

- ~~Notice of Motion~~ and Affidavit in Opposition to Plaintiff's Notice of Motion

- ~~Cover letter to Clerk of Superior Court~~

pgs. 5

P.i. 3451

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MIDDLESEX COUNTY

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BOOK  
FRANK SCHATZMAN  
CLERK

**RUBIN AND LERNER**  
101 BAYARD STREET  
P. O. BOX 827  
NEW BRUNSWICK, N.J. 08903  
(201) 846-5500

**ATTORNEYS FOR** Defendants, Mayor & Council  
of the Borough of Highland Park

*Plaintiff s*

URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, a non-profit corporation of  
the State of New Jersey, et als,

vs.

*Defendant s*

THE MAYOR AND COUNCIL OF THE  
BOROUGH OF CARTERET, et als.

**SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY**

*Docket No. L-4122-73*

**CIVIL ACTION  
AFFIDAVIT IN OPPOSITION  
TO NOTICE OF MOTION  
OF PLAINTIFFS**

TO: BAUMGART & BEN-ASHER  
Attorneys for Plaintiffs  
134 Evergreen Place  
East Orange, New Jersey

ALL ATTORNEY INVOLVED

CLERK, SUPERIOR COURT OF NEW JERSEY  
MIDDLESEX COUNTY CLERK

STATE OF NEW JERSEY  
COUNTY OF MIDDLESEX

ss:

1. I am an attorney at law of the State of New Jersey and am  
associated with the firm of Rubin and Lerner; Lawrence Lerner is the

attorney of the Borough of Highland Park, N.J.

2. On or about 3:30 P.M. on December 13, 1974, I spoke with Attorney Daniel Searing of the National Committee Against Discrimination in Housing, Inc. The representations attributed to me in Paragraph 3 of Daniel Searing's Affidavit in Support of Plaintiffs' Motion are correct.

3. In addition to those representations, I made it very clear that the purpose of the depositions was to provide the Borough of Highland Park with a discovery mechanism in order to evaluate the basis and validity of the claims asserted against it. Examination of the notice, particularly as it relates to plaintiff Urban League of Greater New Brunswick, shows that the purpose of the deposition involved the discovery of information "which is pertinent to the subject matter of this suit, as it particularly relates to the Mayor and Council of the Borough of Highland Park." Copies of the deposition notices are annexed hereto as Exhibits A & B.

4. It was my impression based upon the Court's findings of December 6, 1974, that as regarded depositions which specifically concerned the allegations as against individual defendant that said defendant could schedule depositions without the necessity of putting all other parties on notice. Based upon that impression the notice requirement of R4:14-2 was consciously not complied with.

5. The relief sought by plaintiff through the mechanism of the protective order would, if granted, create a severe and perhaps irreparable restraint on the individual defendant's ability to prepare for trial. Coordination of myriad defense lawyer's schedules is impossible enough of a task; to provide coordination which would allow the named defendants in the

matter, ie. the individual mayors and council (or committee) members,  
to attend the depositions, as is allowed by the rules, is well nigh impossible.

Sworn and subscribed to before me

this 9 day of January, 1975

Phyllis Landers

PHYLLIS LANDERS  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires September 30, 1976

Dennis Auciello  
DENNIS AUCIELLO

CERTIFICATION

I certify that copies of the above Affidavit in Opposition to  
Notice of Motion of Plaintiffs were sent this day by regular mail to  
Baumgart & Ben-Asher, attorneys for plaintiffs, to all attorneys for  
the co-defendants, to the Clerk of Middlesex County and to Clerk of  
Superior Court of New Jersey.

Dated: January 9, 1975

Janice Felo  
JANICE FELO

EXHIBIT A

Attorney(s): RUBIN AND LERNER

Office Address & Tel. No.: 101 Bayard St., P.O. Box 827, New Brunswick, N.J. 08903  
(201)846-5500

Attorney(s) for Defendant, Borough of Highland Park

URBAN LEAGUE OF GREATER NEW BRUNSWICK,  
etc., et als.

