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Perceptions of Access to Justice Among Unrepresented Tenants: An Examination of Procedural Justice and Deservingness in New York City Housing Court

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ABSTRACT

In Turner v. Rogers, the U.S. Supreme Court charged judges with ensuring due process for unrepresented litigants in civil proceedings. We argue that engaged judging overlaps with the group value theory (GVT) criterion of trustworthiness, which along with respect and neutrality typically exert a direct effect on perceptions of fairness and satisfaction. However, numerous scholars have claimed that justice judgments stem from deservingness—a theory that poses a considerable contrast to GVT. In a study of New York City Housing Court tenants, most of whom were unrepresented, we examined whether deservingness moderates the impact of perceived treatment on justice judgments such that tenants who do not believe they deserve positive treatment will view such treatment as unfair. Results indicated that, with one exception, perceived treatment exerted a direct effect on various justice judgments as predicted by GVT, but in contrast to deservingness. Tenants were overwhelmingly positive about their housing court experience despite the documented inequalities that exist for most unrepresented litigants in housing court. These findings suggest a discrepancy between tenants’ perceptions and the realities of housing court.

KEYWORDS
Group value theory; deservingness; procedural justice; engaged judging; housing court

Treatment by authorities, such as judges and police, shapes perceptions of procedural justice among those who interact with those authorities. In particular, studies consistently find that people believe they are treated fairly when an authority figure is perceived to be respectful, trustworthy, and neutral—three criteria outlined in the group value theory (GVT) of procedural justice (Lind & Tyler, 1988; Tyler, 1989, 2015). However, people may not always feel that their behavior is deserving of such respectful treatment (Heuer, Blumenthal, Weinblatt, & Douglass, 1999) or a favorable outcome (Adams, 1965; Feather, 1992, 1999). Therefore, deservingness may alter the relationship between
perceptions of treatment and fairness. To test this alternative hypothesis, we conducted a field study of tenants in New York City housing courts.

**Housing Court and Pro Se Litigants**

The landscape in U.S. civil court has changed drastically over the years (Hannaford-Agor, Graves, & Miller, 2015). The 1992 *Civil Justice Survey of State Courts* indicated that litigants on both sides had legal representation in 91% of bench trials. A more recent survey of state courts, however, indicates that the majority of civil cases (76%) now involve at least one unrepresented litigant, leading researchers to conclude that, “The idealized picture of an adversarial system in which both parties are represented by competent attorneys who can assert all legitimate claims and defenses is an illusion” (Hannaford-Agor et al., 2015, p. vi). Local jurisdictions are encountering similarly staggering differences in legal representation (see Steinberg, 2015). For example, while recent efforts in New York City have increased representation, most tenants are still without representation (73%), compared to only 1% of landlords who are unrepresented (NYC Office of Civil Justice Annual Report, 2016).

Reports by the New York County Lawyer’s Association (2005, 2006a, 2006b) on housing court paint a bleak picture concerning pro se tenants’ access to justice. Pro se tenants are at a disadvantage because they do not understand the law or how to articulate their defenses. This confusion also extends to the identities and roles of courtroom actors, such as the landlord attorney. Furthermore, judicial review of stipulations (i.e., agreements between two parties, in this case the tenant and landlord) appears to vary considerably across judges with little oversight.

Legal scholars have suggested several solutions for the pro se litigant “crisis” (Steinberg, 2015). These solutions usually center on providing legal counsel1 (or some version of limited legal services) to indigent litigants, but also have focused on encouraging judges to become actively engaged in assuring the fairness of the proceedings (Baldacci, 2006; Engler, 2010; Scherer, 1988; Steinberg, 2015; Zorza, 2003). For example, the American Bar Association House of Delegates unanimously endorsed the right to counsel in civil cases involving basic needs, such as housing (ABA, 2006). Similarly, the New York State Bar Association (Abel, 2009) and the New York County Lawyer’s Association (NYCLA, 2005, 2006a) urged the adoption of legal counsel for low-income tenants at risk of eviction. However, the U.S. Supreme Court in *Turner v. Rogers* (2011) did not agree that a constitutional categorical right to counsel exists in civil proceedings, such as in the

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1New York City Mayor de Blasio recently signed legislation that, over the next five years, will provide legal services to all indigent tenants in housing court. See [http://www1.nyc.gov/office-of-the-mayor/news/547-17/mayor-de-blasio-signs-legislation-provide-low-income-new-yorkers-access-counsel-for#0](http://www1.nyc.gov/office-of-the-mayor/news/547-17/mayor-de-blasio-signs-legislation-provide-low-income-new-yorkers-access-counsel-for#0).
civil contempt proceedings in *Turner*, even where physical liberty is at stake. The *Turner* Court instead determined that trial court judges in such proceedings must adopt alternative safeguards that ensure due process for *pro se* litigants, including notifying them of legal and evidentiary matters potentially dispositive in their cases.

