

Filed
3/17/72

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	
v.	)	No. 66 C 1460
	)	
CHICAGO HOUSING AUTHORITY,	)	(Consolidated)
et al.,	)	
	)	
Defendants.	)	

MOTION PURSUANT TO FEDERAL RULE 12(d) FOR
HEARING AND DETERMINATION OF MOTIONS AT
TRIAL, AND FOR RELATED ORDERS

Now come plaintiffs, by their attorneys, and move this Court: (1) pursuant to Federal Rule 12(d) to defer until trial the hearing and determination of the motions of several of the defendants to dismiss the supplemental complaint; (2) pursuant to Federal Rule 12(a)(1) to direct such defendants to file answers to the supplemental complaint; (3) to set the trial of the supplemental complaint at 10:00 A.M. on April 4, 1972; (4) to continue to April 4, 1972 the hearing previously set in this cause for March 17, 1972, and to consolidate the same with the trial of the supplemental complaint; and (5) to continue to a date convenient to the Court and the parties the hearing previously set in this cause for April 4, 1972.

In support hereof plaintiffs state:

1. Defendants Chicago Housing Authority, George W. Romney, City of Chicago, Richard J. Daley, and several of the defendants who are members of the City Council of the City of Chicago have filed answers to the supplemental complaint, and the plaintiffs and such defendants are at issue.

2. Several others of the defendants who are members of the City Council of the City of Chicago have filed motions to dismiss the supplemental complaint.

3. Under Federal Rule 12(d) the Court may order the hearing and determination of such motions to dismiss to be deferred until trial, the Court having discretion to order that the matters raised by such motions be heard and determined at trial. (2A Moore's Federal Practice, pp. 2237-38, 2351.)

4. If the Court so orders such motions to dismiss to be heard and determined at trial, the defendants who have filed such motions would be required under Federal Rule 12(a)(1) to answer the supplemental complaint within 10 days, thereby placing all parties at issue prior to April 4, 1972.

5. The hearing previously set in this cause for March 17, 1972 (on the plan of defendant Chicago Housing Authority filed pursuant to Part II of this Court's order of January 3, 1972), involves the subject matter of the supplemental complaint and it is therefore appropriate that such hearing be consolidated with the trial of the supplemental complaint.

6. By reason of the long delay in providing relief to

the plaintiffs in this cause, a prompt setting for trial of the supplemental complaint is appropriate. Under Federal Rule 57, "The Court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar."

Wherefore, plaintiffs move for the entry of an order as requested above and attach hereto a proposed form of such order.

Respectfully submitted,

Alexander Polikoff
Milton I. Shadur
Roger Pascal
Cecil C. Butler
Bernard Weisberg
Merrill A. Freed

By


Alexander Polikoff

Alexander Polikoff
109 N. Dearborn Street
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641-5570

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	Plaintiffs,	) No. 66 C 1459
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v.	)	) No. 66 C 1460
	)	
CHICAGO HOUSING AUTHORITY,	)	) (Consolidated)
et al.,	)	
	)	
	Defendants.	)

ORDER

This matter coming on to be heard on the motion of plaintiffs for an order pursuant to Federal Rule 12(d) and related orders, and the Court having heard the presentations of the parties and being fully advised,

IT IS HEREBY ORDERED:

1. Pursuant to Federal Rule 12(d) the hearing and determination of all motions directed to the supplemental complaint be and the same are hereby deferred until the trial of the supplemental complaint.
2. Pursuant to Federal Rule 12(a)(1) all defendants who have not heretofore answered the supplemental complaint shall file their answers thereto within 10 days from the date hereof.
3. The trial of the supplemental complaint is hereby set at 10:00 A.M., April 4, 1972.

4. The hearing previously set in this cause for March 17, 1972, on the plan of defendant Chicago Housing Authority filed pursuant to Part II of this Court's order of January 3, 1972, is hereby continued to April 4, 1972, at 10:00 A.M., and shall be consolidated for hearing with the trial of the supplemental complaint.

5. The hearing previously set for April 4, 1972, on the plan of defendant Chicago Housing Authority to be filed pursuant to Part III of this Court's order of January 3, 1972, is hereby continued to _____, 1972, at 10:00 A.M.

ENTER:

Judge

March 17, 1972

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NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

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Plaintiffs,	)	No. 66 C 1459
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v.	)	No. 66 C 1460
	)	
CHICAGO HOUSING AUTHORITY,	)	(Consolidated)
et al.,	)	
	)	
Defendants.	)	

NOTICE

To: Patrick W. O'Brien, Esq.
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PLEASE TAKE NOTICE that at 10:00 A.M. on March 17, 1972,
we will appear before the Honorable Richard B. Austin in the

courtroom usually occupied by him in the Courthouse at 219 South Dearborn Street, Chicago, Illinois, and then and there present a motion pursuant to Federal Rule 12(d) for hearing and determination of motions at trial, and for related orders, a copy of which motion and proposed form of order is attached hereto.

March 13, 1972

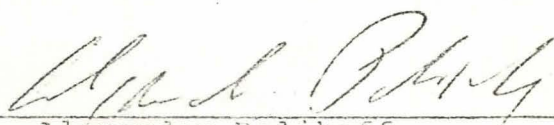
Alexander Polikoff
109 N. Dearborn Street
Chicago, Illinois 60602
641-5570



Alexander Polikoff
One of the Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing notice with the motion and form of order referred to therein by causing the same to be mailed or delivered to the persons named above at their addresses there stated this 13th day of March, 1972.



Alexander Polikoff