

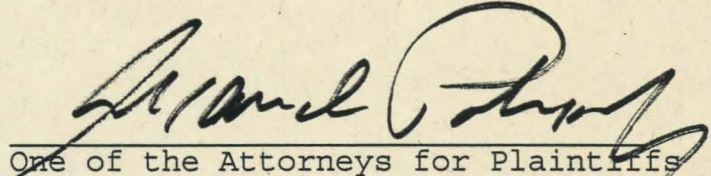
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	66 C 1459
	)	
CHICAGO HOUSING AUTHORITY,	)	Hon. Marvin E. Aspen
	)	
Defendant.	)	

N O T I C E

To: Attached Service List

PLEASE TAKE NOTICE that on Tuesday, August 12, 1997, I filed Plaintiffs' Response to HUD's Sur-Reply, a copy of which is attached hereto.


One of the Attorneys for Plaintiffs

August 12, 1997

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PLAINTIFFS' RESPONSE TO
HUD'S SUR-REPLY

HUD's sur-reply charges us with "obfuscating" and "hiding," and with violating Federal Evidence Rule 408. These charges are unjustified.¹

Obfuscating And Hiding. The apparent basis for this charge is that we are thought to be uncandid about the relief HUD says we really seek, namely --

" . . . force displaced public housing tenants to move into non-racially impacted areas against their will..."
(p. 1, n. 1)

¹ So is the filing of the sur-reply. Apart from arguments "HUD could not have anticipated," which however are unidentified, the only proffered justification for a sur-reply is that our reply brief "discusses several issues that were not raised in plaintiffs' initial motion, such as the implications of court settlements in other civil rights cases" (HUD's motion, p. 1). It is difficult to understand HUD's surprise. Responding to HUD's contention that modifying the CHA judgment order to include Section 8 would be inappropriate, we have relied on other housing desegregation cases (to which HUD is a party) in which Section 8 relief has been ordered. Indeed, HUD itself cites one of these cases in its answering brief (Latinos United, p. 3 of HUD's brief).

". . . families will be forced to move and then be compelled to live in locations they have not voluntarily chosen" (p.2, n. 2).²

If plaintiffs were seeking this form of Section 8 relief and had declined to be open about it, HUD's charge would be justified. In fact, however, nothing in our motion or brief supports HUD's description, and two circumstances render it baffling.

First, our motion uses the phrase "in a manner comparable to the companion case's Gautreaux Program. . ." (p. 7). Of course, the Gautreaux Program is a voluntary program; no one is forced to participate or to move.

Second, in the parties' Section 8 negotiations plaintiffs specifically proposed a program in which Section 8 certificates offered to displaced families could be used in either the limited or the general public housing area. The certificates for the proposed voluntary Gautreaux program were to consist of certificates declined by the initial offerees. (Exhibit Y to plaintiffs' reply brief, letter of 7/17/97.)³

Thus, we have said we seek something "comparable" to a voluntary program, have made a specific proposal for a voluntary program, and have nowhere suggested or proposed a "forced"

² At page 1 HUD says this is what we "may" be seeking, but at page 2 states "the situation here" without qualification.

³ "CHA will offer to residents of targeted buildings in CHA's vacancy/consolidation program mobility counseling and certificates which may be used in either the GPHA [General Public Housing Area] or the Limited Public Housing Area (LPHA)." (Draft of 7/17/96, attached to letter of 7/17/96, pp. 1-2.)

program. Yet HUD's sur-reply says a forced program is what we seek.

Violating Rule 408. This case is in its remedial phase; liability was determined in 1969. The focus of Rule 408 is admissibility "to prove liability for or invalidity of the claim or its amount." As stated in Breuer Elec. Mfg. v. Toronado Systems of America, 687 F.2d 182, 185 (7th Cir. 1982), the Rule controls when evidence of settlement attempts is offered "'to prove liability'" (emphasis in Breuer's); Breuer goes on to quote the Rule's statement that exclusion is not required when the evidence is offered for another purpose (id.)⁴

(A final note. HUD singles out for special attention one of the housing desegregation cases, Thompson, referred to in our reply brief, from which it quotes a statement (p. 3, n. 4) about displaced families choosing "replacement housing" in African-American neighborhoods. We referred to Thompson and other cited cases for the examples they provide of desegregation remedies that include some form of Section 8 relief, usually with locational restrictions. The quotation HUD selects from Thompson is, not about Section 8 but about "hard" unit replacement housing for demolished public housing buildings. What we said about Thompson -- "Remedy includes Section 8 certificates with

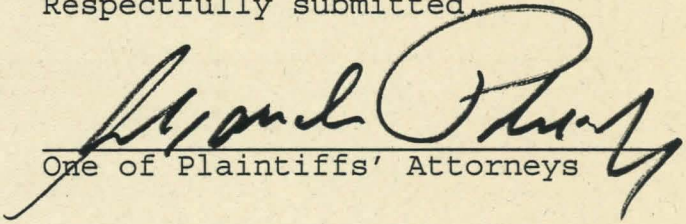
⁴ See Quad/Graphics, Inc. v. Fass, 724 F.2d 1230, 1235 (7th Cir. 1983), for a list of some of the many other purposes for which evidence of settlement negotiations is admissible.

locational restrictions based on race, poverty, and assisted housing . . ." -- is accurate.)

* * *

For the reasons stated in our reply brief, plaintiffs' motion to modify the CHA judgment order should be granted.

Respectfully submitted,


One of Plaintiffs' Attorneys

August 12, 1997

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CERTIFICATE OF SERVICE

I, Alexander Polikoff, an attorney, certify that on August 12, 1997 I served copies of the foregoing Plaintiffs' Response to HUD's Sur-Reply by mail on the persons listed on the attached service list.


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