Some legal scholars have long called for judges to be more proactive or engaged when a party is unrepresented (see Steinberg, 2015; Zorza, 2003). These legal scholars and organizations, including the National Center for State Courts (see Engler, 2010), have suggested that judges can ensure due process by relaxing technical rules that might otherwise prevent the admission of evidence, educating litigants about the process and their rights, and treating *pro se* litigants fairly and with respect while at the same time remaining neutral as to the merits of the case.

Recognizing that the vast majority of housing court cases are resolved by settlement (Engler, 2010), and that the fairness of these settlements is vital to the integrity of the court and to the well-being of the parties, the New York City Housing Court Deputy Chief Administrative Judge proposed similar steps for judges to ensure due process for *pro se* litigants in settlement cases (Fisher, 2007). In particular, judges were encouraged to ensure (a) that *pro se* litigants understand and agree to the terms of a stipulation and the consequences of noncompliance, (b) that a settlement is not mandatory and the *pro se* litigant could proceed with a trial, and (c) that the litigant discusses and understands all of his or her potential claims and defenses. These suggestions overlap considerably with the GVT’s criterion of trustworthiness, which is characterized as concern for another’s welfare (Lind & Tyler, 1988; Tyler, 1989, 2015).

**Group Value Theory of Procedural Justice**

Lind and Tyler (1988) theorized that relational features, specifically the respect, trustworthiness, and neutrality of authority figures overseeing a dispute, influence disputants’ justice judgments, including perceptions of procedural and distributive justice (see also Tyler, 1989, 1994, 2015). Drawing from social identity theory, the premise of GVT is that people are concerned about their social standing and maintaining bonds with their valued groups, and group authorities (Tyler, 1994). Thus, respect, trustworthiness, and neutrality communicated by an authority figure express relational or symbolic information about one’s valued community status (Tyler & Lind, 1992).

Tyler (1989) found that perceptions of respect, trustworthiness, and neutrality were stronger predictors of one’s experience in a dispute than outcome favorability and both process and decision control—variables previously thought to be most important for procedural justice (Thibaut & Walker, 1975). These findings have been replicated in a variety of contexts, such as civil (Auwala & Farole, 2007; Lind, Kulik, Ambrose, & Park, 1993) and
criminal court cases (Farley, Jensen, & Rempel, 2014; Frazer, 2006; Tyler, 1984), including more serious felony cases (Casper, Tyler, & Fisher, 1988), police interactions (Paternoster, Brame, Bachman, & Sherman, 1997; Tyler & Huo, 2002), interpersonal disputes (Lind, Tyler, & Huo, 1997), and organizational settings (Tyler, 1994; Colquitt, Conlon, Wesson, Porter, & Ng, 2001; see MacCoun, 2005; for overview). Furthermore, when a person views a process as fair, the person is not only more likely to be more satisfied with the outcome, authority, and overall system (Colquitt et al., 2001), but also more likely to view the system as having greater legitimacy, which increases compliance with the law (Tyler, 2003, 2006, 2009, 2013; Tyler, Sherman, Strang, Barnes, & Woods, 2007).

Recent field studies have compared perceptions of fairness in community courts and traditional courts (Auwala & Farole, 2007; Frazer, 2006). Community courts, such as the Harlem and Red Hook Community Justice Centers in New York City, place an emphasis on developing relations between the court and the community and providing resources and services that may not be available at traditional courts. In line with other procedural justice research, the display of concern in community court, particularly by the judge, translated to an increase in tenants’ perceptions of fair treatment, satisfaction, and procedural justice compared to those in traditional courts (Auwala & Farole, 2007). However, tenants tended to rate their experiences in both community and traditional courts favorably (see Tables 8 and 11 in Auwala & Farole, 2007).

Structured courtroom observations also suggest similar judicial behaviors in both types of courts, though observers found that the judge greeted the tenant more often in community court, but made eye contact more often in the traditional court (Auwala & Farole, 2007). Judges in both locations asked the tenant whether she or he understood the proceeding less than half of the time (Auwala & Farole, 2007). Frazer (2006) observed similar findings regarding perceptions of fairness and satisfaction among a sample of criminal defendants (all of which have representation, unlike most tenants; see Figure 2 in Frazer, 2006). While these findings suggest there is room for improvement in interactions with tenants, judicial displays of concern do not go unnoticed by tenants and aid in creating a sense of fairness.

