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CONSTANCE BAKER MOTLEY'S FORGOTTEN HOUSING LEGACY

Donovan J. Stone*

Abstract

*Constance Baker Motley led the legal assault on Jim Crow and became the first Black woman appointed to the federal bench. She spent two decades with the NAACP's Legal Defense and Educational Fund, assisting Thurgood Marshall in *Brown v. Board of Education*. Afterward, she desegregated the South's public schools and universities and argued ten cases before the Supreme Court, winning nine. Motley also represented countless protestors jailed for their activism, including Martin Luther King, Jr.*

Despite Motley's achievements, scholars have largely overlooked her career. And those who have examined Motley's work have generally focused on her efforts to dismantle school segregation. Public school desegregation was foundational to Motley's LDF litigation, but her practice also extended beyond school desegregation. Motley filed scores of cases challenging racial discrimination in voting rights, public accommodations, and housing access.

*Using archival research, this Article explores the latter category—Motley's housing docket—through the lens of *Stewart v. Clarke Terrace Unit No. 1*, a case she litigated in Shreveport, Louisiana. Filed in 1954, *Clarke Terrace* was LDF's first lawsuit challenging discrimination in privately constructed but federally insured housing developments. It sought to enforce the rights of African Americans who purchased homes in a new subdivision only to have nearby white residents sabotage the development. Uncovering *Clarke Terrace* challenges conventional narratives pigeonholing Motley as an education attorney. It highlights her housing advocacy and demonstrates that this work was pivotal to Motley's clients, even if forgotten by historians. This analysis powerfully advances appreciation for and understanding of Motley's civil rights legacy.*

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INTRODUCTION

In early 1953, African Americans in Shreveport, Louisiana, received an offer that was too good to be true. Three men—an official with the Federal Housing Administration, a local builder, and a New York investor—approached the city’s Negro Chamber of Commerce with plans to construct a new, low-cost housing development for Black residents.¹ Their proposed development, dubbed “Clarke Terrace,” called for a subdivision comprised of spacious homes featuring utilities, trolley transportation, playgrounds, and nearby churches and schools.² Because mortgages on the homes would be federally insured, payments would be low. Each home could be financed for only \$38 a month after an initial down payment of \$330.³

The subdivision seemed a godsend. At the time, Black Shreveporters faced rank discrimination in all aspects of their daily lives, but their housing conditions were particularly outrageous.⁴ Clarke Terrace promised a solution, but it had one glaring problem. The developers planned to build the subdivision on Jewella Road, a primarily white area just beyond Shreveport’s southwest rim.⁵ Blacks worried that white residents there would violently oppose the construction of a “Negro” development nearby.⁶ At the pitch meeting, representatives of the Negro Chamber

¹ Transcript of Deposition at 7–8, *Stewart v. Clarke Terrace Unit No. 1, Inc., et al.* (W.D. La. July 5, 1954) (No. 4592) (on file at Library of Congress, Box 232, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter *First Clarke Terrace Deposition*]. The New York investor was likely a representative of Dry Dock Savings Bank, which issued a proposal on March 13, 1953, to purchase mortgages associated with the project. That proposal was never consummated. *See* Stipulations at 3, *Stewart v. Clarke Terrace Unit No. 1, Inc., et al.* (W.D. La. July 19, 1954) (No. 4592) (on file at Library of Congress, Manuscript Division, Box 232).

² Flyer, *Clarke Terrace Subdivision: An F.H.A. Approved Low-Cost Home Development* (Nov. 15, 1953) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.). There is some controversy regarding the correct spelling of “Clarke” in the subdivision’s name. Contemporary accounts often used both spellings, sometimes in the same breath. *See, e.g., Clarke Terrace to Be Developed for Whites*, *SHREVEPORT J.*, Mar. 23, 1954, at 2A. Historians Rachel Emanuel and Alexander Tureaud, Jr. state that the subdivision was named after Southern University president Joseph S. Clark and thus refer to the subdivision as “Clark Terrace.” RACHEL L. EMANUEL & ALEXANDER P. TUREAUD, JR., *A MORE NOBLE CAUSE: A.P. TUREAUD AND THE STRUGGLE FOR CIVIL RIGHTS IN LOUISIANA* 220 (2011). However, official documents from the subdivision’s developers attach an “e.” *See, e.g., Flyer, supra*. This Article thus adopts that spelling—“Clarke Terrace.”

³ Flyer, *supra* note 2.

⁴ *See, e.g., WILLIE BURTON, THE BLACKER THE BERRY* 115–16 (2002) (explaining that Black neighborhoods in Shreveport were concentrated in the city’s least desirable areas); *SHREVEPORT COUNCIL OF SOC. AGENCIES, THE SHREVEPORT STORY* 13 (1953) (observing that Black homes in Shreveport were almost invariably substandard structures lacking running water or power).

⁵ *Annexation Is Required for Housing Plan*, *SHREVEPORT TIMES*, May 1, 1953, at A4.

⁶ *First Clarke Terrace Deposition, supra* note 1, at 9–10.

of Commerce predicted that placing a “colored subdivision” directly “across the street from some white people” would doubtless prove controversial.⁷ But the developers assured Black leaders that there would be no issues—“they would take care of that.”⁸

Shreveport’s commitment to segregation proved more intransigent than the developers estimated. Clarke Terrace immediately drew criticism from local churches, civic organizations, citizens, and elected officials.⁹ For a year, from March 1953 to March 1954, the subdivision was Shreveport’s most contentious racial issue. White citizens constantly lobbied their government to intervene.¹⁰ Shreveport’s City Council refused to annex the property.¹¹ The local parish government opposed the extension of sewerage services to the subdivision.¹² Facing this opposition, the developers compromised. They repudiated their contracts with Black buyers and instead built a white subdivision at the site. Although the developers remained committed to building a Black subdivision in the city, that new development would be placed near an existing Black neighborhood.¹³

African Americans who had subscribed to the Clarke Terrace development sought counsel, hoping to enforce their contracts notwithstanding white resistance. Their lawsuit, *Stewart v. Clarke Terrace Unit No. 1*, has been overlooked in histories of the Black freedom struggle.¹⁴ But contemporaries recognized the case’s significance. Influential Black newspapers like the *New York Age* reported on the case.¹⁵ Moreover, prominent NAACP lawyers litigated *Clarke Terrace* with the help of local heroes. Constance Baker Motley of the NAACP’s Legal Defense and Educational Fund (“LDF”) led the litigation under Thurgood Marshall’s supervision. Motley visited Shreveport frequently throughout 1954 to confer with the plaintiffs, take depositions, and direct local efforts in the case. Additionally, U. Simpson Tate, the NAACP’s Southwest Regional Counsel, worked closely on the case.¹⁶ At the local level, the lawyers enlisted Jesse N. Stone, Jr., whose success as the region’s leading civil rights lawyer led some to consider him the “Thurgood Marshall of North Louisiana.”¹⁷

⁷ *Id.* at 9.

⁸ *Id.*

⁹ Letter from Emmanuel Baptist Church to Roscoe H. White (Mar. 2, 1953) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

¹⁰ See *infra* notes 155–164 and accompanying text.

¹¹ See *Annexation Is Required for Housing Plan*, *supra* note 5.

¹² See *infra* notes 169–171 and accompanying text.

¹³ See *infra* notes 203–206 and accompanying text.

¹⁴ Only one published work mentions the *Clarke Terrace* litigation. Historians Rachel Emanuel and A.P. Tureaud, Jr. discuss the case in their biography of New Orleans-based civil rights attorney A.P. Tureaud, Sr. See EMANUEL & TUREAUD, *supra* note 2, at 219–22.

¹⁵ *Shreveport Ministers Blast Housing Foes*, *NEW YORK AGE*, Jan. 23, 1954, at 17.

¹⁶ EMANUEL & TUREAUD, *supra* note 2, at 221.

¹⁷ BURTON, *supra* note 4, at 166.

Drawing on archival research from the NAACP's records in the Library of Congress, this Article is the first to deeply analyze the *Clarke Terrace* litigation. It uses *Clarke Terrace* as a case study to explore Constance Baker Motley's housing docket at LDF and the role of similar housing cases in the organization's legal assault on Jim Crow. As an LDF litigator, Motley was among the "architects" of the American civil rights revolution.¹⁸ Yet, historically, she has been an unsung hero of the civil rights movement.¹⁹ Recent years have seen increased interest in Motley's career—a biography and a cluster of academic articles chronicling her life have been published since 2017.²⁰ A second biography is forthcoming.²¹ Even so, little has been said about her efforts to end housing discrimination. Most scholars continue to focus exclusively on the school desegregation lawsuits she filed rather than examine other parts of her civil rights practice. During Motley's two decades at LDF, however, she worked tirelessly to battle racial discrimination in housing in addition to public school education.²² Indeed, her LDF colleagues recalled that her "housing docket could have kept a small law firm busy."²³

¹⁸ Nancy MacLean, *Using the Law for Social Change: Judge Constance Baker Motley*, 14 J. WOMEN'S HIST. 136, 136 (2002).

¹⁹ See, e.g., Florence Wagman Roisman, *An Extraordinary Woman: The Honorable Constance Baker Motley*, 49 INDIANA L. REV. 677, 677 (2016) [hereinafter Roisman, *An Extraordinary Woman*] ("The Honorable Constance Baker Motley was an extraordinary person and one of the noteworthy and surprising facts about her is how little has been written about her life and work.").

²⁰ See generally GARY L. FORD, JR., CONSTANCE BAKER MOTLEY: ONE WOMAN'S FIGHT FOR CIVIL RIGHTS AND EQUAL JUSTICE UNDER LAW (2017). In 2017, the *Columbia Law Review* hosted a symposium honoring Constance Baker Motley and exploring her contributions to the American education system. See *Education, Equality, and the Law: A Symposium Honoring Constance Baker Motley '46*, COLUM. L. SCH. (April 11, 2017), <https://www.law.columbia.edu/news/archive/education-equality-and-law-symposium-honoring-constance-baker-motley-46> [<https://perma.cc/FMH7-DAWS>]. Participants in the symposium published several articles discussing Motley's legacy, mostly as it related to her desegregation litigation. See, e.g., Tomiko Brown-Nagin, *Identity Matters: The Case of Judge Constance Baker Motley*, 117 COLUM. L. REV. 1691 (2017) [hereinafter Brown-Nagin, *Identity Matters*]; Denny Chin & Kathy Hirata Chin, *Constance Baker Motley, James Meredith, and the University of Mississippi*, 117 COLUM. L. REV. 1741 (2017); George B. Daniels & Rachel Pereira, *Equal Protection as a Vehicle for Equal Access and Opportunity: Constance Baker Motley and the Fourteenth Amendment in Education Cases*, 117 COLUM. L. REV. 1779 (2017); Olatunde C.A. Johnson, *Equality Law Pluralism*, 117 COLUM. L. REV. 1973 (2017); William S. Koski, *Beyond Dollars? The Promises and Pitfalls of the Next Generation of Educational Rights Litigation*, 117 COLUM. L. REV. 1897 (2017); Raymond J. Lohier, Jr., *On Judge Motley and the Second Circuit*, 117 COLUM. L. REV. 1803 (2017).

²¹ TOMIKO BROWN-NAGIN, CIVIL RIGHTS QUEEN: CONSTANCE BAKER MOTLEY AND THE STRUGGLE FOR EQUALITY (forthcoming Jan. 2022).

²² See Roisman, *An Extraordinary Woman*, *supra* note 19, at 682 (noting that although Motley was LDF's "expert on . . . higher education cases, she handled many other issues as well").

²³ JACK GREENBERG, CRUSADERS IN THE COURTS: HOW A DEDICATED BAND OF LAWYERS FOUGHT FOR THE CIVIL RIGHTS REVOLUTION 207 (1994).

This Article will explore that disconnect, examining why Motley's housing cases are ignored and explaining what has been lost as a result. I argue that scholars have forgotten Motley's work leveling housing access because they have been drawn to the intrigue of her school desegregation cases. Images of Motley bravely desegregating southern schools and universities appear more dramatic than her equally courageous acts desegregating neighborhoods and housing projects. But as *Clarke Terrace* demonstrates, failing to analyze Motley's housing docket ignores the importance of such cases to the local communities that discrimination intimately touched. *Clarke Terrace* also illustrates the tenacity with which Motley represented her clients—even in contexts lacking the aura of school desegregation cases. Throughout 1954, Motley trekked to Shreveport at a moment's notice to ensure that African Americans there enjoyed the dignity of owning a decent home, notwithstanding threats of racial violence. Finally, deconstructing Motley's housing work underscores the interconnectedness of LDF's housing and school desegregation campaigns, as innovative strategies developed in the former context were later adapted to the latter.

Part I of this Article contextualizes Constance Baker Motley's housing litigation and role in *Clarke Terrace* by briefly summarizing her career, focusing on the work for which she is best known. Part II chronicles *Clarke Terrace*, beginning with a short description of housing conditions in Shreveport before documenting the underlying litigation. Part III places *Clarke Terrace* within the context of Motley's other housing cases and explores how her work equalizing housing access relates to other aspects of her career. Part IV concludes that although *Clarke Terrace* and similar cases have been forgotten, exploring Motley's housing work will deepen public appreciation for her legacy as a civil rights pioneer.

I. CONSTANCE BAKER MOTLEY

Constance Baker Motley began her career at LDF in 1945 as an intern while in law school at Columbia University.²⁴ The daughter of immigrants from the West Indies, Motley recalled that joining a civil rights law firm “was the last thing [she] had envisioned” when she enrolled at Columbia.²⁵ Indeed, Motley's mother discouraged her from attending law school at all; she thought Motley should become a hairdresser.²⁶ But working for LDF reminded Motley that learning about civil rights litigation had sparked her desire to study law.²⁷ Moreover, the experience gave Motley her “first inkling” that she would do something meaningful with her legal education and life.²⁸ Motley thus rejected an acquaintance's offer to help her secure employment with Thomas Thacher, a partner at the prominent law firm Simpson &

²⁴ PATRICIA SULLIVAN, *LIFT EVERY VOICE: THE NAACP AND THE MAKING OF THE CIVIL RIGHTS MOVEMENT* 297–98 (2009).

²⁵ CONSTANCE BAKER MOTLEY, *EQUAL JUSTICE UNDER LAW* 58 (1998) [hereinafter MOTLEY, *EQUAL JUSTICE*].

²⁶ *Id.* at 41.

²⁷ *Id.* at 59.

