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.	)	

REPLY TO *ABLA* PLAINTIFFS' RESPONSE TO
JOINT MOTION OF *GAUTREAUX* PLAINTIFFS AND RECEIVER

After a brief look at the "overlap" between the *ABLA* Complaint and the Gautreaux Court's ABLA Order of June 1998 (Part A), we address the applicability here of the *Hines* doctrine on collateral attacks in ongoing desegregation cases (Part B), of the local "relatedness" rule (Part C), of the "Barton Doctrine" (Part D), and of the alternative procedures suggested in the Joint Motion (Part E).

A. *ABLA* Substantially Overlaps *Gautreaux*.

Does the *ABLA* Complaint "substantially overlap" Gautreaux, as we say (Joint Motion at 1), or is there "little . . . overlap" as the Response at 2 asserts -- even while acknowledging that the complaint raises "major issues" with the ABLA plan?

Every one of the 14 counts in the *ABLA* Complaint attacks the very "proposed ABLA redevelopment plan" (id.) that is the subject of the Gautreaux Court's June 19, 1998 Order, and includes the charge that the ABLA plan exacerbates and perpetuates racial residential segregation. (*ABLA* Compl. ¶90.). No other plan is addressed by either the *ABLA* Complaint or the Gautreaux Order. The subject matter overlap is complete, not "substantial."

As to parties, the *ABLA* plaintiffs consist of: (a) 11 individuals, nine of whom are members of the *Gautreaux* class (the other two are former members who may equitably be entitled to return to their former status as CHA residents if the Complaint's allegations are true); (b) 21,000 putative class members, 20,000 of whom as applicants for CHA housing are members of the Gautreaux class (the other 1,000 are former Gautreaux class members who may have the same equitable entitlement as the two individuals); and (c) a recently-formed association of ABLA residents, all of whom are members of the Gautreaux class.[1/] (*ABLA* Compl., ¶¶10-24.) Thus, the overlap as to parties is at least "substantial."

The Response at 4-5 says the *ABLA* Complaint "does not raise the same issues" raised in Gautreaux, giving -- as one example -- wrongs allegedly perpetrated by CHA under the Uniform Relocation Act. The Response also points out that this Court has said it does not intend to become a repository for every isolated discrimination or other claim that might be related to Gautreaux. (Id. at 8.)

Of the 14 *ABLA* counts, seven complain of racial discrimination or segregation in the design of the ABLA redevelopment plan (I, IV, V, VI, VII, XI),[2/] or in its "arbitrary" approval by HUD (XIV). Two others (II, III) assert "new" claims that the ABLA plan vio-

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1/ The plaintiff association should not be confused with the duly elected leadership of the ABLA residents which supports the ABLA plan, see Ex. C to Joint Motion. Note that the putative *ABLA* class does not include current ABLA residents, who are already members of the Gautreaux class.

2/ The Response at 6 claims that this Court has found that racial discrimination in the Section 8 program is not a proper claim to be raised in Gautreaux. The Gautreaux plaintiffs wish to inform the Court that this is not so. The Court concluded only that the record failed to support plaintiffs' proposed modification of the CHA judgment order, referring to the need for further evidence. (Aug. 26, 1997 Memorandum Opinion and Order at 4-5.) Plaintiffs and CHA have been negotiating about a possible settlement as an alternative to a renewed Section 8 motion, and appear presently to be close to accord.

lates the sex and familial status provisions of the Fair Housing Act.[3/] The remaining five counts, while realleging the basic attack on the design of the ABLA plan, also complain of wrongdoing in the carrying out of the plan (VIII, in consulting with, and IX, X, XII and XIII in relocating, families).

We do not contend that this Court is obligated to or should accept under the Gautreaux umbrella the claim of every family, whether or not a member of the Gautreaux class, who asserts that CHA has denied it rights under the Uniform Relocation Act or some other statute. Such claims can and should be brought elsewhere. Nothing in the Joint Motion takes a position on the merits of such claims or would result in precluding them.