A Deservingness Theory of Justice

Heuer et al. (1999) suggest that the GVT’s assertion of a direct positive effect of respectful, trustworthy, and neutral treatment on perceptions of fairness is more akin to a hedonic theory about what people want rather than a fairness

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2Tenants only see one judge in the Harlem Community Justice Center, while tenants in downtown Manhattan (traditional court) could appear before one of eight different judges (Auwala & Farole, 2007). Therefore, any observed differences in locations could be specific to the one judge in Harlem. Auwala and Farole did not explain what, if any, special training the Harlem judge received.
theory about what people deserve. Thus, fairness judgments may depend, in part, on deservingness—a considerably different construct than group standing (Feather, 1992, 1999; Hafer & Begue, 2005; Lerner, 1965, 1977, 2003; see also Adams, 1963; Adams, 1965). For example, Feather’s (1992, 1993a, 1993b, 1999) studies converge on a matching hypothesis regarding perceptions of distributive justice—the finding that perceptions of fair outcomes depend on a match between one’s behavior (positive or negative) and subsequent outcomes (positive or negative).

Applying this matching hypothesis to procedural justice, Heuer et al. (1999) reported two studies in which participants were asked to make first-person and third-person judgments in hypothetical situations that manipulated respectful treatment by an authority figure and a target’s (either their own or another’s) behavior. When the target had behaved positively, respectful treatment was judged to be fairer than disrespectful treatment. However, when the target behaved negatively, disrespectful treatment was judged fairer than respectful treatment. This finding cannot be accounted for by the GVT, but it follows directly from a theory of deservingness. Similar results were obtained in a subsequent study conducted with civilians concerning both actual and imagined encounters with New York City police (Sunshine & Heuer, 2002).

While the previous studies have examined perceptions of deservingness based on one’s behavior, there is also evidence that perceptions of deservingness can be based on one’s attributes. For example, researchers have found self-esteem (Brockner et al., 1998; Heuer et al., 1999; Wiesenfeld, Swann, Brockner, & Bartel, 2007) and self-certainty (De Cremer & Sedikides, 2005) to also moderate treatment effects. Thus, several research studies suggest perceived fairness of one’s own experiences and of others’ experiences are the result of an interaction between treatment and deservingness. In the current study, we test for this interaction in the field using a sample of housing court litigants.

**Current Study**

To ensure due process, the New York City Housing Court Deputy Chief Administrative Judge encouraged judges to look out for pro se litigants’ rights and confirm, prior to approving a stipulation of settlement, that litigants understand their case (Fisher, 2007). As previously mentioned, these suggestions align with the group value criterion of trustworthiness (Lind & Tyler, 1988; Tyler, 1989, 2015). However, it is unclear to what extent judges in New York City Housing Court abide by this admonishment. A recent report suggests half of tenants did not recall having the process explained to them (CASA & CDP Report, 2013). Furthermore, 41% of tenants indicated the judge did not speak to them about their case, while 25% of tenants indicated that they were not asked
whether they agreed with the stipulation (CASA & CDP Report, 2013). An observational study of housing courts in Manhattan, the Bronx, Brooklyn, and Queens suggests allocations (in which the judge reviews the stipulation with litigants) are “shockingly inadequate” (Baldacci, 2013). Observers found that judges did not inquire into a pro se tenant’s understanding of potential defenses two thirds of the time (Baldacci, 2013). Rarely did a judge ask the pro se tenant to explain his or her defenses (13%) and the stipulation in his or her own words (20%). Instead, many allocutions appear to consist of a series of yes or no questions with little follow-up. All these issues affect a pro se tenant’s right to due process and access to justice and can reduce perceptions of judicial trustworthiness.

In the current study, we surveyed pro se tenants in New York City housing courts to examine the direct effect of group value criteria (i.e., perceived treatment) and the potential moderating role of deservingness on various justice judgments. Following the matching hypothesis, we hypothesize that perceptions of fairness and satisfaction depend on a match between what one believes he or she deserves and the perceived treatment he or she gets. In other words, perceived positive treatment will be a stronger predictor of fairness and satisfaction among those who feel they are more, as opposed to less, deserving. We also conducted structured courtroom observations (see also Abuwala & Farole, 2007; Baldacci, 2013; Frazer, 2006) to supplement survey findings and better understand the allocution process.

**Methods**

**Participants**

Recruitment took place in New York City Housing Court. At the Bronx and Manhattan courthouses, researchers approached a total of 447 tenants whose case had just reached settlement to participate. Of these, a total of 364 tenants completed surveys for a response rate of 81%. Tenants ranged in age from 20 to 77 years old ($M = 43.44$, $SD = 12.01$). The majority were female (71.4%) and Hispanic (49.5%; followed by 30.5% African American, 4.7% Other, 2.5% White, and 12.9% who declined to report their ethnicity). In addition, two research assistants conducted structured courtroom observations of all 447 cases.

