long process.

THE ELECTRONICS STORE, INSURANCE FRAUD AND A $32,000 JUDGMENT

Martin Meltzer
One case came to mind this morning. It was a commercial case I handled years ago. The tenant was a corporation renting a small space in the Financial District for an electronics store selling laptops, cameras and video equipment. The tenant owed rent. We brought him to court, and I got a call from an insurance investigator. He asked me questions about why we were in court. I explained what was happening, and then I said, "Why are you calling me? It's unusual for an insurance investigator to call me."

He tells me that this particular owner takes old equipment from customers, puts it in the back in a box, soaks it with water and then makes insurance claims for damaged electronics. He had been paid on claims. I said, "What does that have to do with me?" He says, "He's claiming that the sprinkler system in the premises is causing the leak and that it isn't him."

I confirmed there was nothing wrong with the sprinkler system in this 30-story building with multiple commercial tenants. They continued the investigation. When the tenant's principal was coming to court, the NYPD and detectives were looking for him. They called me and asked if I knew whether he was coming. I said, "I have no idea. He has a lawyer. It's a corporation. But the court date is at this time on this particular date."

They arrested the principal coming off the elevator on his way to court.

David Shamshovich
That's unbelievable!

Martin Meltzer
The lawyer didn't show up that day. The judge called the case. I went in front of the judge, and the judge said, "What do you want to do, Mr. Meltzer?" I said, "I want a default judgment. But I want to let you know the tenant has a lawyer, and his principal was just arrested stepping off the elevator for alleged insurance fraud." The judge granted me a default, and we got what I remember being about a $32,000 judgment.

I took that judgment and filed it in the County Clerk's Office. Then I did an asset search and found that this man had a brokerage account at Schwab. I froze the account and was about to take the money. His lawyer brought what's called an order to show cause. For those who may not know what that is, it's a written request to the court to stop what's happening, essentially an injunction.

The judge signed it. We went to court and argued against the injunction. The judge blamed me personally for working with law enforcement to have the tenant's principal arrested and vacated the stay. He was able to get his money.

David Shamshovich
But those two things had nothing to do with each other.

Martin Meltzer
They didn't. That judge and I had some very heated discussions outside the courtroom when we later saw each other at social events. That judge still thinks he or she did the right thing, and I don't! (laughs)

But there's a third part to the story: the criminal proceeding. I testified against the defendant tenant's principal for the District Attorney's Office because the tenant had filed an affidavit in the landlord-tenant proceeding claiming that the reason he was withholding rent was the water leaks.

The District Attorney, in order to prove the criminal offense of filing a false instrument, needed me to testify about the financial harm to the client, which I did. It was a little nerve-racking being a witness, even though I appear in court all the time. The jurors were right next to me. The tenant's principal was looking at me. His wife was in the courtroom, and his two little girls were there. They were only a few years old.

He's being charged with three counts: two counts of insurance fraud and one count of filing a false instrument. All three are felonies. If convicted of all three, he potentially would have served a significant period in prison and wouldn't have seen his little girls grow up. The jury came back and convicted him of two counts of insurance fraud and acquitted him on filing a false instrument.

Why? We had him dead to rights on the false instrument. The DA had him dead to rights. What I was told was that the jury felt sympathetic, or empathetic, and didn't want to deprive those two little girls of seeing their father for such a long period of time.

David Shamshovich
And did your client ultimately recover the money?

Martin Meltzer
The tenant was evicted, but my client saw no money. He wound up grabbing his money and hiding it. The client declined to spend more trying to collect a $32,000 judgment when pursuing it might cost a comparable amount.

The only reason to do that would have been principle.

A FORGED JUDGE'S SIGNATURE

Martin Meltzer
Another case involved a criminal proceeding that I became part of simply because of the circumstances. We had a residential case, and the eviction was about to occur. The tenant took out an order to show cause, again an injunction intended to stop the eviction. I got a call from the marshal's office saying there was an order to show cause and the eviction was going to be called off.