²⁸ *Id.*

Thacher.²⁹ Instead, she would stay with LDF for two decades, rising up the ranks from intern to research assistant, staff attorney, and principal assistant to Thurgood Marshall in *Brown v. Board of Education*.³⁰ As Motley put it, “By the time I left [LDF] in February 1965 . . . I was one of the best known civil rights lawyers in the country.”³¹

Motley joined a new generation of lawyers that LDF hired as it expanded in the 1940s. At the start of the decade, Thurgood Marshall was already a powerful figure in the NAACP’s national office due to several Supreme Court victories he secured in the late 1930s.³² Demand for LDF’s services surged due to his success, making it increasingly difficult for him to litigate effectively alone.³³ Marshall thus leveraged his power in the national office to hire several young lawyers who would eventually emerge as prominent national figures themselves, including future federal judges Motley and Robert L. Carter.³⁴ Marshall could not yet secure additional office space for his growing staff, however, meaning LDF’s working conditions were inevitably crowded. The organization’s “six-person legal staff, books, and case files were crammed into two rooms.”³⁵ Motley shared an office with Marshall and Annette Peyser, LDF’s legal assistant.³⁶ Attorneys Franklin Williams, Robert Carter, and Marian Perry shared another.³⁷

Although Motley’s cohort of new hires was doubtlessly impressive, she stood out from her peers and blazed a trail destined for success. Motley had “an extraordinary docket at LDF.”³⁸ She traveled the South alone, desegregating housing projects, transportation facilities, lunch counters, museums, libraries, parks, and other public accommodations almost singlehandedly.³⁹ Motley also represented

²⁹ *Id.* As the ninth of her parent’s twelve children, Motley could not afford to attend college or law school until a wealthy white philanthropist heard her speak at a community center in New Haven, Connecticut. *Id.* at 14, 42–46. Motley so impressed the philanthropist, Clarence Blakeslee, that he agreed to finance her undergraduate and legal education. *Id.* at 43–46. Upon Motley’s graduation from Columbia, Blakeslee offered to connect Motley with Thomas Thacher. *Id.* at 59.

³⁰ TOMIKO BROWN-NAGIN, *COURAGE TO DISSENT: ATLANTA AND THE LONG HISTORY OF THE CIVIL RIGHTS MOVEMENT* 310 (2011) [hereinafter BROWN-NAGIN, *COURAGE TO DISSENT*]; SULLIVAN, *supra* note 24, at 297–98.

³¹ Constance Baker Motley, *My Personal Debt to Thurgood Marshall*, 101 *YALE L.J.* 19, 21 (1991).

³² KENNETH W. MACK, *REPRESENTING THE RACE: THE CREATION OF THE CIVIL RIGHTS LAWYER* 205–06 (2012).

³³ ROBERT L. CARTER, *A MATTER OF LAW: A MEMOIR OF STRUGGLE IN THE CAUSE OF EQUAL RIGHTS* 58–59 (2012).

³⁴ MACK, *supra* note 32, at 205–06.

³⁵ SULLIVAN, *supra* note 24, at 349.

³⁶ *Id.*; see also CARTER, *supra* note 33, at 59 (noting that Peyser was a young white woman “who worked as an assistant to the legal staff, gathering facts and data that might be relevant to our mission”).

³⁷ SULLIVAN, *supra* note 24, at 349.

³⁸ Roisman, *An Extraordinary Woman*, *supra* note 19, at 681.

³⁹ FORD, *supra* note 20, at 3.

Martin Luther King, Jr. and other civil rights advocates, including freedom riders and student protestors, who were jailed for their activism.⁴⁰ She was best known for desegregating public schools, colleges, and universities in the Deep South. In the years leading up to *Brown*, Motley frequently conferenced with Marshall and other LDF attorneys as they planned their strategy. She belonged to Marshall's "inner circle" of allies whom he trusted enough to consult in the most important Supreme Court case of the twentieth century.⁴¹ Indeed, Motley helped draft the original complaint in *Brown* and was among a group of LDF attorneys and supporters who later celebrated with Marshall in New York when the Supreme Court issued its historic ruling.⁴²

But Motley recognized that despite victory in *Brown*, the battle to end racial discrimination in public education had only just begun. Once the euphoria of victory subsided, she became depressed as the gravity of the coming task registered.⁴³ In her words, LDF's "staff was small, our funds meager, our plans sketchy," and "thousands of school districts were involved."⁴⁴ Nonetheless, Motley took it upon herself to see that schools across the South implemented *Brown*'s desegregation mandate. She "litigated hundreds of educational equality cases" in state and federal courts across the country, including dozens in the U.S. Supreme Court.⁴⁵ Unlike some other advocates who accommodated segregationists and embraced *Brown*'s gradual implementation, Motley "fiercely opposed Jim Crow with a sense of urgency and without concern for white prerogatives."⁴⁶ In Atlanta, for example, Motley rejected local lawyers who adopted a conciliatory approach with the city's school board.⁴⁷ Instead, she litigated a case herself that would reach the Supreme Court and become "one of LDF's highest profile assaults on resistance to *Brown*."⁴⁸ That was not her only trip to the high court; Motley argued ten cases before that body, winning nine.⁴⁹

Motley also desegregated many of the South's flagship universities, often facing jeering crowds and threats of violence as she and her clients strode defiantly across college campuses. She handled cases integrating universities in Louisiana,

⁴⁰ Roisman, *An Extraordinary Woman*, *supra* note 19, at 682.

⁴¹ RICHARD KLUGER, *SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA'S STRUGGLE FOR EQUALITY* 641 (2004).

⁴² See MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 103 (stating that Motley "sent a draft complaint" for *Brown* to LDF-affiliated lawyers in Topeka, Kansas in 1950); *id.* at 106 (describing the NAACP's celebration in New York as "bedlam"); GREENBERG, *supra* note 23, at 126 (explaining that Motley sent a model complaint to the Kansas lawyers).

⁴³ *Id.* at 110.

⁴⁴ *Id.*; see also Chin & Chin, *supra* note 20, at 1743 ("With its small office and limited funds, implementing *Brown* was a major undertaking for LDF.").

⁴⁵ Daniels & Pereira, *supra* note 20, at 1782.

⁴⁶ BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 308.

⁴⁷ *Id.*

⁴⁸ *Id.* The case was *Calhoun v. Latimer*, 377 U.S. 263, 264 (1964), which is discussed at length in BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 307–56.

⁴⁹ BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 310.

Florida, Tennessee, South Carolina, and Georgia.⁵⁰ In 1955, Motley represented Autherine Lucy in her effort to integrate the University of Alabama,⁵¹ which produced “mob riots” on the campus.⁵² Motley’s most famous case involved desegregating the University of Mississippi, colloquially known as “Ole Miss,” in 1962.⁵³ Her client James Meredith astutely dubbed that episode “the last battle of the Civil War.”⁵⁴ Similarly, Judge John Minor Wisdom, a giant of the federal appellate bench during the mid-twentieth century, observed on appeal that Motley tried the case “in the eerie atmosphere of nevernever land.”⁵⁵ It would take eighteen months of litigation and a Presidential proclamation sending thousands of federal troops to Mississippi to force Ole Miss to desegregate.⁵⁶ An image of Motley marching to oral arguments in the case alongside Meredith and activist Medgar Evers adorns the cover of her memoir, symbolizing the importance of that moment in her life.⁵⁷

After two decades with LDF, Motley turned to politics in 1964, when New Yorkers elected her to the state senate and the Manhattan borough presidency a year

⁵⁰ Lohier, *supra* note 20, at 1803; MOTLEY, EQUAL JUSTICE, *supra* note 25, at 137 (recounting Motley’s efforts to desegregate the University of Georgia).

⁵¹ Lucy v. Adams, 134 F. Supp. 235, 236–37 (N.D. Ala. 1955), *aff’d*, 228 F.2d 619 (5th Cir. 1955).

⁵² Daniels & Pereira, *supra* note 20, at 1783; MOTLEY, EQUAL JUSTICE, *supra* note 25, at 122.

⁵³ See Brown-Nagin, *Identity Matters*, *supra* note 20, at 1699 (noting that the Ole Miss case was the most famous of Motley’s cases challenging the continued segregation of higher educational institutions in the South); Lohier, *supra* note 20, at 1804 (“Motley’s most memorable case as an advocate is surely *Meredith v. Fair*, [306 F.2d 374 (5th Cir. 1962),] which encompasses the series of decisions involving James Meredith’s efforts to enroll in and integrate the University of Mississippi—‘Ole Miss.’”).

⁵⁴ JAMES MEREDITH WITH WILLIAM DOYLE, A MISSION FROM GOD: A MEMOIR AND CHALLENGE FOR AMERICA 117 (2012).

⁵⁵ *Meredith v. Fair*, 298 F.2d 696, 701 (5th Cir. 1962). Judge Wisdom was one of four judges on the U.S. Court of Appeals for the Fifth Circuit who became known as “The Four” because they consistently ruled in favor of plaintiffs in civil rights cases. Chin & Chin, *supra* note 20, at 1761. The other judges were Chief Judge Elbert Tuttle, Judge Richard Rives, and Judge John R. Brown. As Constance Baker Motley described it: “These four men joined forces to thwart massive resistance in the Deep South and see it meet an ignominious death in Mississippi in 1962. They were responsible, in retrospect, for averting a North–South split in the country like the one that had led to the Civil War.” MOTLEY, EQUAL JUSTICE, *supra* note 25, at 134. For an account of these judges’ role in desegregating the South, see generally JACK BASS, UNLIKELY HEROES: THE DRAMATIC STORY OF THE SOUTHERN JUDGES OF THE FIFTH CIRCUIT WHO TRANSLATED THE SUPREME COURT’S *BROWN* DECISION INTO A REVOLUTION FOR EQUALITY (1981).

⁵⁶ MOTLEY, EQUAL JUSTICE, *supra* note 25, at 172, 183.

⁵⁷ See generally *id.*; see also Lohier, *supra* note 20, at 1804 (“Suffice it to say that a measure of the importance that Judge Motley attached to the [*Meredith*] case is that she elected to grace the cover of her autobiography with the iconic photograph of herself with Meredith on the day of her oral arguments before the Fifth Circuit Court of Appeals.”).

later.⁵⁸ The move was partly motivated by Thurgood Marshall's decision to name Jack Greenberg, a white LDF attorney, his successor when Marshall resigned from the organization to serve on the U.S. Court of Appeals for the Second Circuit.⁵⁹ Motley's career in politics would not last long, however. Her reputation as an advocate placed her atop a shortlist of nominees to serve as a federal district judge in the Southern District of New York.⁶⁰ President Lyndon B. Johnson then nominated her to become the first Black woman to serve as a federal judge in 1966.⁶¹ Motley was sworn in after a contentious confirmation battle in which senators baselessly questioned whether her career as a civil rights attorney rendered her incapable of serving impartially.⁶² Similar concerns twice prevented Motley from being elevated to the Second Circuit.⁶³ Even so, Motley became an esteemed jurist and chief judge on the nation's foremost federal trial court.⁶⁴ Judge Raymond J. Lohier, Jr., who currently serves on the Second Circuit, observes, for example, that Motley was graced with "more awards and honorifics . . . than virtually any lower federal court judge I know."⁶⁵ Moreover, it is unquestionable that Constance Baker Motley was an "extraordinary woman" with an "extraordinary" career even before she joined the bench.⁶⁶ Her pioneering work changed the racial landscape of America as she litigated countless cases in state and federal courts. Motley's legacy can thus be felt in local communities across the country, including in Shreveport, Louisiana.

II. HOUSING LITIGATION CASE STUDY: SHREVEPORT, LA

A. Black Housing Conditions in Shreveport

Residential segregation was the norm in twentieth-century Shreveport. A 1960 study found that Shreveport was the second most segregated city in America.⁶⁷

⁵⁸ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 206.

⁵⁹ *See id.* at 205 (explaining that she switched careers because, among other reasons, she "had been passed over for the top spot at LDF").

⁶⁰ *Id.* at 213.

⁶¹ *Id.* at 213–14.

⁶² Brown-Nagin, *Identity Matters*, *supra* note 20, at 1700–06; Lohier, *supra* note 20, at 1806. Despite these senators' concerns, Judge Motley was ultimately a "judicial pragmatist" who deferred to the "conception of a judge as a neutral arbiter of apolitical law." Brown-Nagin, *Identity Matters*, *supra* note 20, at 1698. Moreover, Judge Motley's reversal rate as a district judge "does not materially differ from that of her colleagues" who served on the Southern District of New York at the same time. Lohier, *supra* note 20, at 1810.

⁶³ *See* Lohier, *supra* note 20, at 1806–07.

⁶⁴ *Id.* at 1810.

⁶⁵ *Id.*

⁶⁶ Roisman, *An Extraordinary Woman*, *supra* note 19, at 681.

⁶⁷ *See* Jeff Ueland & Barney Warf, *Racialized Topographies: Altitude and Race in Southern Cities*, 96 GEOGRAPHICAL REV. 50, 71 (2006) (noting that Shreveport's "index of

Another based on 1970 census data placed Shreveport atop its list of the nation's most segregated cities.⁶⁸ Ninety percent of Shreveport's Black residents lived in census tracts that were themselves at least eighty-five percent Black.⁶⁹ This segregation resulted from a "long history of racial discrimination."⁷⁰ Historically, African Americans were funneled into enclaves on the city's western flank.⁷¹ These neighborhoods were "concentrated in areas of rough, low and undesirable land with bad, unpaved guttered streets and sidewalks."⁷² Most Black homes were meager "shotgun" or "row" style houses, having three rooms arranged alongside each other such that one could "shoot a shotgun through the house without hitting a thing."⁷³

There were few Black homeowners. Instead, most rented seemingly uninhabitable dwellings for a few dollars a week—all they could afford based on their low wages. A 1953 study of Shreveport's Black community found that only one-third of African Americans owned their homes.⁷⁴ Sixty-three percent rented, paying between three and six dollars per week out of a weekly income ranging between fifteen and thirty dollars.⁷⁵ Of the 11,002 Black dwellings surveyed in the 1953 study, less than four thousand had flushing toilets.⁷⁶ In total, sixty-two percent of Black homes were deemed to have inadequate bathroom facilities.⁷⁷ Less than three thousand dwellings had running water and only 2,448 had bathtubs or

housing segregation" was the second highest in the nation) (citing K. TAEUBER & A. TAEUBER, *NEGROES IN CITIES: RESIDENTIAL SEGREGATION AND NEIGHBORHOOD CHANGE* 33 (1965)).

⁶⁸ *Chicago Ranks as the Most Segregated Northern City*, *JET MAGAZINE*, Nov. 14, 1974, at 5; see also BILL KEITH, *THE COMMISSIONER: A TRUE STORY OF DECEIT, DISHONOR, AND DEATH* 86 (2009) ("[P]rior to 1976, Shreveport was one of the most segregated cities in the South.").

⁶⁹ *Blacks United for Lasting Leadership, Inc. v. City of Shreveport*, 71 F.R.D. 623, 630 (W.D. La. 1976).

⁷⁰ Ueland & Warf, *supra* note 67, at 71.

⁷¹ *Id.*; see also *Blacks United for Lasting Leadership*, 71 F.R.D. at 630 (observing that "most Blacks are concentrated in five non-contiguous, identifiable, geographical areas" located in western Shreveport); BURTON, *supra* note 4, at 114–28 (describing Shreveport's historic Black neighborhoods).