The trouble here is that there are no such separate claims in the *ABLA* Complaint; every count attacks the very ABLA redevelopment plan authorized by this Court. For example, while Count X of the *ABLA* Complaint alleges violations of the Uniform Relocation Act and its regulations, the same count (as all others) realleges the first 94 paragraphs of the Complaint and thus includes all the allegations attacking the design of the ABLA redevelopment plan authorized by the Gautreaux order of June 1998. The non-Gautreaux issues are inextricably mingled with the central attack on the ABLA redevelopment plan.

This distinction between claims which do and do not attack this Court's June 1998 ABLA Order is crucial. Complaints that do not challenge the terms of a decree, nor seek to modify it, are not collaterally barred. See, e.g., Barfus v. City of Miami, 936 F.2d 1182,

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[3/] These claims are like the unsuccessful effort in Davis v. Board of School Comm'rs of Mobile County, 517 F.2d 1044 (5th Cir. 1975), to avoid Hines by asserting a "new" claim under Title VII of the Civil Rights Act of 1964. Davis mandated intervention instead, saying it would result in better management of the pending class action, no loss of rights under Title VII, and would "avoid a proliferation of litigation over the same subject matter . . . ." 517 F.2d at 1049.

1185 (11th Cir. 1991); O'Shea v. City of San Francisco, 966 F.2d 503, 505 (9th Cir. 1992). But complaints that do challenge the terms of a decree, or seek to modify it, are barred. See, e.g., Tompkins v. Alabama State Univ., 15 F. Supp. 2d 1160, 1163 (N.D. Ala. 1998), aff'd mem., 174 F.3d 203 (11th Cir. 1999)(distinguishing Barfus and O'Shea). Applying Hines in a school desegregation context, Tompkins held that a collateral attack could not proceed because: "[t]he *Tompkins* Plaintiffs, on the other hand, directly challenge the terms of a decree entered [in the underlying desegregation case]."

If, as our Joint Motion requests, the *ABLA* Complaint were dismissed and then redrafted as a motion to intervene in Gautreaux, alleged wrongs such as denying Relocation Act benefits could be stripped away (and made, if the *ABLA* plaintiffs chose, the subject of a separate suit or suits elsewhere), leaving only the central attack on the ABLA redevelopment plan as the subject of proposed Gautreaux intervention. As to where that central attack must be mounted, Hines leaves no doubt: "[T]he proper course for parental groups seeking to question current deficiencies in the implementation of desegregation orders is for the group to petition the district court to allow it to intervene in the prior action." Hines v. Rapides Parish School Board, 479 F.2d 762, 765 (5th Cir. 1973).[4/]

[4/] Thus, there is no suggestion that anyone be denied a full day in court respecting any claim whatever. Attacks on this Court's ABLA Order would be heard here in the context of a motion to intervene. Alleged CHA violations of the rights of tenants which do not stem from the design of the ABLA plan could be made the subject of a separate suit or suits, unprejudiced by the disposition of the present *ABLA* Complaint. "Any claim against a party may be severed and proceeded with separately." Rule 21, Federal Rules of Civil Procedure. See also Rule 42.

Actions in the *Horner* and *Cabrini* cases are not to the contrary. In neither case, at the time of their commencement, had this Court entered Gautreaux Orders approving plans for those developments. In neither case, unlike in the *ABLA* Complaint, was there an attack on an order of this Court or intrusion into this Court's expressly reserved continuing jurisdiction.

We turn to the legal arguments of the Response.

B. The *Hines* Collateral Attack Doctrine Applies.

The Response at 5 contends that there must be 100 percent overlap, i.e., complete identity of both issues and plaintiffs, before the Hines principles apply. This is the effect of the Response's arguments that the Hines doctrine does not apply here because the *ABLA* Complaint does not raise the "identical" issues raised in Gautreaux, id., and that "all the *ABLA* plaintiffs" are not Gautreaux class members, id. at 6.