I happened to see the order. At the bottom of the paper was the judge's name. This particular judge had a very recognizable signature. You didn't have to be a handwriting analyst to know whether it was hers.

The tenant had forged the judge's signature. The minute I saw it, I was on the phone calling the court to speak to the judge. She's calling me on another line at the same time. She told me, "I know it's a forgery."

The court called the marshal, told them it was an invalid order, and the eviction went through. Shortly after that, I received a call from the District Attorney's Office asking me to testify before the grand jury. The judge testified at the grand jury too.

As a result of our testimony, the person was indicted for forgery. He had previously been convicted of forgery involving a check.

He was tried, found guilty and served time. A couple of years later, there was discussion of a type of plea or parole arrangement. The District Attorney called me because I had periodically followed up to see what was happening.

I said, "I don't know if you can do this, but my client was harmed by tens of thousands of dollars in unpaid rent. I'm asking that restitution be made a condition."

I had thought of it on the fly. Remember, I'd had that criminal-law externship. I had seen all sorts of deals being made in connection with bail applications, so I thought, if somebody's going to get out of prison, let me at least ask the DA. People listening to this podcast may think I'm making this stuff up because it sounds too much like a movie. I'm not! (laughs)

The DA said, "Let me see what I can do for you." Part of the arrangement required him to repay the money the client had lost. He was paying about $500 a month toward roughly $30,000 and did so for a couple of years. Then I read in the Law Journal that the Legal Aid Society had successfully challenged the arrangement based on the circumstances under which it had been entered.

The agreement was vacated. The money my client already collected was fine, but there was still about another $15,000 outstanding.
I called the Assistant District Attorney and asked whether another arrangement could be made. He said no.
So once again, the landlord lost a source of repayment that the person had been voluntarily making.

A $20,000 RENT CASE AND SIX-FIGURE LEGAL FEES

Martin Meltzer
There's one other case that stands out.

This was a residential case involving a long-term rent-stabilized tenant. The woman lived in a beautiful co-op on the Upper East Side, but because she was rent stabilized, she was protected by the rent stabilization law.

She owed approximately $20,000 in rent. Her rent at the time was around $900 a month. I don't remember exactly why she had withheld rent, but I think it had something to do with her age and mental capacity. She was in her 80s. One of the things she was doing was intentionally overflowing the sink in one of the bathrooms. She would stuff clothing into the drain and overflow it. The unit owner below was getting flooded **frequently.**

That wasn't technically part of the case, but it led us to believe the tenant needed help. We told the court what was happening to see whether a guardian could be appointed or whether she could receive legal representation. This was before the 2017 Right to Counsel law.

She came to court and refused assistance from counsel. Adult Protective Services interviewed her. I don't remember the exact reason they didn't get involved, but I believe they were unable to work with her because of her resistance. The case dragged along because, even as the landlord's attorney, we have an ethical obligation to tell the court if we believe a tenant may need some form of adult protective services.

Once we tell the court, it's up to the court to put those wheels in motion. That process can take months, depending on the tenant's cooperation and the availability of the assigned caseworker. Eventually, the tenant obtained counsel. Up to that point, legal fees were around $30,000 over approximately a year and a half. The attorney who took the case happened to be a former Civil Court judge.

From the time he took over the case to the time we concluded the trial, the legal fees were approximately $186,000.

Camila Almeida
Oh, wow!

Martin Meltzer
He would fail to appear for court appearances.

He would tell the judge he was engaged in Supreme Court in the Bronx. The judge, knowing from past experiences and rumors around the courthouse that this lawyer might not have been telling the truth, would call that judge to ask whether this attorney actually had a court appearance.

The answer would be absolutely not. Eventually, the tenant paid the outstanding rent. But where did the payment come from? It came from that lawyer's office. I'm wondering, why is he paying the rent? He ultimately became the tenant's guardian after the case and was controlling her assets. As a result of the tenant paying the judgment, she retained the apartment, and rightfully so. But now there was this claim for approximately $186,000 in attorney's fees. I asked the client whether they wanted me to seek an award of attorney's fees. They said yes.