⁷² BURTON, *supra* note 4, at 115; see also *SHREVEPORT COUNCIL OF SOC. AGENCIES*, *supra* note 4 (stating that Shreveport's Black slum areas "are located in undesirable building areas, being either isolated or having rough or low topography As a result, municipal improvements such as sewer lines, paved streets and sidewalks, and street lighting are either inadequate or non-existent.").

⁷³ BURTON, *supra* note 4, at 115; see also *Blacks United for Lasting Leadership*, 71 F.R.D. at 631 ("Homes in identifiable Black neighborhoods generally are of much lower quality and value than those elsewhere in the city. Hundreds of household blocks consist of nothing but 'shotgun' dwellings, typical of the architecture of Black single-family homes, both urban and rural, in this part of the country.").

⁷⁴ *SHREVEPORT COUNCIL OF SOC. AGENCIES*, *supra* note 4.

⁷⁵ BURTON, *supra* note 4, at 115.

⁷⁶ *SHREVEPORT COUNCIL OF SOC. AGENCIES*, *supra* note 4.

⁷⁷ *Id.*

showers.⁷⁸ Consequently, six or more families might share a single tin bathtub, each reserving just one night per week to bathe.⁷⁹

Conditions were particularly poor in the Allendale–Lakeside region, Shreveport's largest Black neighborhood.⁸⁰ One of the city's oldest areas, Allendale, is named for Henry Watkins Allen, a Confederate general and Shreveport native who served as Louisiana's governor during the final days of the Civil War.⁸¹ Allendale began as a racially mixed neighborhood, but it transitioned into a Black ghetto.⁸² Longtime residents remembered that in the 1930s, Blacks in Allendale and Lakeside lived in the "nucleus of a cell that was surrounded by whites" of Italian, Irish, Jewish, and Greek descent.⁸³ By midcentury, African Americans who rented homes there "found themselves in terrible circumstances."⁸⁴ Toilets, running water, and electricity were rare in these overcrowded houses, and children often shared community baths outside.⁸⁵

Economic inequality, racial animus, and intentional disinvestment prevented African Americans from escaping these dire conditions. Low wages made it impossible for most Blacks to afford suitable housing.⁸⁶ In 1952, more than half of Black residents earned less than \$50 per week.⁸⁷ Roughly thirty percent worked as domestic servants, down from forty percent in 1940.⁸⁸ Only five percent held professional or managerial roles.⁸⁹ The remaining sixty percent of Black workers were employed as clerks, farmhands, and laborers.⁹⁰ White residents saw little reason to support Black employment. In 1943, Shreveport rejected a \$67,000 federal grant for a new medical center because the city refused to comply with "a hiring quota of twelve Blacks for every hundred workers."⁹¹ Mayor Samuel S. Caldwell declared that the city would not be "bribed by federal funds" into accepting "the

⁷⁸ *Id.*

⁷⁹ BURTON, *supra* note 4, at 115.

⁸⁰ *Id.* at 114.

⁸¹ ERIC J. BROCK, SHREVEPORT 110 (2001); BURTON, *supra* note 4, at 116. Allen lived in what is now the Allendale neighborhood at the intersection of what is now Allen Avenue and Myrtle Street. BROCK, *supra*, at 112. Lakeside derives its name from its proximity to Shreveport's Cross Lake. BURTON, *supra* note 4, at 114.

⁸² *See* BURTON, *supra* note 4, at 114.

⁸³ *Id.* For a description of Allendale's early white residents, see BROCK, *supra* note 81, at 110–113.

⁸⁴ BURTON, *supra* note 4, at 115.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *See* SHREVEPORT COUNCIL OF SOC. AGENCIES, *supra* note 4, at 11 (finding that 18.8 percent of African Americans earned incomes of \$10 to \$20 each week; 19 percent earned between \$30 to \$40; and 15.8 percent earned between \$40 to \$50).

⁸⁸ *Id.* at 30.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ ADAM FAIRCLOUGH, RACE & DEMOCRACY: THE CIVIL RIGHTS STRUGGLE IN LOUISIANA, 1915–1972, at 87 (1st ed. 1995).

negro as our political or social equal.”⁹² The government could not “cram the negro down our throats,” he complained.⁹³

Inadequate financing exacerbated those problems. Recently, scholars and popular writers have movingly explained how the federal government entrenched segregation in the mid-twentieth century by manipulating access to mortgages.⁹⁴ In 1933, the government established the Home Owner’s Loan Corporation (“HOLC”), which provided low-interest mortgages to prospective home buyers.⁹⁵ To protect itself from making “risky” loans, however, the HOLC drew color coded maps of American cities. The safest neighborhoods for investment were colored green on these maps, while the riskiest were red.⁹⁶ Because the HOLC considered the racial composition of neighborhoods when evaluating risk, African American neighborhoods were almost invariably red, even when populated by middle-class Black families.⁹⁷ This practice, commonly known as “redlining,” discouraged investment in Black communities for decades.⁹⁸

Shreveport did not escape redlining. Under a 1940 HOLC map, nearly every predominately Black neighborhood in the city was colored red for “hazardous.”⁹⁹ In one red-colored neighborhood that was eighty percent Black, HOLC appraisers observed that white residents were “moving away as fast as they can” to avoid the “detrimental influences” of the “negro population.”¹⁰⁰ Only two majority African American neighborhoods evaded the hazardous designation; both were deemed “definitely declining” instead.¹⁰¹ Appraisers boasted that Shreveport’s two “green” areas, in contrast, were both exclusively white and free from any “detrimental influence.”¹⁰²

Without federal subsidies, local banks proved unwilling to extend loans to Black homeowners or to builders interested in constructing private homes for Black residents.¹⁰³ Accordingly, Black neighborhoods deteriorated. Shreveport’s Council of Social Agencies thus concluded in 1953 that no “major improvements” to African

⁹² *Id.*

⁹³ *Id.*

⁹⁴ See, e.g., RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017); Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC (June 2014), <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631> [<https://perma.cc/V4ES-6SQP>].

⁹⁵ ROTHSTEIN, *supra* note 94, at 63–65.

⁹⁶ *Id.* at 64–65.

⁹⁷ *Id.*

⁹⁸ See Coates, *supra* note 94 (“Redlining destroyed the possibility of investment wherever [B]lack people lived.”).

⁹⁹ See generally Robert K. Nelson, LaDale Winling, Richard Marciano & Nathan Connolly, et al., *Mapping Inequality: Redlining in New Deal America*, AM. PANORAMA, <https://dsl.richmond.edu/panorama/redlining/#loc=14/32.497/-93.789&city=shreveport-la> [<https://perma.cc/748F-8B6P>] (last visited July 20, 2021).

¹⁰⁰ *Id.* at D3.

¹⁰¹ *Id.* at C1, C6.

¹⁰² *Id.* at A1 and A2.

¹⁰³ BURTON, *supra* note 4, at 115.

American housing would occur until financing was “available in amounts and under conditions similar to that under which whites secure their home financing.”¹⁰⁴

Lagging housing supply contrasted with surging demand. There was a “critical” need for “more and better housing” for Black communities.¹⁰⁵ In 1951, the Shreveport Housing Authority opened a 270-unit public housing project called “Elamito Terrace” in Allendale for African Americans. Within four months, roughly 1,100 families applied for residency in the low-income project; a twin project for whites drew only 300 applicants.¹⁰⁶ The Elamito Terrace project cost Shreveport and the federal government \$1,685,000 and consisted of twenty-six buildings, but even it left much to be desired.¹⁰⁷ As Shreveport historian Willie Burton observes, “[t]he sole beauty of these apartments was in name only.”¹⁰⁸ Moreover, Elamito Terrace did little to alleviate Shreveport’s housing crisis among middle-income Black families. The new project notwithstanding, nearly 1,600 African American families likely would have been on the market for better rental properties, or potentially new homes, if reasonable options were available.¹⁰⁹

With space in the city scarce, some developers proposed building homes on cheaper land beyond Shreveport’s municipal boundaries. But constructing homes in the surrounding Caddo Parish area did not improve living conditions. Developers discovered that by building beyond city limits, they could circumvent city ordinances that mandated that new dwellings comply with minimum health regulations.¹¹⁰ This created “an intolerable situation” for Shreveport’s Black community.¹¹¹ By building outside the city, away from municipal regulations, the developers were “creating the new slums of tomorrow” and discouraging “local authorities’ interest in doing something about the old Negro slum areas of yesteryear and today.”¹¹² As conditions worsened, African Americans grew increasingly desperate. They were thus willing to take advantage of a new subdivision promising modern homes at affordable prices—even if it was being constructed in an area traditionally reserved for whites.

¹⁰⁴ SHREVEPORT COUNCIL OF SOC. AGENCIES, *supra* note 4, at 13.

¹⁰⁵ *Id.*

¹⁰⁶ *Initial Units of Local Low-Rent Housing Projects Are Completed*, SHREVEPORT TIMES, Mar. 17, 1951, at 13.

¹⁰⁷ *Id.*

¹⁰⁸ BURTON, *supra* note 4, at 116.

¹⁰⁹ SHREVEPORT COUNCIL OF SOC. AGENCIES, *supra* note 4.

¹¹⁰ *See* BURTON, *supra* note 4, at 115 (noting that a 1952 ordinance required that all new dwellings “located within the corporate limits of the City of Shreveport, as constructed, shall have installed one water closet, one lavatory, one bathtub or shower, and one kitchen sink, which must be connected to the city sanitary sewer or to an approved septic tank”).

¹¹¹ SHREVEPORT COUNCIL OF SOC. AGENCIES, *supra* note 4, at 13.

¹¹² *Id.*

B. *Stewart v. Clarke Terrace Unit No. 1*

1. “*The Home You Would Have Designed for Yourself.*”

Clarke Terrace began as a handshake deal among Gerald “Jerry” S. Goodman and builders Oscar D. Logan, George L. Johnson, Pue L. Wilson, and T. R. Felts of the Bossier Construction Company.¹¹³ As Jerry Goodman later explained to Constance Baker Motley, when setting out to build a project such as Clarke Terrace, there had to be a “meeting of the minds. Men sit across a table and agree among themselves as to what they shall do on the job, and I had my job to do, and they had theirs.”¹¹⁴ The group thus agreed in February 1953 that the construction company would build the new housing development.¹¹⁵ Goodman, acting as the group’s sales agent and promoter, would market the lots.¹¹⁶ By November 13, 1953, Goodman and the Bossier Construction Company had purchased more than fifty acres in Caddo Parish to put toward their joint venture.¹¹⁷

Meanwhile, the developers sought the backing of local officials from the Federal Housing Administration (“FHA”). Throughout 1953, the group met with agency representatives in Shreveport, seeking “technical assistance” for their planned neighborhood.¹¹⁸ They hoped to build the subdivision as a cooperative housing development under section 213 of the National Housing Act, which Congress enacted after World War II due to a nationwide shortage of affordable housing for middle-income families.¹¹⁹ Under a cooperative housing plan, developers create a nonprofit corporation that owns and operates residential property.¹²⁰ The corporation then holds the property for occupancy by members, or “subscribers,” of the cooperative who gain title upon construction of the development.¹²¹

¹¹³ Transcript of Deposition at 1, 8–9, *Stewart v. Clarke Terrace Unit No. 1, Inc.* (W.D. La. July 8, 1954) (No. 4592) (on file at Library of Congress, Box 232, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter *Second Clarke Terrace Deposition*]; Stipulations, *supra* note 1, at 3.

¹¹⁴ *Second Clarke Terrace deposition*, *supra* note 113, at 9.

¹¹⁵ *Id.*; Stipulations, *supra* note 1, at 3–4.

¹¹⁶ *Second Clarke Terrace deposition*, *supra* note 113, at 3; Stipulations, *supra* note 1, at 3.

¹¹⁷ Stipulations, *supra* note 1, at 3–4.

¹¹⁸ *Second Clarke Terrace deposition*, *supra* note 113, at 8.

¹¹⁹ National Housing Act, 12 U.S.C. § 1715e (1950); Comment, *Federal Assistance in Financing Middle-Income Cooperative Apartments*, 68 *YALE L.J.* 542, 543–45 (1959); Gerald W. Sazama, *Lessons from the History of Affordable Housing Cooperatives in the United States: A Case Study in American Affordable Housing Policy*, 59 *AM. J. ECON. & SOCIO.* 573, 584 (2000).

¹²⁰ Julie D. Lawton, *Unraveling the Legal Hybrid of Housing Cooperatives*, 83 *UMKC L. REV.* 117, 125 (2014).

¹²¹ *Id.* at 125–26. For a description of Clarke Terrace’s corporate form, see Flyer, *supra* note 2.

Section 213 expanded access to cooperative housing by making it easier for borrowers to obtain financing when building cooperative developments. The section authorized the FHA to issue blanket mortgages covering multiple properties, which minimized the costs of securing individual loans on each lot.¹²² Further, certain mortgages were eligible for FHA-subsidized insurance. To become eligible for federal insurance, a cooperative needed to receive FHA approval of its financial status, architectural plans, and proposed mortgage.¹²³ Once insured, however, cooperatives were nominally prohibited from restricting occupancy based on “race, color or creed.”¹²⁴ Finally, the Federal National Mortgage Association (“FNMA”), a federally created corporation, supplemented section 213 by purchasing and selling cooperative mortgages, thereby increasing the cashflow of mortgagors.¹²⁵ The system proved extremely effective for expanding housing opportunities. This was particularly true for racial minorities, as Wallace J. Campbell, director of the Cooperative League of the United States, explained in a 1954 Congressional hearing. Campbell testified that in 1953, forty-five cooperative projects designed for African Americans had secured FHA and FNMA mortgages totaling \$11.1 million.¹²⁶ These projects were expected to provide housing for 1,575 Black families.¹²⁷

The proposed Clarke Terrace housing cooperative would be divided into five units, each governed by its own corporation formed to secure federal mortgages for the property.¹²⁸ On August 11, 1953, the FHA issued Statements of Eligibility to the developers, and on September 1, 1953, the FNMA executed commitment contracts to purchase the venture’s mortgages, clearing the way for the project to go forward.¹²⁹ By November, Goodman had begun circulating flyers promoting Clarke

¹²² GEN. SERV’S ADMIN., NAT’L ARCHIVES & REC’S SERV., FED. REG. DIV., U.S. GOV’T ORG. MANUAL 1954–55 412 (1954); Comment, *supra* note 119, at 545 n.15.

¹²³ Comment, *supra* note 119, at 555.

¹²⁴ *Id.* at 556.

¹²⁵ *Id.* at 558–59.

¹²⁶ *Housing Act of 1954: Hearing on S. 2889, S 2938, and S. 2949 Before the S. Comm. on Banking & Currency, 83rd Cong. 961 (1954)* (statement of Wallace J. Campbell, Director, Cooperative League of the United States). The forty-five developments referenced here included Clarke Terrace in Shreveport along with three other developments in Louisiana. *Id.* at 962.