**Procedure**

The New York City Deputy Chief Administrative Judge provided access to 17 resolution courtrooms in the Bronx and Manhattan Housing Courts. As part of a larger project and in line with the admonishment by Fisher (2007), we developed a procedural justice training intervention for judges. Our broader purpose was to test its effects on tenants’ perceptions of fairness. However, results did not vary pre–post intervention and, thus, are not discussed further. All materials and materials for this study are available from the first author’s OSF page.
Deputy Chief Administrative Judge’s direction, we surveyed tenants involved in nonpayment cases that reached settlement proceedings, which is by far the most common outcome in housing court (Engler, 2010). All cases resulted in a stipulation of settlement. Data collection took place between June and September of 2015. During each visit, researchers approached tenants after their case was heard by the judge to participate in an anonymous 10–15 minute survey in exchange for $10. The order of questions was counterbalanced. All responses were on a nine-point Likert scale (1 = Strongly Disagree; 9 = Strongly Agree).

**Measures**

**Treatment (judicial respect, neutrality, and trustworthiness).**
Tenants completed three items measuring respect (α = .85): (a) The judge treated me respectfully, (b) The judge treated me politely, (c) The judge treated me as a valued member of the community. Three items were employed to measure neutrality (α = .66): (a) The judge was neutral, (b) The judge was unbiased, (c) The judge’s view of this dispute was based on facts, not his or her personal opinions. Finally, tenants completed four items measuring trustworthiness (α = .83): (a) The judge paid careful attention to my concerns, (b) The judge looked out for my welfare, (c) The judge tried hard to look out for my rights, (d) The judge cared about me. Higher values are indicative of more respectful, neutral, and trustworthy treatment. The 10 items comprising trustworthiness, neutrality, and respect were subjected to a principal components analysis using promax rotation, which indicated a three-factor solution. Individual items loaded onto their respective factor (see Table 1 for factor loadings). Given our interest in testing the interaction between treatment and deservingness, we averaged the three subscales to create a single scale of treatment (α = .85).

**Deservingness.**
Tenants were asked two questions about whether their behavior merited positive treatment (α = .95): (a) I deserved to be treated respectfully by the judge, and (b) I deserved to be treated as a valued member of the community. Higher values indicate one is more deserving of positive treatment.

**Dependent variables.**
Tenants were asked two questions about procedural fairness (α = .70): (a) The judge treated me fairly, and (b) The procedure employed by the judge in my case was fair. Tenants were asked two questions about distributive analyses are available from the first author. See also Farley et al. (2014), who observed null findings for a similar intervention.
fairness ($\alpha = .94$): (a) The outcome of my case is fair, and (b) The final settlement in this case is a fair one. Finally, tenants indicated if they were satisfied with the outcome, procedure, and judge in their case.

**Structured courtroom observations.**

Table 2 provides a list of 17 structured courtroom observations for each case. Observers answered 10 yes–no questions (e.g., “Was the tenant represented by a lawyer?”) and indicated the extent of their agreement ($1 = \text{Strongly Disagree}; 9 = \text{Strongly Agree}$) with seven statements (e.g., The judge was neutral). Observations were reviewed, and any discrepancies resolved after each case.

**Results**

**Overall Courtroom Experiences**

As Table 3 demonstrates, tenants indicated that their experiences were quite positive. Tenants perceived the judges to be highly respectful, trustworthy, and neutral. They perceived themselves as deserving of positive treatment and outcomes. Tenants believed the process and outcome to be fair, and they were overall satisfied with the outcome, process, and judges.

Structured courtroom observations support these positive findings (Table 2). In nearly all cases (97–100%), the observers indicated that the judge appeared respectful, neutral, concerned for the tenant’s rights and welfare, and interested in fairness. In all cases, the judge explained the final agreement to the tenant (100%). In the majority of cases, the judge asked the tenant for input (82%) and if the tenant had any questions in general (83%) or specific to the agreement (82%). However, rarely did the judge ask the tenant to explain the agreement in

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**Table 1. Principal Axis Factor Analysis With Factor Loadings for Group Values.**

<table>
<thead>
<tr>
<th>Item</th>
<th>Factor 1: Respect</th>
<th>Factor 2: Neutrality</th>
<th>Factor 3: Trustworthiness</th>
</tr>
</thead>
<tbody>
<tr>
<td>The judge treated me respectfully</td>
<td>.87</td>
<td>.04</td>
<td>-.07</td>
</tr>
<tr>
<td>The judge treated me politely</td>
<td>.84</td>
<td>.03</td>
<td>-.02</td>
</tr>
<tr>
<td>The judge treated me as a valued member of the community</td>
<td>.75</td>
<td>-.12</td>
<td>.13</td>
</tr>
<tr>
<td>The judge was neutral</td>
<td>.25</td>
<td>.57</td>
<td>.02</td>
</tr>
<tr>
<td>The judge was unbiased</td>
<td>-.15</td>
<td>.84</td>
<td>.00</td>
</tr>
<tr>
<td>The judge’s view of this dispute was based on facts, not his/her personal opinions</td>
<td>.18</td>
<td>.32</td>
<td>.06</td>
</tr>
<tr>
<td>The judge paid careful attention to my concerns</td>
<td>.25</td>
<td>-.02</td>
<td>.54</td>
</tr>
<tr>
<td>The judge looked out for my welfare</td>
<td>-.04</td>
<td>-.03</td>
<td>.86</td>
</tr>
<tr>
<td>The judge tried hard to look out for my rights</td>
<td>-.06</td>
<td>.03</td>
<td>.88</td>
</tr>
<tr>
<td>The judge cared about me</td>
<td>.06</td>
<td>.07</td>
<td>.57</td>
</tr>
<tr>
<td><strong>Eigenvalues</strong></td>
<td>1.12</td>
<td>1.03</td>
<td>4.79</td>
</tr>
<tr>
<td><strong>% of variance</strong></td>
<td>11.23</td>
<td>10.31</td>
<td>47.94</td>
</tr>
<tr>
<td><strong>A</strong></td>
<td>.85</td>
<td>.66</td>
<td>.83</td>
</tr>
</tbody>
</table>
were pro se in 99% of cases we observed, while landlords had attorneys in 97% of cases (and landlords did not appear in 99% of cases).