We held a hearing, and the trial judge awarded approximately $146,000 in legal fees, if my memory is correct. That's a sizable amount. The client then asked me, "How are we going to collect it?" We obtained information showing that this person had a trust. Fast forward, with some good lawyering from one of my colleagues in the office, we located a brokerage account with enough money to satisfy the judgment.

About a decade later, we collected the legal fees.

Camila Almeida
I hope you got interest!

Martin Meltzer
I don't recall whether we got interest.

David Shamshovich
When attorney's fees become that significant compared with the underlying rent claim, how does the court evaluate them?

Martin Meltzer
Whenever an application for fees is made, there are certain factors the court looks at, and there's plenty of case law on this.

They look at the experience of the attorney, the number of years in practice, whether the issues were novel or routine, whether somebody at a lower billing rate could have handled the case with the same efficiency, expertise and results, whether the other side caused delays and whether we caused any delays.

There's a host of factors. In this case, the lion's share of the work involved sitting around court for hours because this lawyer was saying he was engaged elsewhere. One of the excuses he gave for not appearing in court for several hours, and only showing up after the lunch recess at around 2:00 or 2:30, was that his car was parked on the Upper West Side and had been blocked in by a garbage truck.

That was the reason he couldn't get to court! (laughs)

WHAT A ROUTINE CASE LOOKS LIKE

David Shamshovich
Those are extraordinary examples. What happens in a more routine nonpayment case?

Martin Meltzer
For the regular case, the run-of-the-mill case where somebody owes a few months' rent, the case is automatically adjourned for the right-to-counsel process. It's called intake day. Even if the tenant wants to settle the case and sign a written agreement to repay the money, most judges will say, "Sorry, you have to go through this process."

There have been instances where I knew a person wouldn't qualify for free legal services because they were substantial wage earners and would be rejected. In those situations, judges have sometimes allowed settlements to proceed.

We had a case within the last couple of years involving somebody who may have qualified, and the judge was insisting that she go through intake. Our attorney said to the judge, and the tenant herself told the judge, that the case was settled. She was getting a six-month payment plan. The tenant didn't want to come back because coming back meant missing additional days of work and losing income.

It took strenuous advocacy from our attorney and the tenant sticking up for herself, saying, "This is what I want to do, Judge."

Eventually, the judge allowed the settlement to go through without intake. Think about an hourly wage earner. Every day that person misses work is money out of their pocket. You could be in Housing Court four, five, six or seven times.

If a person misses a week's worth of work, that lost income could represent a significant portion of the rent they owe. Sometimes people become myopic about procedure. They forget that a rule or accepted court practice can have consequences for the tenant too.

WHEN HOUSING COURT WAS A DIFFERENT WORLD

Martin Meltzer
I'd like to go back in history a little. In the late 1980s and early 1990s, the practice of law was very different, especially in Upper Manhattan.

There were bad landlords at the time who harassed tenants to force them to leave, paid them money to leave or deprived them of basic services. Those weren't my clients or clients of my first firm, but they certainly made the newspapers. Some of those landlords were brought into the HP courtroom, which deals with housing violations issued by HPD. Some went to jail.

During that period, it was very contentious among tenant advocates, landlords and the courts. There was a tenant advocate named Bruce Bailey whom I encountered a couple of times. He would go into buildings in Upper Manhattan and organize tenants into tenant associations to fight for rights they weren't receiving. There could be no heat in winter, broken windowpanes letting cold air in or boilers being shut off.

People were being deprived of essentials: water, heat, hot water and windows that kept the weather outside.

He was trying to help those tenants and, in my opinion, rightfully so. He was a fixture in New York Housing Court. Lovely man. I think he was doing good work. Then one day, I noticed he wasn't around anymore. As time went on, he still wasn't around. I asked what had happened, and nobody seemed to know. Eventually, I learned that he had been murdered and dismembered, with his remains placed in trash bags.