¹²⁷ *Id.* at 961.

¹²⁸ Flyer, *supra* note 2, at 8.

¹²⁹ Stipulations, *supra* note 1, at 5; *see also* Letter from J.S. Baughman, President, Fed. Nat’l Mortgage Ass’n, to J.H. Wilson, Shreveport Negro Chamber of Com. (Oct. 7, 1953) (on file at Library of Congress, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) (confirming that FNMA had committed to “providing for the purchase of the mortgages covering the Clarke Terrace Project”); Letter from Albert M. Cole, Administrator, Hous. & Home Fin. Agency, to John H. Wilson, President, Shreveport Negro Chamber of Com. (Oct. 14, 1953) (on file at Library of Congress, NAACP Legal Defense and Educational Funds Records, Manuscript Division, Washington, D.C.) (confirming that the Clarke Terrace housing units had “been approved

Terrace to potential African American buyers.¹³⁰ The flyers invited Black families to subscribe to one of the subdivision's five unit-corporations by making one down payment of \$330.¹³¹ Once construction was complete, the corporations would transfer title to the subscribers, who would then make monthly payments of \$38 until their mortgages were paid.¹³²

Goodman emphasized that homes in Clarke Terrace, which were valued at \$5,780 each, boasted "every city convenience, including sewerage, water, gas, electricity, telephone facilities, and hot water heaters."¹³³ The homes also offered concrete streets and sidewalks, convenient trolley transportation, central heating, and spacious lots.¹³⁴ These were the "home[s] you would have designed for yourself," exhorted Goodman.¹³⁵ If completed, these homes certainly would have narrowed the scope of Shreveport's Black housing crisis and produced other benefits for African Americans. As Tomiko Brown-Nagin has explained, by moving into comfortable homes surrounded by successful Black families, residents "gained the pride that accompanies" living "among other African-American strivers."¹³⁶ Although these neighborhoods often remained segregated, the personal satisfaction they produced for African Americans "cannot be gainsaid."¹³⁷ Moreover, new housing developments also "came with bonuses" such as "badly needed shopping centers, parks, and schools."¹³⁸ Indeed, Clarke Terrace advertised its own new community facilities, playgrounds, and businesses along with local churches and public schools.¹³⁹

2. "Don't You Think I Would Get Killed?"

Compelled by the necessity of new housing, Shreveport's Black leadership promoted Clarke Terrace despite its proximity to white residents. In early 1953, the developers invited representatives of the Negro Chamber of Commerce ("NCC") to tour the proposed development site on Jewella Road.¹⁴⁰ After giving the project its blessing, members of the NCC encouraged other African Americans to join the development.¹⁴¹ The NCC had a strong interest in supporting Clarke Terrace. Founded in 1940, the organization sought to "foster[] and . . . promot[e] the general

for FHA mortgage insurance and that they have also been covered by a commitment of the Federal National Mortgage Association to purchase the mortgages").

¹³⁰ See generally Flyer, *supra* note 2.

¹³¹ *Id.* at 3, 8.

¹³² *Id.*

¹³³ *Id.* at 2.

¹³⁴ *Id.* at 6–8.

¹³⁵ *Id.* at 8.

¹³⁶ BROWN-NAGIN, COURAGE TO DISSENT, *supra* note 30, at 74.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Flyer, *supra* note 2, at 10.

¹⁴⁰ First Clarke Terrace Deposition, *supra* note 1, at 8–9.

¹⁴¹ See, e.g., *id.* at 11 (describing the efforts of the NCC president to recruit subscribers).

welfare of [the] Negroes of Shreveport.”¹⁴² The new development surely aligned with that goal. Additionally, a new building project might bring with it needed jobs. Hoping to multiply the development’s economic impact for African Americans, members of the NCC lobbied the builders to hire “negro labor” during the construction of Clarke Terrace.¹⁴³

Fittingly, the NCC’s president, John H. Wilson, was one of Clarke Terrace’s first subscribers and strongest supporters. Wilson was an educator and entrepreneur who earned a bachelor’s degree in Agricultural Education from Southern University in 1939.¹⁴⁴ He was also a World War II veteran who lived in Shreveport’s Allendale neighborhood.¹⁴⁵ On November 16, 1953, Wilson subscribed to Clarke Terrace Unit No. 2, the cooperative corporation for the subdivision’s second component.¹⁴⁶ Others followed Wilson’s lead. On November 17, Richard G. Stewart, Sr., another World War II veteran who served multiple tours in Italy and Japan, subscribed to Clarke Terrace Unit No. 1.¹⁴⁷ Stewart was a Lakeside resident who served as one of Shreveport’s first Black mail carriers.¹⁴⁸ He subscribed after hearing about Clarke Terrace from Wilson in the development’s early stages.¹⁴⁹

Wilson convinced dozens of other African American families to purchase homes in Clarke Terrace. In the development’s second unit alone, Wilson recruited between forty and sixty percent of the roughly fifty African Americans who subscribed for homes.¹⁵⁰ Wilson later testified that he “was in touch with Mr. Goodman practically every day” as he worked to fill vacancies in the subdivision.¹⁵¹ Likewise, Jerry Goodman testified that the project consumed his time for two years.¹⁵² Because most African Americans worked during the day, Goodman devoted his evenings and weekends to securing subscribers, often staying in his office until midnight talking to potential buyers.¹⁵³ “Nobody knows and appreciates how hard I did work to put that project over,” he stated.¹⁵⁴

White opposition to Clarke Terrace soured those efforts. As Wilson and Goodman raced to fill lots in early 1953, white residents near the development site

¹⁴² BURTON, *supra* note 4, at 46.

¹⁴³ First *Clarke Terrace* Deposition, *supra* note 1, at 10.

¹⁴⁴ BURTON, *supra* note 4, at 49–50; First *Clarke Terrace* Deposition, *supra* note 1, at 2.

¹⁴⁵ Stipulations, *supra* note 1, at 7.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 6; see also Richard G. Stewart, Jr., *Richard Stewart Sr.: A Father of Integrity, Courage, and Inspiration*, TEX. LAWBOOK (Aug. 1, 2018), <https://texaslawbook.net/richard-stewart-sr-a-father-of-integrity-courage-and-inspiration/> [<https://perma.cc/K99T-72UJ>].

¹⁴⁸ First *Clarke Terrace* Deposition, *supra* note 1, at 13–14.

¹⁴⁹ *Id.* at 14–15.

¹⁵⁰ *Id.* at 11.

¹⁵¹ *Id.* at 12.

¹⁵² Second *Clarke Terrace* Deposition, *supra* note 113, at 44.

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 44–45.

began protesting.¹⁵⁵ By spring, the subdivision's opponents had organized into a powerful lobby. The first mover in these efforts was a local church. In March 1953, Emmanuel Baptist Church, which had roughly 800 members, held a special session addressing Clarke Terrace.¹⁵⁶ At the meeting, the church unanimously passed a series of resolutions opposing the project. Although the church professed its "sincere love and respect for the colored race," members resolved that they would "resent" and "oppose to the uttermost any effort" to develop Clarke Terrace "into a colored residential and business section."¹⁵⁷ Church members declared that building a Black subdivision "would be an outright disrespect for our own race of white people" and "would be detrimental to [the] church in many respects."¹⁵⁸

Other organizations followed suit. In the fall, members of the Floral Heights Civic Club, a local homeowners' association, held a "mass meeting" at Emmanuel Baptist to "protest the proposed development of a Negro subdivision adjacent to the Floral Heights section."¹⁵⁹ The club's vice president, H.R. Lowery, spoke for the 300-member organization. Although the club did not generally oppose building new homes for African Americans, Lowery stated that it did oppose placing "negro homes directly across from the Floral Heights residential area for white persons."¹⁶⁰ In November, the Queensboro Neighborhood Community Club similarly declared that it was "violently opposed" to the Black subdivision.¹⁶¹ The group complained that the site was "located strictly within a white neighborhood."¹⁶² Club members passed a resolution demanding that the Shreveport mayor and city council deny Clarke Terrace access to the city's sewerage system and fire protection services.¹⁶³

¹⁵⁵ *Id.* at 20, 22.

¹⁵⁶ Letter from Emmanuel Baptist Church, *supra* note 99. The church's mobilization against Clarke Terrace was ironic but not atypical. "Churches, synagogues, and their clergy frequently led" efforts to block African Americans from entering white areas. ROTHSTEIN, *supra* note 94, at 103. This often meant partnering with local neighborhood associations, as happened in Shreveport. *See, e.g., id.* at 103–05 (describing examples in St. Louis, Philadelphia, Buffalo, Los Angeles, Detroit, and Chicago).

¹⁵⁷ Letter from Emmanuel Baptist Church, *supra* note 99.

¹⁵⁸ *Id.*; *see also* EMANUEL & TUREAUD, *supra* note 2, at 220.

¹⁵⁹ *Meeting to Protest Negro Project Called*, SHREVEPORT J., Oct. 31, 1953, at B3 [hereinafter *Meeting to Protest*]; *see also* EMANUEL & TUREAUD, *supra* note 2, at 220. Like churches, homeowners' associations were often at the forefront of opposition to residential integration. As Jeffrey Gonda explains, such organizations "pooled community resources and policed the standards of their neighborhoods." JEFFREY D. GONDA, UNJUST DEEDS: THE RESTRICTIVE COVENANT CASES AND THE MAKING OF THE CIVIL RIGHTS MOVEMENT 27 (2015). Gonda adds that racial exclusion was the "controlling motive" for many of these associations. *Id.*

¹⁶⁰ *Meeting to Protest*, *supra* note 159, at B3.

¹⁶¹ *Local Community Club May Enjoin Grand Jury*, SHREVEPORT TIMES, Nov. 17, 1953, at 11A.

¹⁶² *Id.*

¹⁶³ *Id.* Limiting access to sewerage services was a powerful lever employed by local communities to bar the placement of integrated and exclusively Black developments near

Similarly, the Werner Park–Morningside neighborhood association proposed legal action against the project at an emergency meeting that overflowed the local elementary school's auditorium.¹⁶⁴

Local officials watched as tensions escalated. In December, Caddo Parish Sheriff J. Howell Flournoy urged members of the Floral Heights Civic Club to remain "patient" and to avoid action "that might cause racial disturbances" in the area.¹⁶⁵ "If you're going to settle the law in your own way," Flournoy cautioned, "then you don't need me as sheriff or a sheriff department."¹⁶⁶ He added, "We have to preserve the law and I intend to enforce the law regardless of the consequences."¹⁶⁷ Earlier that month, Flournoy had written to Shreveport Mayor Clyde E. Fant warning that going forward with Clarke Terrace risked igniting uncontrollable violence in the area.¹⁶⁸ Meanwhile, the Caddo Parish Police Jury passed a resolution declaring that "the construction of a colored housing unit" near Jewella Road would "disrupt [the] harmonious relationship between white and colored residents of Caddo Parish."¹⁶⁹ The Police Jury thus urged Shreveport's city council to refrain from extending public utilities to the development.¹⁷⁰ That resolution passed by a vote of seventeen to one.¹⁷¹ In a later meeting, members of the Police Jury expressed their full-throated support for segregation and recommended that the developers repurpose Clarke Terrace as a white subdivision.¹⁷²

African Americans in Shreveport and across the nation anxiously watched as opposition festered. On January 23, 1954, the *New York Age*, an influential Black newspaper, reported that ministers in Shreveport had issued a "stinging rebuke" to Clarke Terrace's opponents.¹⁷³ The Shreveport ministers condemned the Police Jury members, the Emmanuel Baptist Church, and the various neighborhood associations

existing white neighborhoods. Oftentimes, a city or regional water district might charge integrated or Black developments exorbitant rates for water usage to dissuade construction. See, e.g., ROTHSTEIN, *supra* note 94, at 119. Shreveport's proposal to completely deny water services, in contrast, was much more extreme.

¹⁶⁴ *Club Votes Opposition to Project*, SHREVEPORT TIMES, Nov. 18, 1953, at 8A.

¹⁶⁵ *Flournoy Urges Patience in Housing Project Dispute*, SHREVEPORT TIMES, Dec. 1, 1953, at 2A.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*; see also EMANUEL & TUREAUD, *supra* note 2, at 220 (observing that Sheriff Flournoy "allegedly threatened to refuse to perform his official duty to maintain order in the event of violence").

¹⁶⁹ *Minutes of the Regular Meeting of the Caddo Parish Police Jury, held on the 17th Day of December, 1953*, SHREVEPORT TIMES, Dec. 22, 1953, at 7B [hereinafter *Minutes of the Regular Meeting*].

¹⁷⁰ EMANUEL & TUREAUD, *supra* note 2, at 220; *Minutes of the Regular Meeting*, *supra* note 169, at 7B.

¹⁷¹ *Minutes of the Regular Meeting*, *supra* note 169, at 7B.

¹⁷² *Minutes of the Regular Meeting of the Caddo Parish Police Jury, Held on the 14th Day of January, 1954*, SHREVEPORT TIMES, Dec. 22, 1954, at 9B.

¹⁷³ *Shreveport Ministers Blast Housing Foes*, *supra* note 15.

for protesting the development. Praising those who supported the project, the ministers declared, “We here in America must unite and work together for the preservation of our American way of life.”¹⁷⁴ Despite the ministers’ resolve, protests and threats of violence overcame the development. Subscriptions to Clarke Terrace plummeted as opposition mounted. Five subscribers requested refunds from the developers in January 1954; seven more followed in February.¹⁷⁵ John Wilson desperately tried to recruit replacements, but potential buyers feared an impending “race riot.”¹⁷⁶ Black Shreveporters pointedly asked Wilson, “Don’t you think I would get killed?”¹⁷⁷

These residents had good reason to be anxious. As they understood, violence was among the “most frightening and obvious tactics” employed by whites in the mid-twentieth century to maintain racial residential segregation.¹⁷⁸ African Americans who moved into white neighborhoods “faced the prospect of violent reprisals from their neighbors and risked both their investments and their lives.”¹⁷⁹ Indeed, the opening of a Black public housing project in a previously all-white Detroit neighborhood had sparked a brutal race riot only a decade earlier.¹⁸⁰ Thousands of Detroit residents “brawled in almost every corner of the city for three days” in 1942, leaving thirty-four dead and millions of dollars in property damages.¹⁸¹ John Wilson could do little to ease fears of similar violence in Shreveport. He simply explained that Jerry Goodman had promised “that everything would be alright, and I had to take his word for it.”¹⁸²

3. “*I Have Been Advised Not to Accept My Refund at this Time.*”

Confronted with Clarke Terrace’s possible collapse, some courageous Black families stood their ground and turned to litigation. In early 1954, John Wilson wrote to the NAACP’s Southwest Regional Counsel, U. Simpson Tate, requesting

¹⁷⁴ *Id.*

¹⁷⁵ Second *Clarke Terrace* Deposition, *supra* note 113, at 46.