The Response's contention is wrong. Were it correct it would gut the Hines doctrine, which could then be rendered inapplicable (leading to the very multiplicity of suits the doctrine is designed to prevent) by adding only a single new "issue" or a single new plaintiff. This is what the would-be plaintiffs in Davis tried to do by adding a Title VII count and two new plaintiffs -- school principals who claimed to be discriminated against by implementation of the underlying school desegregation remedy. 517 F.2d at 1047. Indeed, the same stratagem was attempted unsuccessfully in Hines itself, where the proposed new action purported to be on behalf of a school's white students claiming to be injured by the underlying desegregation case brought on behalf of blacks. Hines, 479 F.2d at 764. The principals in Davis and the white students in Hines are precisely analogous to the former ABLA residents in that they are non-class members claiming to be injured by the underlying desegregation remedy. Thus, although issues and plaintiffs are the same in some of the cases discussed (leading the Response to treat facts as holdings), in some (e.g., Davis and Hines) they are not.

Most importantly, the articulated criterion for the Hines doctrine is not complete identity of issues and plaintiffs -- we have found no case so holding -- but whether the proposed new case falls within the "area of jurisdiction" retained by the trial court in the underlying desegregation case, see Miller v. Board of Ed. of Topeka Unified School, 667 F.2d 946, 948 (10th Cir. 1982); Hines, 479 F.2d at 765, or "within the scope" of that underlying case, see Davis, 517 F.2d at 1047. This criterion in turn derives from the rationale of the Hines doctrine which is based on "judicial economy," see Rivarde v. State of Mo., 930 F.2d 641, 643 (8th Cir. 1991), and avoiding the risk of inconsistent judgments, id., at 644. As in *Rivarde*, the *ABLA* plaintiffs seek a different remedy from that prescribed in the Gautreaux Court's ABLA Order of June 1998 (as to which jurisdiction was retained), thus explicitly posing the inconsistent judgments risk which alone may suffice to justify application of Hines:

> [A]ppellants here seek an additional and different remedy from that ordered in the class action. Indeed, appellants' case is premised on the allegation that the [underlying case's desegregation] remedy is ineffective. For these reasons, appellants are not entitled to bring an independent action.

Id. at 645 (emphasis added).

The *ABLA* plaintiffs' state that should they prevail before Judge Gettleman (presumably, in persuading Judge Gettleman to in effect change this Court's ABLA Order) they would "seek this court's approval (by intervention or otherwise) to modify the terms of this court's June 1998 order." Response at 2. This is obviously no answer to either the judicial economy or inconsistent judgments concerns. As for economy, in such a scenario Judges Aspen and Gettleman would each be considering the merits of the very same ABLA redevelopment plan in separate cases. As for inconsistent judgments, what if Judges Aspen and Gettleman disagreed?

The Hines doctrine provides the answer to these spectres, and neither its rationale nor the cases employing it require a self-defeating 100 percent identity of issues and plaintiffs.

C. *ABLA* Should Be Reassigned Under Local Rule 2.31.

The Response does not contest the proposition that *ABLA* and Gautreaux are related under the "same property" provision of Local Rule 2.31A. Response at 8. The issue is whether *ABLA* may be reassigned because it meets the last three conditions of Local Rule 2.31B. (The first condition -- that both cases are pending -- is plainly met here and not questioned by the Response.)

All three conditions have to do with issues of judicial economy -- substantially saving judicial time, not substantially delaying proceedings in the earlier case, and susceptibility of disposition in a single proceeding. Given that *ABLA* attacks and seeks to enjoin the very remedy authorized in the Gautreaux Court's June 1998 Order and as to which further Gautreaux proceedings are expressly contemplated, it is plain that all three conditions are met. Further, beyond issues of judicial economy it would be unseemly to have Judge Gettleman begin now to conduct proceedings whose avowed purpose is to enjoin implementation of a remedial order Judge Aspen entered a year ago.