Plaintiff(s)

vs.

THE MAYOR AND COUNCIL OF THE  
BOROUGH OF CARTERET, ET ALS.

Defendant(s)

SUPERIOR COURT OF N.J.  
CHANCERY DIVISION  
MIDDLESEX COUNTY

Docket No. C-4122-73

CIVIL ACTION

NOTICE TO TAKE ORAL DEPOSITIONS

TO: BAUMGART & BEN-ASHER, ESQS., Attorneys for Plaintiffs

PLEASE TAKE NOTICE that in accordance with the Rules of Civil Practice and Procedure, testimony will be taken by deposition upon oral examination before a person authorized by the laws of the State of New Jersey to administer oaths on December 26, 19 74, at below o'clock M, at the office of Rubin & Lerner, 101 Bayard St., New Brunswick, New Jersey, with respect to all matters relevant to the subject matter involved in this action, at which time and place you will please produce the following person(s) whose testimony is to be taken:

- CLEVELAND BENSON at 9:30 A.M.
- LYDIA CRUZ, at 11:30 A.M.
- FANNIE BOTTS, at 2:00 P.M.
- KENNETH TUSKEY, at 4:00 P.M.

TAKE FURTHER NOTICE that at the same time and place the testimony of the following persons will also be taken:

RUBIN AND LERNER

/DENNIS AUCIELLO/

by:

DENNIS AUCIELLO

Dated: December 10, 19 74

Service of a copy of the foregoing Notice is hereby acknowledged this 12<sup>th</sup> day of December, 19 74 .

*David Ben-Asher*

EXHIBIT B

Attorney(s): RUBIN AND LERNER

Office Address & Tel. No.: 101 Bayard St., P.O. Box 827, New Brunswick, N.J. 08903  
(201)846-5500

Attorney(s) for Defendant, Borough of Highland Park

URBAN LEAGUE OF GREATER NEW BRUNSWICK,  
etc., et als.

Plaintiff(s)

vs.

THE MAYOR AND COUNCIL OF THE  
BOROUGH OF CARTERET, et als.

Defendant(s)

SUPERIOR COURT OF N.J.  
CHANCERY DIVISION  
MIDDLESEX COUNTY

Docket No. C-4122-73

CIVIL ACTION

NOTICE TO TAKE ORAL DEPOSITIONS

TO: BAUMGART & BEN-ASHER, ESQS., Attorneys for Plaintiffs

PLEASE TAKE NOTICE that in accordance with the Rules of Civil Practice and Procedure, testimony will be taken by deposition upon oral examination before a person authorized by the laws of the State of New Jersey to administer oaths on December 27, 19 74, at below o'clock M. at the office of RUBIN AND LERNER, 101 Bayard St., New Brunswick, with respect to all matters relevant to the subject matter involved in this action, at which time and place you will please produce the following person(s) whose testimony is to be taken:

JUDITH CHAMPION, at 9:30 A.M.

URBAN LEAGUE OF GREATER NEW BRUNSWICK--particularly ROY EPPS and any other official of the corporation who has relevant knowledge as to the Complaint filed in the above matter, together with all books, records, papers and correspondence which is pertinent to the subject matter of this suit, as it particularly relates to the Mayor and Council of the Borough of Highland Park; at 11:30 A.M.

TAKE FURTHER NOTICE that at the same time and place the testimony of the following persons will also be taken:

BARBARA TIPPETT, at 2:00 P.M.  
JEAN WHITE, at 3:00 P.M.

RUBIN AND LERNER

BY: DENNIS AUCIELLO/

DENNIS AUCIELLO

Dated: December 10, 19 74

Service of a copy of the foregoing Notice is hereby acknowledged this 10th day of December, 19 74

*David A. Ben-Asher*