¹⁷⁶ First *Clarke Terrace* Deposition, *supra* note 1, at 13.

¹⁷⁷ *Id.*

¹⁷⁸ GONDA, *supra* note 159, at 23; *see also* MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY 263 (2004) (“The few [B]lacks who successfully . . . bought homes in white neighborhoods often faced the threat and reality of mob violence.”).

¹⁷⁹ GONDA, *supra* note 159, at 23; *see also* ROTHSTEIN, *supra* note 94, at 139–151 (arguing that violence against African American homeowners integrating previously all-white neighborhoods was sufficiently prevalent to constitute discriminatory state action in violation of the Fourteenth Amendment).

¹⁸⁰ GONDA, *supra* note 159, at 23.

¹⁸¹ *Id.* at 24.

¹⁸² First *Clarke Terrace* Deposition, *supra* note 1, at 13.

assistance.¹⁸³ Other prominent Black leaders cosigned the letter, including E.A. Bryant, President of Shreveport's NAACP branch; E.A. Johnson, President of Louisiana's state NAACP conference; and John G. Lewis, Grandmaster of Louisiana's society of Black freemasons.¹⁸⁴ From his office in Dallas, Tate cautioned that the group could not file a lawsuit until the developers showed "a clear indication" to terminate the project.¹⁸⁵ If the developers did renege, however, Tate argued that the group could file a challenge in federal court seeking to enforce their original contracts.¹⁸⁶

Tate reasoned that U.S. Supreme Court decisions invalidating racial segregation in housing provided strong support for compelling specific performance in Shreveport.¹⁸⁷ As Tate explained, the Supreme Court's first decision invalidating state-sponsored housing segregation was *Buchanan v. Warley*, decided in 1917.¹⁸⁸ In *Buchanan*, the Court ruled unconstitutional an ordinance in Louisville, Kentucky that prohibited Blacks from owning homes in white neighborhoods. The Court affirmed that decision ten years later in *Harmon v. Tyler*, which invalidated a similar ordinance in New Orleans.¹⁸⁹ More recently, Tate continued, the Supreme Court had decided *Shelley v. Kraemer*, which held that the Constitution prohibited judicial enforcement of racially restrictive covenants.¹⁹⁰ Tate conceded that those decisions were not "on all fours" with the Clarke Terrace dispute.¹⁹¹ But in his view, they nonetheless "show[ed] a disposition on the part of the Courts to be less tolerant on the question of racial segregation in housing."¹⁹²

Recognizing the significance of the Shreveport case, Tate forwarded his letter to LDF lawyers in the NAACP's national office. On March 4, 1954, Constance Baker Motley, then assistant counsel to LDF, wrote to Thurgood Marshall confirming that she had received Tate's letter and would be working on the case.¹⁹³

¹⁸³ Letter from U. Simpson Tate, Southwest Regional Counsel, NAACP, to John H. Wilson et al. (Feb. 8, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter Letter from Tate to Wilson].

¹⁸⁴ *See id.* Although often overlooked due to its secretive nature, Black freemasonry played a significant role in early civil rights efforts. This was particularly true in Louisiana, which had an unmatched society of Black freemasons who quietly led and sustained many of the institutions that defined the Black freedom struggle. *See* Paul Lawrence Dunbar, *Hidden in Plain Sight: African American Secret Societies and Black Freemasonry*, 16 J. AFRICAN AM. STUD. 622, 624 (2012).

¹⁸⁵ Letter from Tate to Wilson, *supra* note 183, at 3.

¹⁸⁶ *Id.* at 1.

¹⁸⁷ *Id.* at 2.

¹⁸⁸ *Buchanan v. Warley*, 245 U.S. 60 (1917).

¹⁸⁹ *Harmon v. Tyler*, 273 U.S. 668 (1927).

¹⁹⁰ *Shelley v. Kraemer*, 334 U.S. 1 (1948).

¹⁹¹ Letter from Tate to Wilson, *supra* note 183, at 3.

¹⁹² *Id.* at 2.

¹⁹³ Letter from Constance Baker Motley to Thurgood Marshall (Mar. 4, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter Letter from Motley to Marshall].

Perhaps no other LDF lawyer was better prepared to litigate *Clarke Terrace* than Motley. A 1946 graduate of Columbia Law School, Motley was an “excellent” trial advocate who “routinely confounded the expectations of judges and counsel.”¹⁹⁴ What’s more, she was an expert on housing discrimination.¹⁹⁵ In fact, while events in Shreveport unfolded, Motley and Thurgood Marshall were also arguing another housing discrimination case in Savannah, Georgia, alongside Atlanta’s legal patriarch, A.T. Walden.¹⁹⁶ These feats were made even more impressive by Motley’s singularity in southern courtrooms. She practiced at a time when only three percent of American lawyers were women, and less than one-half of one percent of those women were African American.¹⁹⁷ As Tomiko Brown-Nagin observes, those statistics “made Motley virtually invisible within the legal profession, but all too conspicuous in the courtroom.”¹⁹⁸

Like Tate, Motley observed that the *Clarke Terrace* dispute was novel. Although LDF had previously sued to integrate public housing units, it had never challenged a private development backed by an FHA mortgage.¹⁹⁹ On March 22, Motley wrote Tate seeking more information on the case and questioning the grounds for suing the FHA based on the prospective homeowners’ original purchasing agreements.²⁰⁰ Tate’s response argued that the FHA should be joined as a defendant in the case to prevent the agency from insuring loans on the *Clarke Terrace* site for purchasers other than the Black subscribers.²⁰¹ Additionally, Tate contended that including the agency would show the extent to which the FHA was “tacitly lending itself in support of the perpetuation of segregated housing.”²⁰²

While Tate and Motley exchanged letters, conditions in Shreveport deteriorated. On March 23, *Clarke Terrace*’s developers announced they had abandoned plans to construct a Black subdivision on Jewella Road. Instead, the site would be developed for white residents, while an alternative Black property would

¹⁹⁴ BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 310.

¹⁹⁵ KLUGER, *supra* note 41, at 272.

¹⁹⁶ *See* BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 70–71. The case was *Heyward v. Pub. Hous. Admin.*, 135 F. Supp. 217 (S.D. Ga. 1955).

¹⁹⁷ BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 311.

¹⁹⁸ *Id.*; *see also* MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 75.

¹⁹⁹ Letter from Motley to Marshall, *supra* note 193; *see also* *The Year in Intergroup Relations*, 5 NAT’L ASS’N. INTERGROUP RELATIONS OFFICIALS (NAIRO) REPORTER 1, 6 (Nov. 1954), https://hv.proquest.com/pdfs/001521/001521_007_0719/001521_007_0719_From_1_to_164.pdf#page=164 [<https://perma.cc/2XR8-G6AD>] (noting that in 1954, the Shreveport case, along with another case in Sacramento, California, were the first to challenge “the legality of discrimination in FHA insured housing”).

²⁰⁰ Letter from Constance Baker Motley to U. Simpson Tate, Southwest Regional Counsel, NAACP (Mar. 22, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²⁰¹ Letter from U. Simpson Tate, Southwest Regional Counsel, NAACP, to Constance Baker Motley (Mar. 30, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²⁰² *Id.*

be built on Line Avenue near the Black Cedar Grove neighborhood.²⁰³ When asked why the developers had changed their plans, George Johnson of the Bossier Construction Company cited only “financial difficulties.”²⁰⁴ No such difficulties affected the white subdivision as it rapidly progressed. Within days, the same local officials who had opposed extending sewerage services to Clarke Terrace approved installing a water main on the property.²⁰⁵ By March 26, two homes in the subdivision, which was rebranded as “West Morningside,” were under construction.²⁰⁶

Meanwhile, Jerry Goodman refunded John Wilson and Richard Stewart’s deposits. Goodman wrote to Wilson that he and the other developers “regret exceedingly our inability to consummate the project, but feel there is no point in going further in our effort.”²⁰⁷ Wilson responded with a single sentence: “I have been advised not to accept my refund at this time.”²⁰⁸ When Stewart received his refund, he simply jotted “Refuse to accept on advice of counsel” on the envelope and returned it without opening Goodman’s letter.²⁰⁹ Stewart had previously read letters that Goodman had sent to other African American subscribers, and he felt no need to open his own letter before rejecting it.²¹⁰

With the developers unmistakably terminating the project, the NAACP finally intervened. In April, New Orleans–based attorney A.P. Tureaud, Sr. gave a speech in Shreveport called “The Fight for Legal Rights,” in which he rebuked the developers’ decision.²¹¹ Tureaud, whose name appeared on initial court filings in *Clarke Terrace*, was the national NAACP’s principal lawyer in Louisiana.²¹² As Constance Baker Motley later recalled, “For many years, Tureaud, a Creole, had been virtually the only [B]lack lawyer in Louisiana handling LDF civil rights

²⁰³ *Clarke Terrace to Be Developed for Whites*, *supra* note 2, at 2A; *Abandon Negro Clarke Terrace Plans; Two New Housing Projects Revealed*, SHREVEPORT TIMES, Mar. 24, 1954, at 9A.

²⁰⁴ *Construction of Low-Cost Homes for Whites Is Begun—West Morningside*, SHREVEPORT JOURNAL, Mar. 26, 1954, at 4A.

²⁰⁵ *Clarke Terrace to Be Developed for Whites*, *supra* note 2, at 2A.

²⁰⁶ *Construction of Low-Cost Homes*, *supra* note 204, at 4A.

²⁰⁷ Letter from Jerry Goodman to John H. Wilson (Mar. 26, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²⁰⁸ Letter from John H. Wilson to Jerry Goodman (Mar. 30, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²⁰⁹ First *Clarke Terrace* Deposition, *supra* note 1, at 16–18.

²¹⁰ *Id.* at 1.

²¹¹ *NAACP Counsel Is Speaker Here*, SHREVEPORT TIMES, Apr. 11, 1954, at 8B.

²¹² Complaint at 6, *Stewart v. Clarke Terrace Unit No. 1, Inc.* (W.D. La. 1954) (No. 4592) (on file at Library of Congress, Box 232, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.). For an overview of Tureaud’s contributions to the civil rights movement in Louisiana and the South, see generally EMANUEL & TUREAUD, *supra* note 2.

cases.”²¹³ Tureaud’s speech charged that Shreveport, which had recently received the National Civic League’s prestigious “All-America City Award,” was given the award “in error.”²¹⁴ For Tureaud, a city that yielded to pressure from segregationists was underserving of national praise. He cautioned, however, that even the original Clarke Terrace plans were suspect because the subdivision would not be integrated. “We cannot fight for segregated housing,” Tureaud said.²¹⁵ “We want to see housing available equally to all people.”²¹⁶ Tureaud similarly criticized the construction of another proposed middle-class subdivision for African Americans in New Orleans because it too would be segregated.²¹⁷ Ultimately, he believed that “white and [B]lack Americans would accept each other when the racial barriers were lifted.”²¹⁸

In early May, Constance Baker Motley reported to Louisiana NAACP president E.A. Johnson that she would arrive in Shreveport from New Orleans on May 20, 1954, after arguing an appeal before the Fifth Circuit in the University of Alabama desegregation case.²¹⁹ Motley requested to meet the plaintiffs and the president of Shreveport’s NAACP branch upon her arrival.²²⁰ Founded in 1914, the Shreveport branch was the organization’s oldest in the Deep South and, along with the New Orleans branch, remained one of the “lonely outposts of NAACP activity” in the region for many years.²²¹ It began with emphasizing improving school conditions and registering voters in the area, but it achieved limited success.²²² Still, early organizers in the national office remained “guardedly hopeful about the future of the branch” and believed that a victory in a housing case there could reinvigorate local activity.²²³

While in Shreveport, Motley also planned to meet the local branch’s attorney, Jesse N. Stone, Jr.²²⁴ Stone was a north Louisiana native who graduated from the

²¹³ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 119.

²¹⁴ *NAACP Counsel Is Speaker Here*, *supra* note 211.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ EMANUEL & TUREAUD, *supra* note 2, at 222.

²¹⁸ *Id.*

²¹⁹ Letter from Constance Baker Motley to E.A. Johnson, President, Louisiana NAACP (May 7, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter May Letter from Motley to Johnson]. The appeal argued by Motley was *Lucy v. Bd. of Trs. of Univ. of Ala.*, 213 F.2d 846 (5th Cir. 1954).

²²⁰ May Letter from Motley to Johnson, *supra* note 219.

²²¹ SULLIVAN, *supra* note 24, at 51.

²²² *See id.* at 55–56.

²²³ *Id.* at 56.

²²⁴ May Letter from Motley to Johnson, *supra* note 219; *see also* EMANUEL & TUREAUD, *supra* note 2, at 220 (“LDF attorney Motley was eager to work on the Shreveport housing discrimination case, knowing she had the enthusiastic cooperation of local Negro attorney Jesse Stone.”).

Southern University Law Center in 1950.²²⁵ In only four years, he had already established himself as Shreveport's leading Black attorney, securing victories for Blacks in voting rights and criminal cases.²²⁶ Still, Stone had much to learn, and the opportunity to work with an LDF leader was invaluable. Motley requested that the younger attorney gather all written agreements between the plaintiffs and the developers plus any other information relevant to the defendants' liability.²²⁷ In the coming months, Motley and her colleagues guided Stone through the filing process as she directed the litigation from her office in New York.²²⁸

Through her regular visits, Motley became intimately familiar with Shreveport's Black community. She was a guest in John Wilson's home during her trips because Shreveport lacked hotels that accommodated African Americans.²²⁹ She dined with Black leaders and their families, growing particularly close with Clarice Bryant, the wife of local NAACP president E.A. Bryant. After one of Motley's trips to Shreveport, for example, Mrs. Bryant wrote to Motley, stating, "I enjoyed every moment that you were with me, hoping to see you soon trusting that we will have more time to chat."²³⁰

Richard Stewart served as Motley's driver, escorting her around the city as she spoke with local leaders who might bankroll a housing discrimination case.²³¹ Historians Rachel Emanuel and A.P. Tureaud, Jr. write that while with Stewart,

²²⁵ Darrel J. Papillion, *Diversity in the Legal Profession: History Part 2: Louisiana African-American Lawyers from 1950 Forward*, 53 LA. BAR J. 110, 110 (2005); RACHEL L. EMANUEL & CARLA BALL, SOUTHERN UNIVERSITY LAW CENTER 26 (Arcadia Publishing 2018).

²²⁶ *Bryce v. Byrd*, 201 F.2d 664 (5th Cir. 1953) (enforcing the right to vote for African Americans in Bossier Parish, Louisiana); EMANUEL & BALL, *supra* note 225, at 26; BURTON, *supra* note 4, at 167.

²²⁷ May Letter from Motley to Johnson, *supra* note 219.