To identify but one aspect of this unseemliness, it would lead to the result that 20,000 applicants for public housing, represented by one set of attorneys, would be suing in *ABLA* to enjoin the very remedy the same 20,000 persons, all members of the Gautreaux plaintiff class and represented by another set of attorneys, had obtained in Gautreaux! It seems plain that the claims of these 20,000 persons not only should be handled and disposed of by a single judge in a single proceeding, see Rule 2.31B(2) and (4)), but -- to avoid an almost absurd posture -- must be.

The remaining condition, Rule 2.31B(3), looks to the likelihood of delay in Gautreaux proceedings should *ABLA* be reassigned. As a practical matter, however, the ABLA phase of Gautreaux cannot proceed without disposition of the *ABLA* attack on the design of the ABLA redevelopment plan -- what developer would commit financial resources to an ABLA redevelopment plan while that very plan is at risk of being enjoined or substantially modified in a judicial proceeding? Whether or not *ABLA* is designated as related would have no effect upon this reality, and hence Rule 2.31B(3) is satisfied because any delay in Gautreaux would stem from the very filing of the *ABLA* case, not from its designation as related.

D. The Barton Doctrine Applies.

In our Joint Motion, we argued that an injunction was necessary and proper under Barton v. Barbour, 104 U.S. 126 (1881), to protect the Receiver's ability to carry out its functions at ABLA. Motion at 7-8. The Response at 11 mischaracterizes the relief sought by the Motion. We are not seeking an injunction against the *ABLA* plaintiffs "from pursuing their lawsuit" or "from proceeding with their case," id., but rather an injunction requiring them to pursue in this Court any claim that is inextricably part of Gautreaux -- leaving them free to proceed elsewhere with any claims not part of Gautreaux.

The *ABLA* plaintiffs advance two counter-arguments. Neither is correct.

1. The *ABLA* plaintiffs' decision not to name the Receiver as a defendant is irrelevant.

Without citation to relevant authority, the Response at 11-12 argues in effect that because the *ABLA* plaintiffs chose not to name the Receiver as a defendant, this Court has no power under the Barton doctrine to prevent interference with the Receiver's work. This argument is meritless.

The *ABLA* suit challenges the actions of the Receiver and seeks relief that is effectively against it -- including a request for a preliminary injunction cutting off its funding and modifying the development plan it is to implement. Therefore, the fact that the *ABLA* plaintiffs named only the CHA as a defendant is irrelevant. Receivers are regularly treated by the courts as indispensable parties to actions brought against the entities they are administering. See, e.g., Angst v. Royal Maccabees Life Ins. Co., 77 F.3d 701 (3d Cir. 1996); Crutcher v. Aetna Life Ins. Co., 746 F.2d 1076 (5th Cir. 1984). This protects the Receiver against being subjected to inconsistent verdicts. Angst, 77 F.3d at 706.[5]

Given the breadth of the Court's appointing order,[6] the Receiver is a necessary (and indeed an indispensable) party to resolving central portions of the *ABLA* claim. See Gautreaux v. CHA, 178 F.3d 951, 958 (7th Cir. 1999)(noting that Receiver was indispensable party to negotiation of settlement of Cabrini action involving CHA HOPE VI new housing development).

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[5] Cf. In re Federal Sav. & Loan Ins. Corp., 837 F.2d 432, 434 (11th Cir. 1988)(once appointed receiver, FSLIC and FDIC stand as real party in interest in shoes of the received institution in any litigation).