**Are the Effects of Treatment Contingent on Deservingness?**

Correlations among measures are listed in Table 3. We initially transformed all dependent measures using log 10 and subsequently square root transformations due to their negatively skewed nature. However, both transformations were unsuccessful, leading us to dichotomize responses (see MacCallum, Zhang, Preacher, & Rucker, 2002). Values 1–8 were recoded as ‘0’ and value 9 recoded as ‘1’, such that 0 = unfair procedure, unfair outcome, or unsatisfied, and 1 = fair procedure, fair outcome, or satisfied. This dichotomy was chosen because more than half of the sample chose value ‘9’ on all measures (68% for fair procedures, 64% for fair outcomes, 70% for outcome satisfaction, 70% for procedure satisfaction, and 78% for satisfaction with the judge). We analyzed dichotomous responses in Stata using multilevel mixed-effects logistic regressions with tenants nested within courtrooms.

Tables 4 and 5 display the results of separate models testing the partial (Models 1) and interactive (Models 2) effects of perceived deservingness and treatment on procedural and outcome fairness, as well as satisfaction with the tenant’s own words (6%) or if the tenant understood the consequences of the final agreement (9%).

### Table 2. Courtroom Observations (N = 447).

<table>
<thead>
<tr>
<th>Question</th>
<th>% Yes</th>
<th>% Tended to Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Was the tenant represented by a lawyer?</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>Was the landlord represented by a lawyer?</td>
<td>97%</td>
<td></td>
</tr>
<tr>
<td>Was the landlord present?</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>Did the judge explain the final agreement to the tenant?</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Did the judge ask the tenant for their input?</td>
<td>82%</td>
<td></td>
</tr>
<tr>
<td>Did the judge ask the tenant if they had any questions?</td>
<td>83%</td>
<td></td>
</tr>
<tr>
<td>Did the judge ask the tenant if they had any questions about the final agreement?</td>
<td>82%</td>
<td></td>
</tr>
<tr>
<td>Did the judge ask the tenant to explain the final agreement in their own words?</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>Did the judge ask the tenant if they understood the final agreement?</td>
<td>46%</td>
<td></td>
</tr>
<tr>
<td>Did the judge ask the tenant if they understood the consequences of the final agreement?</td>
<td>9%</td>
<td></td>
</tr>
<tr>
<td>The judge was neutral.</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>The judge looked out for the tenant’s welfare.</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>The judge treated the tenant respectfully.</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>The judge paid careful attention to the tenant’s concerns.</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>The judge showed a real interest in trying to be fair.</td>
<td>98%</td>
<td></td>
</tr>
<tr>
<td>The judge tried hard to look out for the tenant’s rights.</td>
<td>97%</td>
<td></td>
</tr>
<tr>
<td>The judge cared about the tenant.</td>
<td>97%</td>
<td></td>
</tr>
</tbody>
</table>

*Note.* Responses to some items were on a 9-point Likert scale ranging from strongly disagree (1) to strongly agree (9). We coded scores 6 and above as “tended to agree.”
### Table 3. Descriptives and Correlational Matrix (N = 355).