That's the type of contentiousness that existed back then. We don't have anything like that now. The contentiousness today is different. For some of our listeners who weren't around during that period, or younger attorneys listening to this, they're lucky they weren't exposed to that sort of thing.

Death Threats and a Three-Interpreter Trial

Martin Meltzer
Talking about contentiousness, I had two cases where my life was threatened by tenants or their family members. One was a simple case at the first firm where I worked. I was second chair. We won the case. About a week later, this young woman who was the tenant jumped up behind my colleague and me and said, "I'm going to come back here and kill you two."

We laughed it off. We were both young and stupid! We never reported it. Nothing ever happened, obviously.

Another happened here at this firm. It was one of the first cases I got.

It involved a small landlord who owned a building in Chinatown, or on the fringe of Chinatown. It was a non-primary residence case. I was able to prove that the tenant actually lived in Queens and wasn't using the Chinatown apartment as her primary residence. I proved that she was using the apartment about once a week to play Mahjong with her friends.

Her son happened to be involved in organized crime. I can't mention the name. The trial itself was interesting because of the language issues involved. We were dealing with Cantonese, Mandarin and Fujianese. Doing a trial through one interpreter is difficult enough. You ask the question, it gets translated, the witness answers and then the answer is translated back.

Here, I had three different languages involved. Every question could take 15 or 20 minutes, and every answer could take the same. I won the case. During the trial, I'd noticed a young man sitting in the gallery watching. It turned out he was the tenant's son.

I was wrapping up my papers after the judge gave the decision. Back in those days, judges often issued decisions from the bench. They might handwrite them or deliver them verbally. I've subsequently learned that's probably not always a good thing, especially if you're the person receiving the bad news.

The judge gave her decision and ordered that the tenant leave. The son came up to me and essentially said that the minute I stepped outside, there was going to be a bullet in my head. I took that threat seriously. I reported it to the judge and told the court officers.

They escorted me to the front of the building, opened the door and essentially said, "There you go!"

Camila Almeida
You didn't need the help inside the building. You needed it outside! (laughs)

Martin Meltzer
Exactly! (laughs). I asked to be escorted at least to the subway. I happened to survive that one too, obviously! Those were the kinds of contentious things that happened back then. In the last 15 years, I haven't experienced anything comparable. People have yelled at me. Tempers have flared. But no death threats or anything like that.

HOUSING, EVICTION AND THE HUMAN SIDE OF THE PRACTICE

David Shamshovich
Housing is intensely personal. An eviction can have enormous consequences. You're also involved with an organization that provides supportive housing. Tell us about that work.

Martin Meltzer
The organization is Housing and Services, Inc. They provide not just affordable housing, but supportive housing. What is supportive housing? It's not just shelter. It's social services, mental health services, job placement and career training. The goal is to get people who have been on the streets or coming from the shelter system back into society as functioning people. The organization is run primarily by two amazing people, James Dill and Molly Mattimore. They're devoted to providing supportive housing and have dedicated their careers to it. They do incredible work. I got involved through a friend in a networking group who thought I could contribute to the organization.

When she asked me, I just said, "Sure, count me in." It's been about 10 years now that I've volunteered my time. The board consists of volunteers and professionals from law, architecture, real estate and other areas who want to help society. We volunteer our time and offer our expertise in different areas. We're not the only nonprofit providing housing to formerly homeless people. There are many organizations throughout the city doing this work. It's incredible what they do and how many New Yorkers make use of these services.

There's another point I'd like to make about eviction. Eviction isn't just devastating. It's life-changing. There have been studies done, and there's a very informative book called Evicted that examines the eviction process and its effects. I think everybody can agree, whether you're on the tenant side, judiciary side, legislative side or owner side, that eviction is a horrific life event. No doubt. When judges think that we, as landlords' attorneys, come to court simply to displace somebody, I don't think that's accurate. Our mission isn't to displace people from their homes.

We understand as human beings and ethical attorneys what it means to throw somebody out of a home because they can't pay the rent, whether that's their fault or the result of life circumstances. That's not the goal. The goal of property owners is to collect rent. That's their business. When they collect rent, they're making money or at least not losing money.