[6] The *ABLA* plaintiffs also misstate the nature of the Receiver's authority, implying that Barton is inapplicable because the Receiver does not have authority over ABLA redevelopment. Response at 11-12. The Receiver was vested with "all powers of CHA" with respect to "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of" the Gautreaux litigation. Aug. 14, 1987 Order (Ex. F to Motion). It is the law of the case that the HOPE VI program and the development of new housing at ABLA are covered by the receivership order. See Orders of May 19, 21, and 22 1998 (Ex. B to Joint Motion).

Barton is therefore applicable, since the Receiver has control of relevant portions of the actions of a defendant to the *ABLA* litigation (as presently pled) -- whether or not named as a defendant by the *ABLA* plaintiffs.

2. The statutory exception to the Barton doctrine applies only to routine business matters, not to a collateral attack on a desegregation remedy.

The Response at 13-18 argues that a statutory exception to Barton is applicable because the *ABLA* suit concerns the "acts or transactions [of the Receiver] in carrying on business" connected with the receivership property. See 28 U.S.C. §959(a). But courts have repeatedly held that the statutory exception only applies to routine business transactions. In re Beck Indus., Inc., 725 F.2d 880 (2d Cir. 1984), is representative:

> [T]his court has given § 959(a) a rather narrow construction.
>
> *   *   *   *   *
>
> The cases seem to reflect the view, first, that § 959(a) was enacted to deal with garden-variety cases like that of the passenger in *Barton v. Barbour*, *supra,* who claimed to have been injured as the result of continued operation of a railroad by a receiver and was doubtless unaware of the insolvency; and second, that there is no need to strain to give § 959 (a) a broad construction since a narrow one means only that the putative suitor must apply for leave, thereby enabling the appointing tribunal to maintain better control over the administration of the estate.

Beck Indus., 725 F.2d at 887 (emphasis added).[7]

The CHA's ordinary business is administering public housing. Building new housing under a desegregation decree is not its ordinary business. It is an extraordinary requirement

[7] Response at 13-14 incorrectly cites to United States v. Harris, 177 U.S. 305 (1900), as standing for the proposition that what became §959 was intended to place receiver on the same plane as other companies not in receivership. That proposition was advanced by counsel in Harris, id. at 308, but not accepted by the Court, id., at 308-09. Similarly, the citation to Eddy v. Lafayette, 163 U.S. 456 (1896), is also out of context.

based on injunctions issued by this Court to remedy intentional discrimination. Everything the Receiver does -- including especially the broad planning decisions that are at the core of the *ABLA* lawsuit -- goes directly to this Court's ability to implement the injunction through the Receiver. That is why the Barton doctrine requires that the *ABLA* claim proceed in this Court.

The law recognizes this point. Where the attack is upon the receiver's administration of the property he was appointed to administer (and not a collateral transaction with a third person), the Barton doctrine, not the narrow statutory exception, applies. A prospective plaintiff must either obtain permission from the Court that appointed the receiver to sue the receiver elsewhere, or must seek to intervene in the original proceeding. Summarizing the case law, 12 Wright, Miller & Marcus, *Federal Practice & Procedure* §2984, at 39 (2d ed. 1997), states:

> Section 959(a) should not be construed to permit suits that aim to establish adverse rights in the receivership property or that otherwise interfere with the receiver's control and management of the estate. A claimant's proper remedy in these cases is to intervene in the receivership proceeding and submit his claim to the receivership court.[8/]

It is difficult to think of a suit that could interfere with the Receiver's control and management of a desegregation remedy more than a claim that the ABLA desegregation plan

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[8/] Accord, e.g., In re Delorean Motor Co., 991 F.2d 1236, 1240-41 (6th Cir. 1993)(affirming preliminary injunction against suit against a trustee and his counsel)(citing Barton). The Sixth Circuit held that the statutory exception provided in §959 "does not apply to suits against the trustee for actions taken while administering the estate." Administering the estate, the court held, "do[es] not constitute 'carrying on business' as that term has been judicially interpreted." Id. at 1241. See also In re Lehal Realty Assoc., 101 F.3d 272, 276 (2d Cir. 1996).