<table>
<thead>
<tr>
<th></th>
<th>M (SD)</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Treatment Composite</td>
<td>8.15 (1.12)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Respect</td>
<td>8.58 (1.05)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Trustworthiness</td>
<td>8.09 (1.38)</td>
<td>-</td>
<td>.61 [.48, .71]</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Neutrality</td>
<td>7.81 (1.71)</td>
<td>-</td>
<td>.45 [.32, .58]</td>
<td>.45 [.33, .57]</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Deservingness</td>
<td>8.47 (1.47)</td>
<td>.52 [.37, .66]</td>
<td>.49 [.29, .68]</td>
<td>.42 [.27, .57]</td>
<td>.41 [.27, .54]</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Procedural Fairness</td>
<td>8.33 (1.31)</td>
<td>.67 [.56, .76]</td>
<td>.60 [.43, .75]</td>
<td>.58 [.45, .69]</td>
<td>.47 [.35, .50]</td>
<td>.58 [.38, .72]</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Distributive Fairness</td>
<td>8.15 (1.67)</td>
<td>.63 [.52, .73]</td>
<td>.47 [.30, .62]</td>
<td>.59 [.46, .69]</td>
<td>.47 [.35, .58]</td>
<td>.40 [.23, .56]</td>
<td>.64 [.50, .74]</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Judge Satisfaction</td>
<td>8.41 (1.55)</td>
<td>.70 [.59, .80]</td>
<td>.58 [.38, .73]</td>
<td>.69 [.56, .78]</td>
<td>.46 [.32, .58]</td>
<td>.45 [.24, .64]</td>
<td>.59 [.43, .72]</td>
<td>.64 [.47, .79]</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>10. Outcome Satisfaction</td>
<td>8.17 (1.71)</td>
<td>.64 [.52, .75]</td>
<td>.48 [.32, .63]</td>
<td>.60 [.46, .71]</td>
<td>.47 [.33, .58]</td>
<td>.33 [.17, .49]</td>
<td>.61 [.46, .72]</td>
<td>.82 [.71, .91]</td>
<td>.67 [.51, .81]</td>
<td>.78 [.68, .85]</td>
</tr>
</tbody>
</table>

**Note.** Pearson correlation analysis were conducted with 1,000 bias corrected accelerated (BCa) 95% bootstrapping confidence intervals to account for skewness. All relationships were significant at \( p < .01 \). Treatment composite included the subscales of respect, trustworthiness, and neutrality.
We consistently observed that increases in perceptions of positive treatment resulted in an increased likelihood of tenants viewing the process as fair, the outcome as fair, and satisfaction with the outcome, procedure, and judge (see Models 1). Deservingness only predicted procedural fairness, with increases in desert associated with an increased likelihood of procedural fairness perceptions (see Table 4, Model 1). In line with the matching hypothesis, perceptions of positive treatment became a stronger predictor of satisfaction with the judge as participants thought they were more deserving of such treatment (see Table 5, Model 2). However, for all remaining dependent variables, we did not observe any significant interactions between perceived deservingness and treatment (see Models 2).

**Discussion**

We set out to answer whether the relationship between perceptions of treatment and fairness depended upon deservingness among a sample of New York City housing court tenants. Only one out of five analyses examining interactive effects indicated that the relationship between perceived treatment and justice judgments depended on whether the tenant believed that she or he deserved positive treatment. The relationship between perceived positive treatment and satisfaction with the judge became stronger as tenants believed that they deserved positive treatment. Conversely, this relationship was weaker when tenants did not believe that they deserved positive treatment. This finding supports the matching hypothesis and aligns with past research on moderators of treatment (e.g., self-esteem, Brockner et al., 1998; Heuer et al., 1999; Wiesenfeld et al., 2007; e.g., self-certainty, De Cremer & Sedikides, 2005; and e.g., deservingness, Feather, 1992; 1999; Heuer et al., 1999; Sunshine & Heuer, 2002), but conflicts with the non-significant interactions we observed for the remaining justice judgments (e.g., procedural fairness). Thus, the overall findings support the premise of GVT:

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5Demographics were not included as controls to simplify interpretation of the interaction. However, no significant effects emerged when we conducted separate analyses with demographics as predictors.
Table 5. Satisfaction Judgments Regressed on Deservingness, Treatment, and Their Interaction.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th></th>
<th>Model 2</th>
<th></th>
<th>Model 1</th>
<th></th>
<th>Model 2</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
<td>Exp (B), 95% CI</td>
</tr>
<tr>
<td>Deservingness</td>
<td>1.01, [.82, 1.25]</td>
<td>.89, [.63, 1.23]</td>
<td>1.04, [.85, 1.29]</td>
<td>1.04, [.82, 1.34]</td>
<td>1.12, [.89, 1.40]</td>
<td>1.23, [.98, 1.56]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D x T</td>
<td>.79, [.50, 1.23]</td>
<td></td>
<td>1.00, [.79, 1.26]</td>
<td></td>
<td>1.19, [1.00, 1.40]*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wald χ²</td>
<td>67.34*</td>
<td></td>
<td>61.18*</td>
<td></td>
<td>59.85*</td>
<td></td>
<td>59.90*</td>
<td></td>
</tr>
<tr>
<td>Wald χ²</td>
<td></td>
<td>71.98*</td>
<td></td>
<td>77.31*</td>
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</tr>
</tbody>
</table>

Note. D x T = the interaction between deservingness and treatment. *p < .05. ^p = .07.
perceived treatment has a direct positive effect on perceptions of fairness and satisfaction (Lind & Tyler, 1988).