When we come to court and advocate for a settlement, payment or reimbursement of attorney's fees, the goal isn't simply to throw somebody out of a home.

AFFORDABLE HOUSING AND NONPAYMENT CASES

Camila Almeida
We work with a lot of HPD programs and affordable housing. When you're dealing with a tenant covered by a regulatory agreement or affordable housing program, how does that affect a nonpayment or eviction case?

Martin Meltzer
We have many clients who participate in those programs. It depends on the financing of the building. If it's under one of the 421-a programs, for example, there's a regulatory agreement. But the landlord-tenant procedure itself is generally the same. There may be certain additional notice requirements. If it's a tenant subject to a NYCHA-related program, for example, we might have to ask for permission to sue for nonpayment of rent. If it's HPD-governed housing, we might have to notify HPD that we're terminating the tenancy. But the procedures under the RPAPL remain basically the same, with additional notice provisions depending upon the program.

Think about a low-income tenant whose rent is largely subsidized. Let's say the rent is $3,800 a month. Most of that money comes from Section 8. The tenant's share may be $100 or $200 a month. Section 8 continues paying, but the tenant stops paying.

Then the question isn't simply, "Can I go to court to enforce the landlord's rights?" The question is, "Does it make economic sense?"

If the tenant owes $100 a month for three months, are you going to start a case for $300? But it raises another question. If I don't go to court for the $300, what message am I sending? Am I violating the regulatory agreement? Am I violating the mortgage by failing to collect the rent?

Most of our clients do bring these cases and spend the money because they believe they have to enforce those obligations. And the process can take even longer for a tenant in one of these affordable programs because everyone knows that an eviction over a relatively small tenant contribution can have serious consequences. That takes me back to the earlier case involving the $20,000 and the former judge who represented the tenant. I told that client early in the case, once that lawyer appeared, "Your legal fees are going to be magnified. It may pay for you to let that tenant live rent-free for the rest of her life. You're going to spend multiples of the rent claim in legal fees because I know who this lawyer is."

At the end of the case, the client said to me, "I can't believe you let me do this!" I reminded the client that I had warned them. (laughs) But remember: 10 years later, we collected the money. I made the call and said, "Got the money for you!"

MORE THAN THREE DECADES AT BBG

Martin Meltzer
The last thing I'd like to talk about is the firm. I came to the firm in 1992. At that time, there were four founding partners. Joe Burden passed away a few years ago. Sherwin Belkin and Jeff Goldman are the two remaining founding partners. Over the 34 and a half years I've been here, I've been lucky enough to work with incredible attorneys who are dedicated to the legal profession. I never envisioned being at this firm for this amount of time. In fact, I told Jeff sometime this year that when I came here, I gave myself five years. Then I was going back into construction and wrestling! (laughs). Because of their stewardship, I decided to stay.

I realized that when you surround yourself with talented, smart people who have a vision, you're in good hands. Being a lawyer and being at this firm has opened incredible opportunities for me beyond the profession. I was a campaign manager for a judicial candidate about 16 years ago. She won the election. I got to see the election process work on the ground, just like I see Housing Court on the ground. I dealt with politicians. I dealt with Democratic clubs throughout the city. I met judges who were involved in the process or trying to get elected.

I've also had entree into different areas of real estate and business. So, coming full circle, it's been a pleasure being here for 34 years. I envision myself being here well into my 90s! (laughs)

David Shamshovich
We appreciate all the knowledge and wisdom you've shared with us.

Martin Meltzer
Thank you, David and Camila.

David Shamshovich
You can learn more about Marty on our website and contact him if you have questions about landlord-tenant law or a matter you'd like to discuss.

Martin Meltzer
But no complaints! (laughs)

David Shamshovich
Thank you very much, Marty. We appreciate it.

Martin Meltzer
Thank you.

David Shamshovich
And thanks for listening to Ground Rules. To stay up to date on new episodes, subscribe wherever you get your podcasts. For more on the show and BBG, visit bbglp.com.