Thus, a routine personal injury suit against the estate for a construction accident in new development administered by the Receiver might fall within the exception; challenging the HOPE VI development plan itself as unlawful discrimination clearly does not.

violates Federal antidiscrimination law and that the funding for the program should be cut off. Indeed, the Response at 13-18 cites no case to support the proposition that a Federal District Court is powerless to enjoin a collateral attack on its receiver's acts in a desegregation case.[9]

3. The rule stated in SEC v. Wencke is not limited to SEC cases. It is one of many cases that supports issuance of an injunction against proceeding in another court with claims attacking the *Gautreaux* desegregation remedy.

The Response at 16-17 focuses its fire at SEC v. Wencke, 622 F.2d 1363 (9th Cir. 1980), which affirmed a stay against non-parties from suing entities in receivership except by leave of court, contending that Wencke is distinguishable because it was an SEC enforcement case. Wencke is not the only case relied on by the Joint Motion; other cases support the same result.[10] (Joint Motion at 7-8.)

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[9] Indeed, one case cited by Response at 14, Thompson v. Texas Mex. Ry. Co., 328 U.S. 134 (1946), emphasized that where a suit seeks an injunction that would interfere with the administration of the estate, it would infringe on the jurisdiction of the appointing court. Id. at 139. Thompson allowed only a damage action, and not an injunction suit, to proceed.

Contrary to the Response at 15, even if the statutory exception were applicable, this Court may still enjoin a suit in another court, since §959 allows actions to proceed in other courts only "subject to the general equity power of such [appointing] court so far as the same may be necessary to the ends of justice." This language has been construed as allowing the appointing court to enjoin an action against a receiver pending before another judge, even though that action was properly filed without leave of the appointing court. See In re Chicago Pacific Corp., 773 F.2d 909, 918 (7th Cir. 1985)(suit within §959(a) exception can be enjoined if it would embarrass, burden, delay, or otherwise impede reorganization proceedings); In re Markos Gurnee Pshp., 182 B.R. 211, 222 (Bankr. N.D. Ill. 1995), aff'd, Ill. Dept. of Rev. v. Schechter, 195 B.R. 380 (N.D. Ill. 1996).

[10] The Response at 14 attempts to distinguish bankruptcy cases on the ground that under §959 the Receiver is carrying on the CHA's business. That distinction doesn't work, since as discussed above, the §959 exception is inapplicable. And bankruptcy cases do not rely on separate bankruptcy law for the prohibition of suits against receivers; the requirement is a matter of federal common law. See Matter of Linton, 136 F.3d 544, 545 (7th Cir. 1998)("there is no rele-

(continued...)

The Response also misstates Wencke. Contrary to the Response at 16, Wencke was not based solely on a pending SEC enforcement action. Instead, the court said the district court's "authority derives from the inherent power of a court of equity to fashion effective relief" in the context of a receivership. 622 F.2d at 1369. To support its holding, Wencke cited securities cases, but it also cited bankruptcy and other cases, 622 F.2d at 1370-71, including a desegregation case, to support the authority of a receivership court to issue a broad stay against actions that interfere with its receiver.[11]

The broad application of the principles applied in Wencke is underlined by Schauss v. Metals Depository Corp., 757 F.2d 649 (5th Cir. 1985)(enforcing injunction preventing suit against entity controlled by receiver appointed at request of CFTC). The Fifth Circuit ruled:

> A United States District Court hearing a particular case may, in its discretion, enjoin the filing of related lawsuits in other federal courts. . . . [S]uch an injunction may be effective against non-parties, as well as parties to the initial action. *United States v. Hall*, 472 F.2d 261 (5th Cir. 1972)(approving desegregation order prohibiting "all persons" from taking certain actions and providing for criminal contempt sanctions against "anyone having notice of this order").

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[10](...continued)
vant difference between" an equity receiver and bankruptcy trustee for purposes of this rule).