²²⁸ See, e.g., Letter from Constance Baker Motley to Jesse N. Stone, Jr. (May 26, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.); Letter from David E. Pinsky to Jesse N. Stone, Jr. (June 21, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.); Letter from Constance Baker Motley to Jesse N. Stone, Jr. (July 14, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.); see also EMANUEL & TUREAUD, *supra* note 2, at 220.

²²⁹ EMANUEL & TUREAUD, *supra* note 2, at 221. Motley was routinely rejected from hotels and other public facilities due to her race during her trips through the Jim Crow South. See BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 311 ("During her travels across the South to litigate civil rights cases, Motley personally confronted the quotidian injustices that Jim Crow visited upon all [B]lacks. Whites barred her from hotel rooms, restaurants, and restrooms, just as they barred local [B]lacks."); see also MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 68, 73.

²³⁰ Letter from Clarice Bryant to Constance Baker Motley (June 8, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²³¹ EMANUEL & TUREAUD, *supra* note 2, at 221.

Motley “expressed her dismay regarding Negroes’ refusal” to discuss “racial discrimination and mistreatment by local officials.”²³² She also lamented that the few other Black lawyers in the region refused to “cooperate with her and Stone as they developed the housing case.”²³³ Motley surmised that local timidity was rooted in fears of white backlash to civil rights agitation.²³⁴ Stewart, however, blamed Black elites and “snitches” who cooperated with white officials in exchange for favors and influence.²³⁵ His concerns were well-founded. The efforts of some Blacks “who had the ear of whites” had undermined the NAACP’s earliest efforts to petition for better schools in Shreveport, leaving the local branch “barely holding on.”²³⁶ Even so, Motley expressed hope for Shreveport’s Black community. She was impressed by the state of its current branch, as she explained to state NAACP president Johnson in June 1954. Motley wrote, “It was indeed a pleasure to be invited to Shreveport, Louisiana. I had a very enjoyable time during my stay in Shreveport, because the branch there seems to have such fine, intelligent and energetic people connected with it.”²³⁷

4. “*The Gravamen of the Suit Is Racial Discrimination.*”

With her factfinding complete, Constance Baker Motley returned to New York to prepare for litigation. In late May, Motley sent Jesse Stone an eleven-item list of tasks for him to complete.²³⁸ She included copies of the plaintiffs’ complaint and a motion for preliminary injunction for Stone to file in federal court.²³⁹ Richard Stewart and John Wilson served as the lead plaintiffs in the 100-person class action, captioned *Stewart v. Clarke Terrace Unit No. 1*.²⁴⁰ In their complaint, they named as defendants the Clarke Terrace cooperative corporations, Jerry Goodman, representatives of the Bossier Construction Company, and local and national FHA officials.²⁴¹ The plaintiffs sought a declaratory judgment determining whether the defendants could lawfully “deny the plaintiffs . . . the right to purchase or otherwise acquire an interest in real property, solely because the plaintiffs are Negroes.”²⁴² They also sought an order forcing performance of the plaintiffs’ contracts with the

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *See id.* at 221–22.

²³⁶ SULLIVAN, *supra* note 24, at 55–56.

²³⁷ Letter from Constance Baker Motley to E.A. Johnson, President, Louisiana NAACP (June 16, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²³⁸ Letter from Constance Baker Motley to Jesse N. Stone, Jr. (May 26, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²³⁹ *Id.*

²⁴⁰ Complaint, *supra* note 212, at 2.

²⁴¹ *Id.* at 2–4.

²⁴² *Id.* at 1.

developers.²⁴³ Similarly, their motion for a preliminary injunction alleged that the plaintiffs would have suffered an irreparable injury if the developers were allowed to abandon Clarke Terrace.²⁴⁴

As the litigation unfurled, Motley reenlisted U. Simpson Tate. The two traveled to Shreveport together following the NAACP's annual conference in Dallas to take depositions and review documents for the case.²⁴⁵ Arriving on July 5, the lawyers met with Jesse Stone to depose Jerry Goodman and defend the depositions of John Wilson and Richard Stewart.²⁴⁶ But it was a deposition two days later that proved most revealing. Beginning early on July 8, the LDF lawyers carried on intense questioning with hostile witnesses and volatile opposing counsel.²⁴⁷ Their deposition of Jerry Goodman was explosive. Motley grilled Goodman on the substitute Black development being built on Line Avenue. Local newspapers reported that, unlike Clarke Terrace, the new development had been "zoned for Negro use."²⁴⁸ Motley asked Goodman to explain whether Shreveport actually zoned neighborhoods by race, which would have been unconstitutional under Supreme Court precedent.²⁴⁹ Goodman replied that city ordinances indeed designated certain areas as being appropriate for building Black homes.²⁵⁰ Although he later backpedaled, stating that he was unsure whether those ordinances remained on the books, Goodman was certain that there were specific areas where developers could "build a project for negroes."²⁵¹

Goodman's attorney intervened at this point, objecting to Motley's questions about Line Avenue and zoning as "having no bearing whatever on any issue in the case."²⁵² The attorney, John R. Pleasant, warned that if Motley continued her line of questioning, he would take the issue to a judge.²⁵³ Likewise, FHA attorney Mason Gilfoil complained that racial questioning was "totally irrelevant and immaterial" to

²⁴³ *Id.* at 2.

²⁴⁴ Motion for Preliminary Injunction at 2, *Stewart v. Clarke Terrace Unit No. 1, Inc.* (W.D. La. 1954) (No. 4592) (on file at Library of Congress, Box 232, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.); *see also Preliminary Injunction Is Sought Here*, SHREVEPORT TIMES, Jun. 8, 1954, at 2B (reporting that a "motion for preliminary injunction against the barring of Negroes from buying property in the Clarke Terrace Subdivision has been filed in federal court").

²⁴⁵ Letter from Constance Baker Motley to U. Simpson Tate, Southwest Regional Counsel, NAACP (June 24, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter June Letter from Motley to Tate].

²⁴⁶ First *Clarke Terrace* Deposition, *supra* note 1, at 1.

²⁴⁷ *See generally* Second *Clarke Terrace* Deposition, *supra* note 113.

²⁴⁸ *Id.* at 25.

²⁴⁹ *See, e.g.,* *Buchanan v. Warley*, 245 U.S. 60 (1917); *Harmon v. Tyler*, 273 U.S. 668, 668 (1927); *see supra* notes 185–190 and accompanying text.

²⁵⁰ *See* Second *Clarke Terrace* Deposition, *supra* note 113, at 25–27.

²⁵¹ *Id.* at 26–27.

²⁵² *Id.* at 27.

²⁵³ *Id.* at 28.

the case.²⁵⁴ Gilfoil asserted that he would discontinue the deposition and throw out the testimony on the ground that it was a “complete waste” of his time.²⁵⁵ U. Simpson Tate interjected, exclaiming that the “gravamen of the suit is racial discrimination” and that anything tending to prove such discrimination was therefore relevant.²⁵⁶ Gilfoil responded that the “gravamen of the suit might be racial,” but racial issues were limited to the development at “Clarke Terrace on Jewella Road and nowhere else.”²⁵⁷

Motley and Tate conceded the point, but Tate continued pressing Goodman on the Clarke Terrace development. Taking the reins from Motley, he interrogated Goodman over the circumstances leading to the project’s demise, focusing particularly on the role of white opposition. Goodman testified that he first became aware of white protests, specifically from members of the Emmanuel Baptist Church, in late 1953.²⁵⁸ That opposition allegedly led to a closed meeting in 1954 in which the mayor, sheriff, city council, police jury, and local FHA representatives met to discuss whether the project should continue.²⁵⁹ At the meeting, mayor Clyde Fant announced that he had received threats regarding the Clarke Terrace development.²⁶⁰ Later testimony alleged that the sheriff, mayor, and members of both the city council and police jury all voiced their opposition to Clarke Terrace during the meeting.²⁶¹ The leaders then negotiated a compromise in which Clarke Terrace would be moved to a nonwhite area of Shreveport while the original site would be reserved for whites.²⁶²

Goodman denied this account. He testified that Clarke Terrace failed simply due to lack of interest. According to Goodman, the developers originally planned to build roughly 250 homes in the subdivision. However, when sales plummeted in late 1953, the group determined that the project was no longer feasible.²⁶³ Goodman failed to recall any discussions of possible racial motivations underlying the group’s decision.²⁶⁴ As he saw it, they simply “could not get the sales.”²⁶⁵ But when asked about the alternative Line Avenue project, which would also include 250 homes,

²⁵⁴ *Id.* at 29.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.* at 33–34

²⁵⁹ EMANUEL & TUREAUD, *supra* note 2, at 220; Second *Clarke Terrace* Deposition, *supra* note 113, at 34–35; Plaintiffs’ Answers to Defendants’ Interrogatories at 3, *Stewart v. Clarke Terrace Unit No. 1, Inc.* (W.D. La. 1954) (No. 4592) (on file at Library of Congress, Box 232, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²⁶⁰ Second *Clarke Terrace* Deposition, *supra* note 113, at 40.

²⁶¹ Plaintiffs’ Answers to Defendants’ Interrogatories, *supra* note 259, at 4.

²⁶² EMANUEL & TUREAUD, *supra* note 2, at 220; Plaintiffs’ Answers to Defendants’ Interrogatories, *supra* note 259, at 3.

²⁶³ Second *Clarke Terrace* Deposition, *supra* note 113, at 42.

²⁶⁴ *See id.* at 40–46.

²⁶⁵ *Id.* at 42.

Goodman was curiously confident that the new development would succeed.²⁶⁶ Although Goodman again denied that racial animus affected each project's viability, the undertone was clear.²⁶⁷ Notwithstanding demand among African Americans for new homes, Clarke Terrace failed due to white intimidation while the Line Avenue development flourished in a section informally zoned for Blacks.

Motley and Tate next deposed Harry F. Allen, Shreveport's local FHA director.²⁶⁸ Allen, who had been with the FHA for over a decade, described his office's involvement with Clarke Terrace and the nature of section 213 cooperatives. The director testified that in 1953, he attended several meetings regarding Clarke Terrace with the project's developers, potential financiers, and representatives of the Black community.²⁶⁹ Motley asked Allen whether, through those meetings, he learned that Clarke Terrace would be an exclusively Black development.²⁷⁰ Allen denied that his office considered whether there was any "differentiation between negroes or otherwise," but he explained that it was his "general impression that it was being developed for negroes."²⁷¹ This was contrary to the requirements of section 213, which Allen conceded prevented "any segregation on the basis of race, color or creed to exist on any" FHA-insured property.²⁷²

Allen reconciled this incongruity by explaining that although the FHA could not insure properties that were explicitly segregated, it lacked the authority to decide to whom builders could sell.²⁷³ He added that the agency had never approved mortgage insurance for Clarke Terrace.²⁷⁴ Instead, Shreveport's FHA office had simply issued the development a statement of eligibility, which involved only approving its architectural plans, construction materials, and the contents of its marketing brochures.²⁷⁵ Motley seized upon the latter point. As she pointed out, the front cover of the Clarke Terrace brochures advertised "An FHA Approved Low Cost Home Development."²⁷⁶ The same words—"FHA Approved"—were stamped on the second page as well.²⁷⁷ Indeed, six pages of the brochure were marked "FHA Approved."²⁷⁸ In other words, observed Motley, the materials given to potential subscribers clearly indicated that Clarke Terrace had received FHA approval: "There

²⁶⁶ *Id.* at 43.

²⁶⁷ *See id.* at 42–43.

²⁶⁸ *Id.* at 55.

²⁶⁹ *Id.* at 59–60.

²⁷⁰ *Id.* at 60–61.

²⁷¹ *Id.* at 61–62.

²⁷² *Id.* at 66.

²⁷³ *Id.* at 67.

²⁷⁴ *Id.* at 68–69.

²⁷⁵ *Id.* at 69, 74–75.

²⁷⁶ *Id.* at 75–76.

²⁷⁷ *Id.* at 76.

²⁷⁸ *See generally* Flyer, *supra* note 2.

could be no mistake about it to anyone who could read English, is that correct?” she asked. “I don’t think so,” answered Allen.²⁷⁹

As discovery concluded, the NAACP team prepared for pretrial litigation. On July 8, 1954, lawyers for the defendants filed three motions asking the federal court to either dismiss the lawsuit or enter a summary judgment in their favor.²⁸⁰ As an initial matter, the defendants contended that the federal court lacked jurisdiction to hear the case because state contract law, not federal law, governed the issues it presented.²⁸¹ Second, they argued that the plaintiffs were not entitled to relief

²⁷⁹ Second *Clarke Terrace* Deposition, *supra* note 113, at 76. Motley’s colloquy with Allen highlights an underappreciated aspect of the FHA’s role in creating and maintaining residential segregation. Scholars have explained that the “most important factor” in reinforcing segregation was the FHA’s discriminatory appraisal policies, which mirrored those of the HOLC. See DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 54–55 (1993). As late as 1952, the agency’s official underwriting manual explicitly based property valuations on whether homes were located in neighborhoods characterized by “compatibility among the neighborhood occupants.” ROTHSTEIN, *supra* note 94, at 66. In effect, this made it virtually impossible for even middle-class Black families to obtain federally subsidized mortgages. Americans have become increasingly aware of this history, but little has been written about the related question of why these policies were adopted. See Joy Milligan, *Plessy Preserved: Agencies and the Effective Constitution*, 129 *YALE L.J.* 924, 933 (2020). Instead, “administrators’ motivations and legal thinking remain opaque.” *Id.* at 933 n.27.

Clarke Terrace suggests one explanation. Although leaders in Washington established FHA policies, regional administrators and local field offices implemented them. See NAT’L ARCHIVES & RECORDS SERV. GEN. SERV. ADMIN., U.S. GOV’T ORG. MANUAL 1954–55 410–11 (1954) (describing the organizational structure of the FHA and listing then-existing field offices). Ninety FHA field offices served the fifty states, Guam, and Puerto Rico when Motley filed *Clarke Terrace* in 1954. *Id.* at 411. Two of those offices were in Louisiana—one in Shreveport and another in New Orleans. *Id.* As Harry Allen’s deposition shows, the agency’s decentralized structure meant that FHA officials were sometimes members of the communities they served. Accordingly, some may have had a personal stake in maintaining segregation locally. The plaintiffs’ interrogatories, for example, alleged that Allen first proposed the *Clarke Terrace* bait-and-switch. In the spring of 1954, the Shreveport FHA director allegedly “suggested and then consented to the transfer of the Statements of Eligibility regarding the proposed *Clarke Terrace* Housing Development on the Jewella Road site” to Line Avenue. Plaintiffs’ Answers to Defendants’ Interrogatories, *supra* note 259, at 2. He did so “without the consent or approval” of the plaintiffs. *Id.* Moreover, Allen attended the closed meeting during which Shreveport’s political leaders brokered the compromise with the developers. *Id.* at 3. These allegations indicate that Allen was not simply a disinterested agency official. Rather, he was deeply imbedded in a local establishment intent on segregating communities under the guise of preserving racial harmony. Cf. SULLIVAN, *supra* note 24, at 388 (observing that “[t]he deference of federal agencies to local autonomy made it extremely difficult to gain traction” in the fight against segregated housing, which “the NAACP named as a defining challenge in the postwar era”).

