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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ELBERT A. WAGNER, JR., Clerk
United States District Court

DOROTHY GAUTREUX, et al.,
Plaintiffs

vs.

THE CHICAGO HOUSING AUTHORITY,
et al.,
Defendants

Civil Action
No. 66 C 1459

DOROTHY GAUTREUX, et al.,
Plaintiffs

vs.

ROBERT C. WEAVER, Secretary
of the Department of Housing
and Urban Development of the
United States,
Defendant

Civil Action
No. 66 C 1460

MOTION TO CONSOLIDATE

Plaintiffs move the Court to consolidate for purposes of discovery and a joint trial the above-entitled actions now pending before this Court on the ground that said actions involve common questions of fact and law.

In support of their motion, plaintiffs state as follows:

1. The complaints in these actions make clear that the plaintiffs in each action are substantially identical (one additional plaintiff was joined in the suit against the Chicago Housing Authority, but such joinder in no way affects the issues), and that the gravamen of the complaints in each action are based on the same facts and involve the same factual issues. Both

complaints request equitable and declaratory relief and neither action will be subject to trial by jury.

2. The gist of the action in Gautreaux, et al. v. The Chicago Housing Authority, et al. is that the defendant, The Chicago Housing Authority (hereinafter called "CHA"), has carried on and continues to carry on a racially discriminatory public housing system within the City of Chicago. The gist of the action in Gautreaux, et al. v. Robert C. Weaver is that the Public Housing Authority, the corporate agency of the United States whose functions, powers and duties are now vested in the defendant, and the defendant (hereinafter called "Weaver") have assisted and continue to assist the CHA in carrying on such racially discriminatory public housing system within the City of Chicago.

3. Paragraphs numbered 7 through 19 of Count 1 of each Complaint -- the main factual allegations other than descriptions of the parties -- are identical. The same facts are re-alleged in the other Counts of both Complaints with similar small variations in each. (The main difference in the Complaints are allegations against Weaver that he and the Public Housing Authority have given Federal financial assistance to CHA in carrying on the aforesaid public housing system, and these allegations will likely be admitted.)

4. The complaints in these actions also make clear that there are common legal issues in the two actions, namely, whether

the granting of Federal financial assistance by Weaver to CHA, and the use of such assistance by CHA, for the purpose of carrying on the aforesaid racially discriminatory public housing system is a violation of Title 42, U.S.C., sec. 2000 d (Section 601 of Title VI of the Civil Rights Act of 1964), and of the due process clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution.

5. Thus, it is clear from the complaints in the two actions that the major issues of fact and law in each are common to both.

6. Depositions, other discovery, presentation of evidence and length of trials in these actions will likely be extensive. There will be a great saving in expense, effort and time to the Court and each of the parties if the evidence and other matters can be subject to discovery once, rather than twice, and if evidence can be presented to the Court in a joint trial rather than separate trials.

7. The issues presented in these cases are of vital public interest, and it is important that they be treated consistently. Prosecution of separate trials would create a risk of inconsistent results and the establishment of incompatible standards of conduct for CHA and Weaver.

For these reasons, plaintiffs respectfully urge the Court to grant their Motion to Consolidate.

Plaintiffs, DOROTHY GAUTREAUX, et al.

By _____
One of their Attorneys

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MEMORANDUM OF AUTHORITIES

IN SUPPORT OF MOTION TO CONSOLIDATE

- I. WHEN ACTIONS INVOLVING A COMMON QUESTION OF LAW OR FACT ARE PENDING BEFORE THE COURT, IT MAY ORDER A JOINT HEARING OR TRIAL OF ANY OR ALL THE MATTERS IN ISSUE IN THE ACTIONS; IT MAY ORDER ALL THE ACTIONS CONSOLIDATED; AND IT MAY MAKE SUCH ORDERS CONCERNING PROCEEDINGS THEREIN AS MAY TEND TO AVOID UNNECESSARY COSTS OR DELAY.

Rule 42(a), Federal Rules of Civil Procedure

Kelly v. Greer (CA, 3rd 1961) 295 F 2d 18

National Nut Co. of California v. Susu Nut Co. (N.D. Ill. 1944) 8 F.R. Serv. 42 a.33, Case 1

- II. RULES 42(a) AND 26(d) OF THE FEDERAL RULES OF CIVIL PROCEDURE PERMIT USE IN ONE ACTION OF DEPOSITIONS AND INTERROGATORIES TAKEN IN ANOTHER.

Baldwin-Montrose Chemical Co., Inc. v. Rothberg
(S.D. N.Y. 1964) 37 F.R.D. 354, 9 F.R. Serv.
2d 26 d. 62, Case 1.

- III. A MOTION TO CONSOLIDATE MAY BE GRANTED AT ANY TIME, INCLUDING PRIOR TO JOINDER OF ISSUE, IF IT IS CLEAR THAT THE TWO ACTIONS INVOLVE A COMMON QUESTION OF LAW AND FACT.

Schultz, et al. v. Manufacturers and Traders
Trust Co. (W.D. N. Y. 1939) 29 F Supp 37

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