As the Seventh Circuit noted in Linton:

> [A]n equity receiver . . . is working in effect for the court that appointed or approved him, administering property that has come under the court's control . . . . If he is burdened with having to defend against suits by litigants disappointed by his actions on the court's behalf, his work for the court will be impeded.

Id. See also id. at 546 (noting, without deciding, that trustee may have ability to reopen closed bankruptcy case to seek injunction against state court action against trustee).

[11] Much of the discussion of Wencke in the Response at 16-17 mistakes the court's discussion of the facts of Wencke for statements of general principles.

> <u>[S]everal courts have recognized the importance of preserving a receivership court's ability to issue orders preventing interference with its administration of the receivership property</u>. In both securities fraud cases, *see, e.g., Securities and Exchange Commission v. Wencke,* 622 F.2d 1363 (2d Cir. 1980), and bankruptcy proceedings . . . <u>Courts of Appeals have upheld orders enjoining broad classes of individuals from taking any action regarding receivership property. Such orders can serve as an important tool permitting a district court to prevent . . . "piecemeal resolution of issues that call for a uniform result</u>."

<u>Schauss</u>, 757 F.2d at 654 (emphasis added)(citations omitted).

E. <u>Either of the Suggested Procedures is Appropriate</u>.

While supporting the relief we seek, HUD says it is "unclear" whether this Court could dismiss a case which is not before it. (HUD Response, p. 1.)

However, as paragraph 8A of the Joint Motion states, the suggested procedure is that this Court dismiss the *ABLA* Complaint only following reassignment of *ABLA* to it by the Executive Committee. (Joint Motion, p. 9.) And under the Barton Doctrine, this Court's power to act directly to protect its Receivership is extremely broad and extends to an injunction against interference with the Receiver, as the discussion in Part D demonstrates.

Thus, we think that either of the suggested procedural routes is available to the Court.

<u>CONCLUSION</u>.

Persons who wish to challenge a remedial order in an ongoing desegregation case must do so by seeking to intervene in the underlying desegregation case. That is the clear and sensible import of <u>Hines</u> and its progeny, and the *ABLA* plaintiffs have cited no authority to the contrary. When a court-appointed receiver is charged with a major part of the responsibility for implementing the remedial order, an additional line of authority -- the Barton Doctrine -- leads to the same result.

This does not mean that the Gautreaux Court must be the repository for every claim that arises out of the implementation of Gautreaux remedies. If CHA has wrongly denied relocation benefits to families in the course of carrying out a Gautreaux-ordered remedial plan, those families may pursue their claims independently and without leave of this Court, for such claims are not attacks on this Court's orders. But where, as here, the remedial order itself is attacked in every count of the Complaint, Hines clearly applies.

In the interest of common sense, as well as judicial economy and minimizing the risk of inconsistent judgments, the *ABLA* plaintiffs must be directed to bring their attacks on this Court's June 1998 ABLA Order before this Court, leaving them free to proceed elsewhere with claims that do not embody such attacks.

Respectfully submitted,

Alexander Polikoff

One of the Attorneys for Plaintiffs

Date: September 2, 1999

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on August 31, 1999 he served copies of the **Notice of Filing** and **Reply to ABLA Plaintiffs' Response to Joint Motion of *Gautreaux* Plaintiffs and Receiver**, on the parties listed below by causing true and correct copies thereof to be delivered to them via messenger delivery at their respective addresses as indicated below:

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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, et al.	)	Hon. Marvin E. Aspen
	)	
Defendants.	)	

NOTICE OF FILING

To: SEE ATTACHED SERVICE LIST.

Please take notice that on September 2, 1999, we filed the **Reply to ABLA Plaintiffs' Response to Joint Motion of *Gautreaux* Plaintiffs and Receiver** with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, a copy of which is attached hereto and served upon you herewith.

Dated: September 2, 1999

Respectfully submitted,

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