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17-Nov-1983

Notice of Motion for John M. Payne
and Eric Neisser and Janet LaBella
to appear Pro hac Vice with
Affidavit of John M. Payne, Eric Neisser,
Janet E. LaBella and proposed
order

ppz = 15

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FRANK ASKIN, ESQ.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington St., Newark, New Jersey 07102
201/648-5687

BRUCE S. GELBER, ESQ.
National Committee Against Discrimination in Housing
1425 H Street, NW
Washington, D.C. 20005

ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MIDDLESEX
COUNTY

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,

Plaintiffs,

vs.

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

Defendants.

Docket NO. **O4122-73**

Civil Action

NOTICE OF MOTION

TO: Clerk¹, Superior Court of New Jersey
State House Annex
Trenton, New Jersey 08625

Bertram Busch, Esq.
Phillip Paley, Esq.
Joseph L. Stonaker, Esq.
Thomas R. Farino, Jr.
William C. Moran, Jr., Esq.
Joseph J. Benedict, Esq.
Patrick Diegnan, Esq.

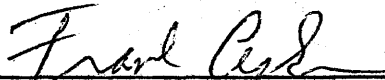
SIRS:

PLEASE TAKE NOTICE that the undersigned, attorney for
plaintiffs, hereby moves the Superior Court, Chancery Division,
for an order pursuant to R. 1:21-2 permitting John M. Payne, Esq.,
Eric Neisser, Esq., and Janet LaBella, Esq. to appear pro hac vice

in the above-captioned action.

In support of said motion, plaintiffs rely on the affidavits of John Payne, Eric Neisser and Janet LaBella submitted herewith. Plaintiffs submit this motion on the papers and do not seek oral argument. A proposed Order is attached.

DATED: November / 7., 1983



FRANK ASKIN
Attorney for Plaintiffs

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CHANCERY DIVISION-MIDDLESEX COUNTY

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NEW BRUNSWICK, et al., :
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Plaintiffs, :
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vs. :
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THE MAYOR AND COUNCIL OF :
THE BOROUGH OF CARTERET, :
et al., :
 :
Defendants. :

X

Docket No. C-4122-73
Civil Action

AFFIDAVIT OF JOHN M. PAYNE

STATE OF NEW JERSEY)
• SS◀•
COUNTY OF E S S E X)

JOHN M. PAYNE, being duly sworn, deposes and says:

1. I am a Professor of Law at the Rutgers University
School of Law in Newark, New Jersey.

2. I am a member in good standing of the bar of the State of
Massachusetts, having been admitted in 1970, after graduation from
the Harvard Law School.

3. The law school courses I teach include Local Government Law;
Constitutional Law; and Land Use Controls.

4, I have authored numerous articles dealing with land use and zoning issues. Such articles include

"Intergovernmental Condemnations as a Problem in Public Finance," 61 Texas Law Review 301 (1983),

"A Survey of New Jersey Eminent Domain Law, With Academic Interruptions," 30 Rutgers Law Review 1111 (1977),

"Delegation Doctrine in the Reform of Local Government Law: The Case of Exclusionary Zoning," 29 Rutgers Law Review 803 (1976),

"From the Courts," quarterly column in the Real Estate Law Journal, on topics of current legal interest in the field of real estate, land use and property taxation,

"Compensation for Business Loss in Eminent Domain Actions,"
⁶ R.E.L.J. 63 (Summer, 1977),

"Parma, Ohio Comes to Mount Laurel, New Jersey," 11 R.E.L.J. 72 (Summer, 1982)(exclusionary zoning under the Fair Housing Act of 1968),

"Just Compensation in a Breadbox," 11 R.E.L.J. 264 (Winter, 1983),

"The High Cost of Landmark Designation," 7 R.E.L.J. 249 (Winter, 1979),

"Recent Changes in Federal Law: Part I: Civil Rights Law and Zoning Controversies," 10 R.E.L.J. 76 (Summer, 1981),

"Part II: Antitrust Law and Zoning," 10 R.E.L.J. 146 (Fall, 1981),

"The Supreme Court Tries Again on Regulatory Takings,"
¹⁰ R.E.L.J. 252 (Winter, 1982),

"Private Rights in Tidal and Riparian Lands," 8 R.E.L.J. 166 (Fall, 1979),

"Real Estate Warranties Gain New Ground," 8 R.E.L.J. 264 (Winter, 1980),

"Landowners Lose a Round in Efforts to Expand the Scope of Condemnation Awards," 8 R.E.L.J. 337 (Spring, 1980),