²⁸⁰ *Dismissal of Housing Suit Asked*, SHREVEPORT TIMES, July 9, 1954.

²⁸¹ *Id.*

because the FHA had not definitively approved the project.²⁸² Finally, they argued that even if the federal court had jurisdiction and a valid contract existed, the defendants were entitled to summary judgment on the merits.²⁸³ With the lawsuit's future at risk, Constance Baker Motley wrote to Jesse Stone that she would return to Shreveport again on July 17 in advance of a hearing on the motions.²⁸⁴

Motley and Stone argued the motions in Shreveport before U.S. District Judge Benjamin Dawkins. Judge Dawkins, who was born in 1911 in Monroe, Louisiana, was himself the son of a federal judge and former Associate Justice of the Louisiana Supreme Court.²⁸⁵ He was also one of the most "ardent segregationists" on the federal bench in the mid-twentieth century.²⁸⁶ But Dawkins also had a softer side. The Justice Department lawyers who litigated civil rights actions before him in the following decades would describe Dawkins as a "segregationist who could be trained."²⁸⁷ He was "highly sensitive to the injustices and gross inequalities" presented to him despite his troubling views on race.²⁸⁸ Justice Department lawyers thus dubbed Dawkins one of their "most promising pupils."²⁸⁹ Dawkins had not yet achieved enlightenment in 1954, however. He was thus surely a judge that Black litigants would have hoped to avoid, and Motley, Stone, and the plaintiffs were placed squarely in front of the conservative jurist.

Dawkins ruled as expected. Despite the lawyers' persistence, the judge dismissed the lawsuit on December 29, 1954.²⁹⁰ Accepting the defendants' arguments, Dawkins held that the federal court lacked jurisdiction over the case and that, even assuming federal jurisdiction applied, the court lacked authority to compel specific performance of the plaintiffs' contracts.²⁹¹ "Injunctions do not lie against

²⁸² *See id.*

²⁸³ *Id.*

²⁸⁴ Letter from Constance Baker Motley to Jesse N. Stone, Jr. (July 14, 1954) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.); *Set Hearing on Move to Dismiss Suit*, SHREVEPORT TIMES, July 13, 1954.

²⁸⁵ Norman W. Provizor, *The Judicial Evolution of Ben Dawkins, Jr.*, in GRASSROOTS CONSTITUTIONALISM: SHREVEPORT, THE SOUTH, AND THE SUPREME LAW OF THE LAND 77, 78–80 (Norman W. Provizor and William D. Pederson eds., 1988); *Benjamin Dawkins, Jr.*, BALLOTPEdia, https://ballotpedia.org/Benjamin_Dawkins,_Jr. [<https://perma.cc/YZV8-9LPJ>] (last visited June 27, 2021).

²⁸⁶ *See Provizor, supra* note 285, at 80.

²⁸⁷ *Id.* at 78.

²⁸⁸ *Id.* (internal quotation marks omitted).

²⁸⁹ *Id.*

²⁹⁰ Letter from Elwood H. Chisolm to J.H. Wilson, President, Shreveport Negro Chamber of Comm. (Jan. 25, 1955) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter Letter from Chisolm to Wilson].

²⁹¹ EMANUEL & TUREAUD, *supra* note 2, at 221; *Local Negro Housing Suit Is Dismissed*, SHREVEPORT TIMES, Dec. 30, 1954, at 1A, 6A; Letter from Chisolm to Wilson, *supra* note 290.

alleged conspiracies,” wrote the judge.²⁹² Dawkins advised that the plaintiffs could file a new lawsuit seeking monetary damages, which the court had authority to issue.²⁹³ But he cautioned that it was “very doubtful . . . that the officials named as proposed defendants could be held liable.”²⁹⁴

Motley remained hopeful. Taking Judge Dawkins at his word, she proposed suing multiple officials “for their tortious interference with an advantageous contractual relationship.”²⁹⁵ To help her overcome Dawkins’ doubts, she circulated a memorandum on *Clarke Terrace* to the NAACP’s leading housing lawyers across the country, including Los Angeles’ Loren Miller and Chicago’s William R. Ming.²⁹⁶ Miller’s insight would have been particularly useful, as he was recognized as one of the nation’s foremost experts on housing discrimination.²⁹⁷ Likewise, Ming was a Black law professor at the University of Chicago and a civil rights attorney who had previously counseled Thurgood Marshall in the restrictive covenant cases.²⁹⁸ Notwithstanding these efforts, however, the NAACP never filed a second lawsuit. Interest in *Clarke Terrace* dissipated after the case was dismissed, making it difficult for Motley to proceed. Even so, *Clarke Terrace* represented a courageous, albeit unsuccessful, attempt to challenge discrimination in Shreveport despite threats that violence and other “racial disturbances” would ensue if the project continued.²⁹⁹

III. DISCOVERING MOTLEY’S HOUSING LEGACY

Constance Baker Motley’s involvement in *Clarke Terrace* reflected both her and the NAACP’s increasing focus on housing inequality at midcentury. Buoyed by a successful campaign against racially restrictive covenants, LDF’s housing discrimination docket surged in the 1950s.³⁰⁰ Advocates hoped the covenant victory

²⁹² *Local Negro Housing Suit Is Dismissed*, *supra* note 291, at 6A.

²⁹³ *Id.*

²⁹⁴ *Id.*

²⁹⁵ Letter from Chisolm to Wilson, *supra* note 290.

²⁹⁶ Letter from Constance Baker Motley, Assistant Couns. to Loren Miller, Esq. (Mar. 23, 1955) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.); Letter from Constance Baker Motley, Assistant Couns. to William R. Ming, Esq. (Mar. 23, 1955) (on file at Library of Congress, Box 246, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.).

²⁹⁷ See GONDA, *supra* note 159, at 56 (stating that Miller was “one of the nation’s most experienced and successful” lawyers challenging racially restrictive covenants); MACK, *supra* note 32, at 202–04 (describing Miller’s rise to prominence through his anti-covenant work in Los Angeles).

²⁹⁸ MOTLEY, EQUAL JUSTICE, *supra* note 25, at 68.

²⁹⁹ *Flornoy Urges Patience in Housing Project Dispute*, SHREVEPORT TIMES, Dec. 1, 1953, at 2A.

³⁰⁰ BROWN-NAGIN, COURAGE TO DISSENT, *supra* note 30, at 70; see also GONDA, *supra* note 159, at 204 (“Indeed, [B]lack communities used the anticovenant campaign to seize new opportunities to expand their access to housing and to foment a broader and more successful assault on Jim Crow in the postwar era.”).

would invigorate efforts in local communities to “protest exclusionary policies in courts of law.”³⁰¹ In 1953, the NAACP passed a resolution declaring that “residential segregation and restriction of racial minorities are at the core of the whole racial segregation issue in all phases of American life.”³⁰² “No federal subsidies, funds, credits or powers,” it added, “should be used to aid any housing, whether public or private, unless there is an assurance against any type of racial or religious discrimination or segregation in such housing.”³⁰³ The association thus adopted as its “prime goal” the “eradication of every vestige of racial segregation or racial restriction in housing that receives any form of public aid or support.”³⁰⁴

Motley often spearheaded litigation aimed at furthering that goal. Indeed, while she argued *Clarke Terrace* in Shreveport, Motley also juggled at least four other housing lawsuits in Pennsylvania, Georgia, Alabama, and Michigan.³⁰⁵ At other times, she argued housing cases in Missouri, New Jersey, and Ohio, among others.³⁰⁶ Motley thus became LDF’s “resident expert on housing matters,” writes historian Richard Kluger.³⁰⁷ “She was a plodder, but she knew her stuff,” recalled a colleague.³⁰⁸ In fellow LDF attorney Jack Greenberg’s words, her “housing docket could have kept a small law firm busy.”³⁰⁹ Motley’s “most ambitious effort,” Greenberg observed, involved litigating against the Levittown, Pennsylvania, development, which consisted of 16,000 homes built exclusively for middle-class white Americans.³¹⁰

Yet despite the centrality of housing cases to Motley’s early practice, this part of her career has consistently gone unnoticed. In most descriptions of her work, Motley’s housing cases—if discussed at all—are merely an afterthought, mentioned briefly before addressing her blockbuster school desegregation lawsuits.³¹¹ Indeed, this is true even in Motley’s account of her own life. “In her memoir, Judge Motley

³⁰¹ BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 69.

³⁰² *Id.* at 70.

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ See *Johnson v. Levitt & Sons, Inc.*, 131 F. Supp. 114 (E.D. Pa. 1955); *Heyward v. Pub. Hous. Admin.*, 135 F. Supp. 217 (S.D. Ga. 1955); *Watts v. Hous. Auth. of Birmingham Dist.*, 150 F. Supp. 552 (N.D. Ala. 1956); *Detroit Hous. Comm’n v. Lewis*, 226 F.2d 180 (6th Cir. 1955).

³⁰⁶ See GREENBERG, *supra* note 23, at 551 n.207 (noting that Motley “had [housing] cases in St. Louis, Camden, Savannah, Birmingham, Benton Harbor (Mich.), Detroit, and Columbus”).

³⁰⁷ KLUGER, *supra* note 41, at 272.

³⁰⁸ *Id.*

³⁰⁹ GREENBERG, *supra* note 23, at 207.

³¹⁰ *Id.* at 551 n.207.

³¹¹ See, e.g., Chin & Chin, *supra* note 20, at 1743 n.13 (noting that in addition to school desegregation cases, “Motley and her colleagues from LDF brought numerous other challenges as well, including challenges to: racial restrictions in public housing . . .”).

does not discuss housing cases at all,” writes one commentator.³¹² A recent biography about Motley likewise fails to mention her housing docket at LDF, instead focusing most of its discussion of Motley’s LDF litigation on her work implementing *Brown*.³¹³ In other words, Constance Baker Motley is often treated as though she were single-mindedly focused on eradicating educational discrimination, which ignores other facets of her illustrious career.³¹⁴

Even Shreveport forgot about Motley’s housing case there. When President Lyndon B. Johnson nominated Motley to become the first Black woman to serve as a federal judge in 1966, the *Shreveport Times* published an article entitled “Constance Baker Motley: Negro Woman Selected for Federal Judgeship.”³¹⁵ Although Motley tackled one of the most racially divisive issues facing Shreveport in the preceding decade, the *Times* made no mention of *Clarke Terrace*. The paper observed only that “Mrs. Motley is an attorney who has handled civil rights matters. From 1945 to 1965 she rose from a research student to associate counsel of the Legal Defense & Education[al] Fund of the National Association for the Advancement of Colored People.”³¹⁶ Thus, *Clarke Terrace*, like most of Motley’s housing work, escaped the historical record even in the city where it was most relevant.

Why have Motley’s housing cases been neglected, and what has been lost as a result? The pages that follow answer those questions, starting with the first. Put simply, Motley’s housing discrimination cases are forgotten because they are eclipsed by *Brown v. Board of Education* and its progeny.³¹⁷ As a recent law school graduate in 1946, Motley began her career at LDF during a turning point in the organization’s history. During the 1940s, LDF launched a broad-based attack on Jim

³¹² Florence Wagman Roisman, *Affirmatively Furthering Fair Housing in Regional Housing Markets: The Baltimore Public Housing Desegregation Litigation*, 42 WAKE FOREST L. REV. 333, 342 n.38 (2007) [hereinafter Roisman, *Affirmatively Furthering*]. Although Motley does not mention her own housing cases in her autobiography, she does briefly discuss residential segregation and LDF’s campaign against racially restrictive covenants. See MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 67–68.

³¹³ See generally FORD, *supra* note 20.

³¹⁴ There is one notable exception. Tomiko Brown-Nagin, in her acclaimed legal history of the civil rights movement in Atlanta, Georgia, discusses Motley’s contribution to *Heyward v. Public Housing Administration*, 133 F. Supp. 217 (S.D. Ga. 1955), a housing case in Savannah. See BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 71–72, 79. In *Heyward*, Motley worked with Thurgood Marshall and Atlanta’s A.T. Walden to sue local and federal officials, alleging that their discriminatory practices relegated Blacks to three segregated housing projects in Savannah. *Id.* at 71. But the effort proved unsuccessful, and most “[m]odern legal scholars have largely bypassed *Heyward*.” Milligan, *supra* note 279, at 928 n.8; see also, e.g., Roisman, *Affirmatively Furthering*, *supra* note 312, at 341 (describing *Heyward* in passing as an unsuccessful housing case filed in Savannah, Georgia).

³¹⁵ *Constance Baker Motley: Negro Woman Selected for Federal Judgeship*, SHREVEPORT TIMES, Jan. 26, 1966, at 5A.

³¹⁶ *Id.*

³¹⁷ Cf. RISA L. GOLUBOFF, *THE LOST PROMISE OF CIVIL RIGHTS* 12 (2007) (“Once the Court decided *Brown*, the case, the image of Jim Crow it projected, and the civil rights doctrine it initiated captured, and thereby limited, the legal imagination.”).

Crow with a particular focus on expanding access to housing for African Americans.³¹⁸ That effort culminated in 1948 with victory in *Shelley v. Kramer*, which ruled judicial enforcement of racially restrictive covenants unconstitutional.³¹⁹ *Shelley* was the product of a decades-long campaign to invalidate restrictive covenants and other practices that crammed Blacks into segregated ghettos.³²⁰ Motley remarked that *Shelley* “cemented a belief among” civil rights lawyers “that the Supreme Court was becoming more receptive to the idea” of using the Fourteenth Amendment to protect the rights of African Americans.³²¹

In the 1950s, LDF attorneys capitalized on the Court’s increasing racial liberalism by redoubling their efforts to attack racial segregation in schools and universities. LDF began the decade by winning *McLaurin v. Oklahoma State Regents*, which ruled unconstitutional the segregation of state-funded graduate and professional schools.³²² Then came victory in *Sweatt v. Painter*, which held that racially separate law schools could never equal each other.³²³ In response to *McLaurin* and *Sweatt*, LDF convened a strategy conference in June 1950 in which it embraced total desegregation as the primary goal of its public-school litigation campaign.³²⁴ That decision ended LDF’s practice of suing to equalize segregated schools under *Plessy v. Ferguson*’s separate but equal doctrine, setting in motion the organization’s monumental school desegregation campaign.³²⁵

Most accounts of Constance Baker Motley’s career begin—and often end—here, with her efforts to secure and enforce *Brown*’s desegregation mandate.³²⁶ So too do many descriptions of LDF’s litigation in general, often bypassing the

³¹⁸ See GONDA, *supra* note 159, at 4.

³¹⁹ *Shelley v. Kraemer*, 334 U.S. 1, 20 (1948).

³²⁰ See generally GONDA, *supra* note 159.