In line with past field research on procedural justice (Abwala & Farole, 2007; Farley et al., 2014; Frazer, 2006), we found that overall tenants were quite positive about their experience in housing court despite being pro se. Tenants felt judges were, on average, highly respectful, trustworthy, and neutral. Structured courtroom observations also confirmed the judges’ demeanor, behavior, and interactions with tenants were largely positive. These findings stand in contrast to those observed a few years prior in the Bronx Housing Court, where 80% of tenants indicated they had negative feelings about their experience in housing court, though these feelings were not specifically aimed at the judge (CASA [Community Action for Safe Apartments] & CDP [Community Development Project], 2013). Our findings may indicate that judges are better tending to the needs of pro se litigants as outlined in the admonishment by the New York City Housing Court Deputy Chief Administrative Judge (Fisher, 2007), but additional research is needed.

In all cases we observed, the judge explained the final agreement to the tenant, which is an improvement over past studies (74% for Abuwala & Farole, 2007; 75% for CASA & CDP, 2013). In addition, judges in most cases asked the tenant for input and if the tenant had any questions. However, we observed that judges failed to follow key components of Judge Fisher’s (2007) admonishment. Specifically, judges did not frequently ask the tenant if she or he understood the final agreement or its consequences, nor did judges ask tenants to explain the agreement in their own words. These findings align with Baldacci’s (2013) observations, whereby judges typically asked tenants a series of yes or no questions without any further inquiry into tenants’ understanding.

Given the limited opportunities tenants had to describe their claims or demonstrate their understanding of the proceedings, it is surprising that tenants overwhelmingly believed that the procedure and outcome were fair, and that they were highly satisfied with the judge, outcome, and procedure. While Abuwala and Farole (2007) found that tenants self-reported similarly high levels of fairness and satisfaction (as did criminal defendants in Frazer, 2006), our findings conflict with the established realities of housing court. Pro se tenants face many disadvantages, such as lack of knowledge concerning claims and defenses and inequitable outcomes that have been well documented in housing court (Baldacci, 2013; CASA & CDP, 2013; NYCLA, 2005, 2006a, 2006b; see also Greiner, Pattanayak, & Hennessy, 2013; Seron, Frankel, Van Ryzin, & Kovath, 2001). We explore some possibilities for this discrepancy below.
Limitations and Future Directions

We note several limitations due to the realities of collecting data in the field. First, at the Deputy Chief Administrative Judge’s direction, we focused our efforts on nonpayment cases that ended with a stipulation of settlement in New York City Housing Court. Thus, we cannot speak to cases where tenants were evicted, nor can we generalize to the experiences of pro se litigants in other types of civil cases, such as divorce or child custody. Future research should examine pro se litigants’ perceptions in these contexts as well as with different outcomes.

Second, to abide by ethical guidelines, we could not require that all judges provide access to their courtrooms. Thus, the skewed nature of our data could be due to selection bias. That is, the judges who chose to provide access may have been motivated to ensure due process and treat pro se litigants positively (which may also explain the null findings concerning the procedural justice intervention we mentioned in footnote 4; see also Farley et al., 2014). The findings may, therefore, provide a distorted view of housing court, absent data from courtrooms of nonparticipating judges. It is also possible that participating tenants were motivated to provide socially desirable responses, which may explain the positive responses across most measures. Tenants may have been fearful that the judge would know their true feelings, and that this might impact any future interactions. However, we emphasized the anonymity of the survey to all participants, and previous studies of housing court tenants (e.g., CASA & CDP report, 2013) indicate tenants are willing to indicate their dissatisfaction.

Additionally, we chose to evaluate participants immediately after their hearing, all of which ended with a stipulation of settlement of some kind, because it is difficult to determine the finality of resolution cases. Tenants file thousands of orders to show cause annually (nearly 200,000 orders to show cause were filed in New York City Housing Courts in 2013 alone; Housing Court Answers, 2014), some of which effectively alter or vacate the terms of a previously approved stipulation of settlement, for example, by providing an extension of time for a tenant to pay arrears, or by leading to an additional appearance before the judge, and some of which may lead to dismissal of the case. Thus, some cases may only go before a judge once, while others could reach a judge dozens of times over the course of many months or even years. While the data allow us to draw inferences about tenants’ perceptions of the judge and their experience in court on one occasion, tenants’ perceptions could change after reflection and over the course of their cases. Future longitudinal research should examine perceptions of the judge and court experiences over time.