"California Downzoning Controversy to Reach the U.S. Supreme Court," 9 R.E.L.J. 48 (Summer, 1980),

"Property Tax Exemption Denied to Publicly Assisted Housing Development Sponsored by a Private Charity," 6 R.E.L.J. 249 (Winter, 1978),

"Starting Over - Mount Laurel II," 12 R.E.L.J. 85 (Summer, 1983),

"The Unhappy Job of Revaluing Property,"¹¹ 9 R.E.L.J. 227 (1981) (substantially reprinted in Mandelker, ed., State and Local Government in a Federal System, 1981 Supplement),

"Can a Fair System of Property Taxation be Salvaged in New York?," 11 R.E.L.J. 165 (Fall, 1982),

"Land Use Litigation Expenses Under the Internal Revenue Code,"⁸ R.E.L.J. 22 (1979).

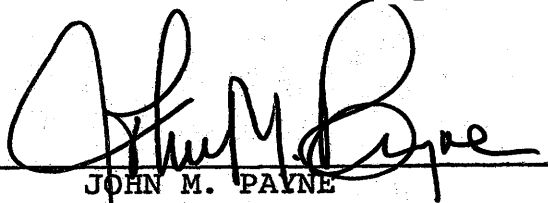
5. I am a Contributing Editor of the Real Estate Law Journal.

6. In light of my work in the area of land use and local government law, plaintiff Urban League of Greater New Brunswick, has asked me to become co-counsel in this action. I have been assisting the National Committee Against Discrimination in Housing (NCDH), the American Civil Liberties Union (ACLU), and the Constitutional Litigation Clinic (CLC) in the preparation of this case since September 1983, and have devoted substantial time and effort to such preparation. Plaintiffs have now requested that I be admitted pro hac vice before the Chancery Division in order to participate fully in this litigation.

7. I am associated in the above-captioned matter with Frank Askin, Esq., New Jersey counsel of record, qualified to practice pursuant to R. 1:21-1. Frank Askin is lead counsel of the Constitutional Litigation Clinic of the Rutgers University School of Law in Newark, New Jersey.

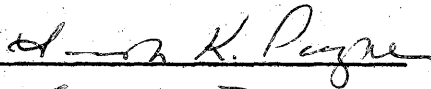
8. I have applied for admission to the bar of New Jersey

under R. 1:27 in September 1983 and was informed on November 2, 1983 that my application was in good order and could be acted upon within the next month.



JOHN M. PAYNE

SWORN TO and SUBSCRIBED
before me this H day
of November, 1983.



Edith K. Payne
An Attorney at Law of
the State of New Jersey

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201/648-5687

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER :
NEW BRUNSWICK, et al., :
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Plaintiffs, :
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v s . * . . . :
 :
THE MAYOR AND COUNCIL OF :
THE BOROUGH OF CARTERET, :
et al., :
 :
Defendants. :

X

Docket No. C-4122-73
Civil Action

AFFIDAVIT OF ERIC NEISSER

STATE OF NEW JERSEY)
: ss. :
COUNTY OF E S S E X)

ERIC NEISSER, being duly sworn, deposes and says:

1. I am an Associate Professor of Law at the Rutgers University Law School in Newark, New Jersey and have been since 1978.
2. I am a member in good standing of the bars of the States of Massachusetts (admitted in 1973) and New York (admitted in 1976) and of the United States Supreme Court, the United States Court of Appeals for the First, Second, and Ninth Circuits, and the United

States District Courts for the Southern and Eastern Districts of New York, the District of Massachusetts, and the Northern District of California.

3. I graduated in 1972 from the Yale Law School.

4. The law school courses I teach include Evidence, Advanced Problems in Evidence, Criminal Procedure, Judicial Administration, and Civil Liberties. In addition, I am regularly assigned to teach and work in the Constitutional Litigation Clinic, a law office providing a life-case clinical experience for Rutgers law students while representing clients in litigation to protect and enforce constitutional rights.

5. I am currently counsel or counsel for antici curiae in several cases in which the primary aim is to redress violations of constitutional rights. These cases include Oliver v. United States, No. 82-15 (U.S. Sup. Ct.j., cert, granted, 51 U.S.L.W. 3552 (Jan. 24, 1983), oral argument held on November 9, 1983, 52 U.S.L.W. 3383 (November 15, 1983); Korematsu v. United States, Crim. No. 27635W (MHP) (N.D. Cal.)(petition for writ of error coram nobis filed Jan. 19, 1983); and Ad Hoc Committee for Nuclear Disarmament for City of Novato, No. C82-6693 WAI (N.D. Cal., filed Dec. 9, 1982).