The structure of housing court results in some litigants, especially pro se litigants, spending more time with clerks, court attorneys, and court officers
than with judges, who may have only minimal time with litigants and in some instances only minimal influence on litigants’ overall experiences. In settlement cases, a pro se tenant often makes an agreement with the landlord attorney in the hallway before approaching the judge, who, in the vast majority of cases, then simply gives final approval (see Engler, 1997; NYCLA, 2006b). This brief encounter may in fact be the most positive interaction the tenant has had in housing court and may explain the overwhelmingly positive ratings by tenants in this study. Furthermore, some tenants may be receiving certain forms of informational assistance from a range of sources (e.g., legal aid programs, volunteers in court-maintained programs, law students, court clerks), potentially influencing their conduct in these hallway interactions. Regardless, we may be missing critical information about pro se tenants’ experiences that may help explain their perceptions of fairness and satisfaction. This is precisely the problem identified by Tyler (2012) when he proposed that procedural justice reforms should be implemented at every stage of the civil justice system and with every court actor a litigant may meet. This holistic approach, which Tyler called a “system level model,” may be most effective for improving fairness perceptions and, subsequently, access to justice. The system level model approach may also explain the perceived fairness of community courts, such as the Harlem Community Justice Center (Abuwala & Farole, 2007) and the Red Hook Community Justice Center (Frazer, 2006), which were designed to provide more personal assistance to indigent litigants and defendants at multiple steps in the process. However, because none of these studies measured deservingness, it is unclear the extent to which fairness perceptions may have been contingent upon deservingness.

Finally, Feather (2003) suggested a conceptual distinction between deservingness and entitlement, which Feather defined as “judgments that relate more to an agreed-upon body of law, social norms, and formal and informal rules” (p. 368). Relevant to the current study, tenants may expect or feel entitled to an engaged judge, regardless of their behavior or whether such behavior deserves positive treatment (see also Engler, 2010, for a discussion on expectations). While the current study did not focus on expectations or entitlement, we encourage future researchers to examine public perceptions of both regarding judicial treatment of litigants.

Implications and Conclusions

To sum, GVT operates on the assumption that positive treatment is desirable by all because treatment is indicative of one’s standing in a valued group (Tyler & Lind, 1992). However, in a considerable departure from GVT, the premise of deservingness theory suggests that positive treatment (or outcome) is desirable only when it aligns with one’s perceptions of deservingness (Feather, 1992, 1993a, 1993b, 1999; Heuer et al., 1999). Using data from
actual tenants in New York City Housing Court, we found that tenants perceived Housing Court judges as respectful, trustworthy, and neutral (see also Abuwala & Farole, 2007; Farley et al., 2014; Frazer, 2006). This perceived positive treatment increased tenants’ perceptions of the fairness of both the process and outcome, and satisfaction. And, with one exception, this relationship was not contingent on the extent to which tenants believed that they deserved such treatment. The current study’s findings lend additional credence to GVT, but also suggest that the explanation for some justice judgments (i.e., satisfaction with the judge) are incomplete without considering one’s perception of deservingness. We suggest future research on fairness include measures of deservingness to better understand the nuanced relationship among perceived treatment, deservingness, and fairness.

Steinberg (2015) notes that perceptions of fairness may not equate to actual fairness. That is, tenants’ subjective sense of fair treatment and outcomes may not align with the actual process or outcome (see Blasi, 2004). Litigants who are enthusiastic about the treatment they received from judges, or about their perception of the fairness of the proceedings, may nevertheless fail to understand the proceedings, or fail to understand the possible ways in which the proceedings, and outcomes, could have been fairer. Indeed, our results suggest a discrepancy between tenants’ perceptions and the realities of housing court.

We must acknowledge that engaged judging may not increase access to justice (see Desmond, 2016; Sandefur, 2008; for discussion on housing related inequalities). There is no suggestion in our findings that engaged judging could somehow serve as an equivalent substitute for a lawyer who should, for example, ensure the number and quality of defenses presented on behalf of a litigant. During informal discussions, several judges in our study offered their views that their own roles as judges, even if deeply engaged, could never match in effectiveness the nature and level of the advocacy services performed routinely by counsel for litigants. However, we suspect that the addition of engaged judging does no harm to individuals, and may actually be more effective if coupled with the resources available in community courts, such as the Harlem and Red Hook Community Justice Centers (see Abuwala & Farole, 2007; Frazer, 2006). Engaged judging may also be more effective if used in combination with other models for assisting litigants that are sometimes available in civil courts in New York and across the country (e.g., do-it-yourself automated forms, court navigators; see Committee on Nonlawyers and the Justice Gap, 2014; New York State Courts Access to Justice Program Report, 2014; see also Justice Index, www.justiceindex.org, collecting and presenting examples of selected best policies and practices for

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6Randomized trial studies have indicated that legal representation reduces the number of final judgments and evictions against a tenant and increases rent abatements and required repairs in stipulations compared to unrepresented tenants (Seron et al., 2001; see also Greiner et al., 2013; and Steinberg, 2011; who analyzed archival records, and found full representation superior to unbundled services).
assisting unrepresented litigants and ranking states based on whether they have adopted the policies). Whether the combination of services achieves greater access to justice for indigent litigants is an empirical question yet to be answered.

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**References**