6. I have previously served as counsel or co-counsel in other cases involving important constitutional issues. Among these cases are Delaware v. Prouse, 440 U.S. 648 (1979); Johnson v. LeFevre, 615 F.2d 1351 (2d Cir. 1979), • cert. denied sub Nom. Johnson v.

Barris, 445 U.S. 931 (1980); Jones v. Essex County Park Commission, No. A39G2-77 (N.J. App. Div., Nov. 29, 1978); New Jersey 1978 Socialist Workers Campaign Committee v. New Jersey Election Law Enforcement Commission, No. C 3250-77 (N.J. Super. Ct., June 13, 1978); Todaro v. Ward, 565 F.2d 48 (2d Cir. 1977), affirming 431 F. Supp. 1129 (S.D.N.Y. 1977) and Rhem v. Malcolm, 507 F.2d 333 (2d Cir. 1974).

7. I am the author of the following articles:

"Affirmative Action in Hiring Court Staff: The Ninth Circuit's Experience," 26 Howard L.J. 53 (1983) and 21 Judges¹ J. 20 (1982),

"Innovations at the Ninth Circuit," 47 Inter Alia F7 (1982),

"The New Federal Judicial Discipline Act: Some Questions Congress Didn't Answer," 65 Judicature 142 (1981), reprinted in part, 25 The Advocate 10 (1982),

"Riding Herd on the Backlog: The Ninth Circuit's Approach," 56 Calif. State Bar. J. 96 (1981),

"Inventory and Calendaring Procedures in the United States Court of Appeals," 46 Inter Alia F1 (1981),

Book Review - Privacy: How to Protect What's Left of It, by Robert Ellis Smith, in 26 Crime & Delinquency 263 (1980),

"Is There a Doctor in the Joint? The Search for Constitutional Standards for Prison Health Care," 63 U. Va. L. Rev. 921 (1977),

"Diversion of Alcoholics from the Criminal Process: The Intoxication Provision of the Connecticut Penal Code," 45 Conn. Bar J. 289 (1971),

"Conscientious Draft Refusal, Marijuana Possession, and the Bar Admission Requirement," 40 Bar Examiner 6 (1971) (address delivered at ABA Annual Meeting on August 10, 1970),

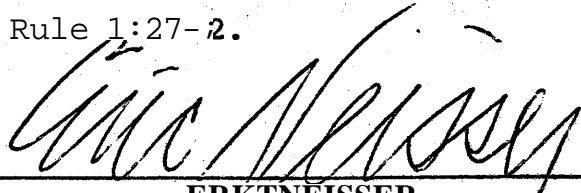
"Draft Refusal, Marijuana and Bar Admission," 57 A.B.A.J. 140 (1971),

"Admission to the Bar Following Conviction for Refusal of Induction, Part One: Constitutional Issues," 78 Yale L.J. 1352 (1969).


8. In light of my experience in litigating constitutional issues, plaintiff Urban League of Greater New Brunswick has asked me to become co-counsel in this action. Since August 1983, I have been assisting the National Committee Against Discrimination in Housing (NCDH), the American Civil Liberties Union (ACLU), and Frank Askin in the Constitutional Litigation Clinic in the preparation of this case. Plaintiffs have now requested that I be admitted pro hac vice in order to participate fully in this litigation.

9. I am associated in the above-captioned matter with Frank Askin, Esq., New Jersey counsel of record, who is qualified to practice pursuant to R. 1:21-1. Frank Askin is lead counsel of the Constitutional Litigation Clinic of the Rutgers University School of Law at Newark, New Jersey.

10. I will be applying in the next month for admission to the bar of New Jersey pursuant to Rule 1:27-2.


ERKTNEISSER

SWORN TO and SUBSCRIBED
before me this j[^] day
of November, 1983.


Frank Askin
Attorney at Law, State of New Jersey

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201/648-5687

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MIDDLESEX COUNTY

_____-X
URBAN LEAGUE OF GREATER :
NEW BRUNSWICK, et al., :
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 Plaintiffs, :
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vs. :
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THE MAYOR AND COUNCIL OF :
THE BOROUGH OF CARTERET, :
et al., :
 :
 Defendants. :
_____-X

Docket No. C-4122-73
Civil Action

AFFIDAVIT OF JANET E. LABELLA

DISTRICT OF COLUMBIA)
 * ss.:
CITY OF WASHINGTON)

JANET E. LABELLA, being duly sworn, deposes and says:

1. I am a member in good standing of the bars of the District of Columbia (admitted in 1975), and Massachusetts (admitted in 1976), and the United States District Court of the District of Columbia.

2. I am associated in the above-captioned matter with Frank Askin, Esq./ New Jersey counsel of record, qualified to practice law in New Jersey pursuant to R. 1:21-1.

3. The Urban League of Greater New Brunswick/ plaintiff in the above-captioned matter, has requested my representation in this matter.

4. There is good cause for my admission pro hac vice in this litigation/ for the following reasons:

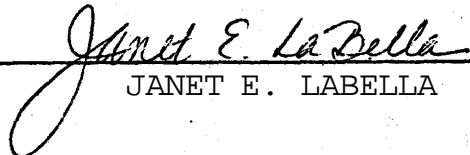
a. I am Assistant General Counsel of the National Committee Against Discrimination in Housing (NCDH). NCDH is a 33-year old non-profit organization founded for the purpose of eliminating discrimination in housing and promoting equal housing opportunity nationwide. It is engaged in monitoring government enforcement of fair housing laws, research, public information, technical assistance, and legal services on behalf of open housing and open communities.

b. NCDH attorneys have served as lead counsel or participated as amicus curiae in many leading cases instituted to challenge exclusionary zoning or to secure access to housing for low and moderate income plaintiffs and minority plaintiffs.

Such cases include Havens Realty Corp v. Coleman, 455 U.S. 363 (1982); Gladstone Realtors v. Village of Bellwood, 441 U.S. 91 (1979); Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968); Miller v. Apartments and Homes of N.J., 646 F.2d 101 (3d Cir. 1981); Park View Heights Corp v. City of Black Jack, 605 F.2d 1033 (8th Cir. 1979), cert. denied, 445 U.S. 905 (1980); Smith v. Town of Clarkton, 682 F.2d 1055 (4th Cir. 1982); Resident Advisory Board v. Rizzo, 564 F.2d 126' (3d Cir. 1977),

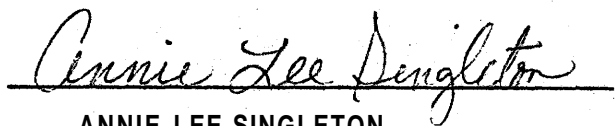
cert. denied, 435 U.S. 908 (1978); Hills v. Gautreaux, 425 U.S. 284 (1976); South Alameda Spanish Speaking Organization (SASSO) v. City of Union City, Calif., 314 F. Supp. 1188 (N.D. Cal. 1970); and Dailey v. City of Lawton, Okla., 296 F. Supp. 266 (W.D. Okla. 1969), aff'd, 425 F.2d 1037 (10th Cir. 1970).

c. The present case has been a cooperative effort between attorneys for the ACLU of New Jersey and NCDH since January 1983. As part of the NCDH legal staff, I have devoted substantial time and effort in assisting local attorneys with the preparation of the case. Plaintiffs have now requested that I be admitted pro hac vice in order to participate fully in the litigation.



JANET E. LABELLA

SWORN TO and SUBSCRIBED
before me this /\$~£?j day
of November, 1983.



ANNIE LEE SINGLETON
Notary Public, D. C.
My Commission Expires: April 30, 1984

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Plaintiffs,

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et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MIDDLESEX
COUNTY

— . " " "
Docket No. C-4122-73
Civil Action

ORDER

Plaintiffs having moved before this Court for an Order permitting John Payne, Esq., Eric Neisser, Esq., and Janet LaBella, Esq. to appear pro hac vice in this action for plaintiffs, and the Court having considered the papers and defendants having made no objection,

It is on this _____ day of November, 1983,

ORDERED, that John Payne, Esq., Eric Neisser, Esq. and Janet LaBella, Esq. are hereby permitted to appear pro hac vice in this matter on behalf of plaintiffs subject to the following conditions, as required by R. 1:21-2(b):

1. They shall abide by the Rules Governing the Courts

of the State of New Jersey, including all disciplinary rules?

2. They shall consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against them that may arise out of their participation in this matter;

3. They shall notify this Court immediately of any matter affecting their standing at the bar of any other court;

4. All pleadings, briefs and other papers filed with the Court shall be signed by an attorney of record authorized to practice in this State.

EUGENE D. SERPENTELLI, J.S.C.