³²¹ MOTLEY, EQUAL JUSTICE, *supra* note 25, at 67.

³²² *McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950).

³²³ *Sweatt v. Painter*, 339 U.S. 629 (1950).

³²⁴ MARGARET EDDS, WE FACE THE DAWN: OLIVER HILL, SPOTTSWOOD ROBINSON, AND THE LEGAL TEAM THAT DISMANTLED JIM CROW 123–25 (2018).

³²⁵ For a detailed account of a representative school equalization lawsuit in Durham, North Carolina, see Donovan Stone, *Blue v. Durham Public School District and the Campaign for School Equalization in North Carolina*, 1 N.C. CIV. RTS. L. REV. 2 (2021).

³²⁶ See, e.g., Chin & Chin, *supra* note 20, at 1742 n.90 (recounting “the story of Constance Baker Motley, James Meredith, and their battle with the University of Mississippi”); Daniels & Pereira, *supra* note 20, at 1779–80 (arguing that Motley’s work litigating school desegregation cases after *Brown* “helped shape the ways in which the judiciary engages with equal protection claims in the realm of education”); Anita F. Hill, *The Embodiment of Equal Justice Under the Law*, 31 NOVA L. REV. 237, 255 (2007) (noting that Motley “was the sole female attorney. . . who assisted Justice Thurgood Marshall in *Brown v. Board of Education*” and “argued successfully in several higher education integration cases . . .”); Koski, *supra* note 20, at 1899 (introducing “Judge Motley’s legacy of educational rights”).

organization's work in other contexts.³²⁷ However, the "attack on school segregation was only part of a much broader effort" to end racial discrimination, and the NAACP "was never committed to destroying school segregation because it was central to the system of racial subordination."³²⁸ Instead, "school segregation was just one of many targets."³²⁹ The organization settled on school desegregation as a focal point of its strategy only after accumulating favorable precedents in school cases, almost haphazardly.³³⁰ But that does not discount the importance of the NAACP's housing discrimination work, as efforts to remedy housing inequality were among the organization's top priorities from its founding onward.³³¹ Indeed, one of the NAACP's earliest Supreme Court victories was *Buchanan v. Warley*, which outlawed ordinances mandating residential racial segregation.³³² Moreover, housing discrimination, residential segregation, and educational inequality were and remain closely intertwined.³³³

Exclusive focus on *Brown*, though understandable given the decision's import, has precluded scholars from examining these and other aspects of Motley's career

³²⁷ See, e.g., Roisman, *Affirmatively Furthering*, *supra* note 312, at 334–35 ("While millions of words have been written about the public school desegregation cases and the campaigns that led up to and followed *Brown v. Board of Education*, relatively little has been written about [cases] involving desegregation of public housing."). Indeed, even LDF's landmark *Shelley* campaign remains "little more than a footnote in the narrative of African Americans' efforts for greater freedom" despite its undisputed importance to contemporary observers. GONDA, *supra* note 159, at 8; see also, e.g., KLARMAN, *supra* note 178, at 261–63 (dismissing the importance of *Shelley* and restrictive covenant litigation); Lohier, *supra* note 20, at 1803 n.7 (noting that LDF "successfully challenged government enforcement of racially restrictive covenants as a way to combat the scourge of racial housing segregation").

³²⁸ MARK V. TUSHNET, *THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925–1950* 145 (1987); see also Robert L. Carter, *The NAACP's Legal Strategy Against Segregated Education*, 86 MICH. L. REV. 1083, 1095 (1988) (explaining that although LDF's "strategy was to attack segregation in education," its "real agenda was the removal of the basic barrier to full and equal citizenship rights for [B]lack in this country.") (reviewing TUSHNET, *supra*).

³²⁹ TUSHNET, *supra* note 328, at 145.

³³⁰ *Id.* ("[S]chool segregation was just one of many targets, and it became an increasingly attractive one as precedents dealing with schools accumulated precisely because the NAACP had been litigating school cases for nonstrategic reasons.").

³³¹ See SULLIVAN, *supra* note 24, at 44 (observing that "widespread efforts to restrict [B]lack access to housing loomed as one of the most urgent problems facing [B]lack in urban areas" when the NAACP formed its Legal Bureau, the forerunner to LDF, in 1913); see also SULLIVAN, *supra* note 24, at 114 (noting that housing discrimination was one of the NAACP's "[m]ajor areas of litigation" throughout the early twentieth century).

³³² *Buchanan v. Warley*, 245 U.S. 60 (1917); SULLIVAN, *supra* note 24, at 46–47. NAACP historian Patricia Sullivan writes that the *Buchanan* decision "stimulated growing support for the association" and "became a touchstone in the NAACP's continuing effort to broaden its base and increase membership during" World War II. *Id.* at 72.

³³³ See SULLIVAN, *supra* note 24, at 302 (stating that, in the mid-twentieth century, "school segregation in large urban areas" was "largely a function of segregated housing patterns").

and LDF's contributions to the civil rights movement. In her memoir, for example, Motley devotes three chapters to vividly describing the years preceding and following *Brown*.³³⁴ Important and concurrently transpiring events in Motley's housing work, on the other hand, receive no mention. For example, only three days after the Supreme Court decided *Brown*, Motley and Thurgood Marshall filed *Heyward v. Public Housing Authority* through Atlanta-based attorney A.T. Walden.³³⁵ *Heyward* sought to integrate public housing projects in Savannah, Georgia.³³⁶

Meanwhile, Motley had already been involved with *Clarke Terrace* for several months. She made her first trip to Shreveport on May 20, 1954—only four days after *Brown* was announced.³³⁷ Similarly, Motley describes attending the NAACP's July 1954 annual convention in Dallas, Texas, two months after *Brown*. She writes that the atmosphere there was “euphoric” as advocates from around the country gathered to “savor victory.”³³⁸ “[T]he pivotal battle, it was felt by all, had been won.”³³⁹ There remained other battles to be fought, however, and Motley traveled to Shreveport again immediately following the Dallas convention, this time with U. Simpson Tate, to conduct depositions in *Clarke Terrace*.³⁴⁰ These simultaneously occurring events in *Clarke Terrace* and *Heyward* were understandably omitted while Motley recounted experiencing the most important Supreme Court decision of the twentieth century.³⁴¹ But what is lost by failing to examine these and other cases that *Brown* overshadowed?

Discovering Motley's housing work provides scholars with a richer understanding of her groundbreaking career. Motley's work tackling residential segregation and housing discrimination provided her with crucial learning experiences that shaped the trajectory of her civil rights practice. During her earliest days at LDF, Motley watched as the organization successfully litigated against

³³⁴ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 61–132. Additionally, much of Motley's writings outside of her memoir focus on *Brown* and its implementation. *See, e.g.*, Constance Baker Motley, *From Brown to Bakke: The Long Road to Equality*, 14 HARV. CIV. RTS. CIV. LIBERTIES L. REV. 315 (1979); Constance Baker Motley, *The Historical Setting of Brown and Its Impact on the Supreme Court's Decision*, 61 FORDHAM L. REV. 9 (1992); Constance Baker Motley, *Reflections on Justice Before and After Brown*, 32 FORDHAM URB. L.J. 101 (2004).

³³⁵ *Heyward v. Pub. Hous. Admin.*, 135 F. Supp. 217 (S.D. Ga. 1955); BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 71.

³³⁶ BROWN-NAGIN, *COURAGE TO DISSENT*, *supra* note 30, at 71.

³³⁷ May Letter from Motley to Johnson, *supra* note 219.

³³⁸ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 106.

³³⁹ *Id.*; *see also* CARTER, *supra* note 33, at 135 (“After *Brown* was decided, Thurgood, like the rest of [the NAACP staff], was certain that the civil rights fight had been won and nothing more could be gained through the NAACP litigation program.”).

³⁴⁰ June Letter from Motley to Tate, *supra* note 245, at 11.

³⁴¹ Brown-Nagin, *Identity Matters*, *supra* note 20, at 1699 (stating that *Brown* was “the single most important case in twentieth-century American constitutional history”); KLARMAN, *supra* note 178, at vii (noting that *Brown* is “widely deemed to be the most important Supreme Court decision of the twentieth century”).

restrictive covenants in *Shelley*. As an LDF intern while in law school, Motley attended several strategic planning meetings organized by Thurgood Marshall between 1945 and 1947 that proved essential to the *Shelley* campaign.³⁴² Marshall assembled the nation's leading housing experts to address what he called "the foremost problem confronting Negroes today."³⁴³

These conferences produced a strategy that became an LDF trademark and was later used to achieve victory in *Brown*.³⁴⁴ For the first time, LDF would utilize innovative social science research to undermine segregation, focusing on the costs of limiting Black families to urban ghettos.³⁴⁵ When the Supreme Court proved receptive to such arguments, LDF adapted the tactic to the "parallel fight against educational inequalities in the South."³⁴⁶ For her part, Motley observed that the conferences "were a prototype for the school desegregation cases to come."³⁴⁷ She recalled that the arguments advanced in *Shelley* were "so sophisticated and new, it required unusually skillful legal thinkers and analysts."³⁴⁸ Listening to eminent advocates like Marshall, Charles Hamilton Houston, Loren Miller, William Ming, and others "debate and develop the new theory," Motley wrote, "provided me with an amazing legal education."³⁴⁹

Motley put that education to work, diving headfirst into a multitude of challenging housing-related issues. In 1953, she wrote a twenty-page memorandum on "Racial discrimination in housing," which she circulated to advocates attending the NAACP's annual conference in New York.³⁵⁰ Motley advised her colleagues to focus on the "total housing picture" when considering the "problem of racial discrimination in housing" and identified three areas where housing discrimination warranted NAACP attention—public housing, publicly aided housing, and private housing.³⁵¹ Based on those categories, she described the biggest problems facing housing advocates, proposed solutions, and summarized previous and pending cases challenging discriminatory policies.

³⁴² GONDA, *supra* note 159, at 103–05; GENNA RAE MCNEIL, GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS 177–78 (1983); MOTLEY, EQUAL JUSTICE, *supra* note 25, at 66.

³⁴³ GONDA, *supra* note 159, at 103.

³⁴⁴ GONDA, *supra* note 159, at 10.

³⁴⁵ *Id.* at 105.

³⁴⁶ SULLIVAN, *supra* note 24, at 299; *see also* GONDA, *supra* note 159, at 208 ("[T]he experiences of the covenant campaign encouraged [LDF] and its collaborators to adapt the tactics they had tested in *Shelley* and deploy them in the mounting fight over segregated education.").

³⁴⁷ MOTLEY, EQUAL JUSTICE, *supra* note 25, at 68; SULLIVAN, *supra* note 24, at 301.

³⁴⁸ MOTLEY, EQUAL JUSTICE, *supra* note 25, at 67–68.

³⁴⁹ *Id.* at 68.

³⁵⁰ Memorandum from Constance Baker Motley to Lawyers and Other Specialists Invited to Attend the Conference in New York on March 13, 14, 15 (1953) (on file at Library of Congress, Box II:A311, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.) [hereinafter Memorandum from Constance Baker Motley].

³⁵¹ *Id.* at 1–3.

The second category in Motley's memorandum, discrimination in publicly aided housing, was one of the newest and most urgent problems facing the NAACP.³⁵² In her section of the memorandum addressing publicly aided housing, Motley asked, "How are we to challenge the practices of large scale builders and developers who construct the Levittowns . . . and similar F.H.A. insured developments which are kept lily-white through selling and leasing policies?"³⁵³ Motley recognized that there was nearly a "complete absence of decided cases involving racial discrimination" in such developments because the federal government had only recently begun providing public aid to housing developers.³⁵⁴ Indeed, Motley identified only one case considering the issue, *Dorsey v. Stuyvesant Town Corporation*,³⁵⁵ which the New York Court of Appeals decided in 1949. The *Dorsey* court rebuffed an LDF-led effort to secure a ruling that nominally private entities that received tax exemptions and other benefits were agents of the state for constitutional purposes.³⁵⁶ Even so, Motley advised that the issue could be "raised again" in other cases and that the *Dorsey* strategy remained the most effective method of attacking publicly aided housing.³⁵⁷ The task would be to prove that benefits such as FHA mortgage insurance were so transformative that developers should be held to the "same constitutional restrictions as would be imposed upon a federal housing development."³⁵⁸

Motley rose to the challenge. In the early 1950s, after LDF unsuccessfully sought to force the desegregation of all federal public housing projects, she filed lawsuits across the country challenging all forms of housing discrimination.³⁵⁹ Her efforts ultimately established the "foundations" for the modern civil rights regime, even before Congress enacted federal antidiscrimination legislation like the Fair Housing Act of 1968.³⁶⁰ Motley's boldest challenge was *Johnson v. Levitt & Sons, Inc.*, an action to desegregate the infamous Levittown development in Bucks County, Pennsylvania, which she also referenced in her memorandum.³⁶¹ Private real estate developer William Levitt planned to construct a massive community featuring thousands of single-family homes in the Philadelphia suburb.³⁶² Levitt

³⁵² See BROWN-NAGIN, COURAGE TO DISSENT, *supra* note 30, at 70 (noting that, in 1953, the NAACP passed a resolution declaring that "[t]he eradication of every vestige of racial segregation or racial restriction in housing that receives any form of public aid or support" was the association's "prime goal").

³⁵³ Memorandum from Constance Baker Motley, *supra* note 350, at 2.

³⁵⁴ *Id.* at 9.

³⁵⁵ *Dorsey v. Stuyvesant Town Corp.*, 87 N.E.2d 541 (N.Y. 1949).

³⁵⁶ Memorandum from Constance Baker Motley, *supra* note 350, at 9.

³⁵⁷ *Id.* at 9, 18.

³⁵⁸ *Id.* at 18.

³⁵⁹ GREENBERG, *supra* note 23, at 175; Memorandum from Constance Baker Motley, *supra* note 350, at 15–20 (advocating "for strengthening and broadening the legal attack upon discrimination in housing").

³⁶⁰ *Johnson*, *supra* note 20, at 1974.

³⁶¹ *Johnson v. Levitt & Sons, Inc.*, 131 F. Supp. 114 (E.D. Pa. 1955).

³⁶² BROWN-NAGIN, COURAGE TO DISSENT, *supra* note 30, at 77.

refused to sell to nonwhite homebuyers, citing white residents' preferences to live in segregated neighborhoods.³⁶³ Levittown made international headlines when residents violently confronted the few African Americans who managed to buy homes in the development.³⁶⁴ When the first Black family moved into Levittown, roughly 600 white residents protested outside their home, pelting the family with rocks.³⁶⁵ They demonstrated for two months, burning crosses outside the home and even renting a unit adjacent to the Black family from which they flew Confederate flags and blasted music incessantly.³⁶⁶ The protests did not stop until the Pennsylvania attorney general intervened.³⁶⁷ Levittown thus became "synonymous with white intransigence and opposition to interracial neighborhoods."³⁶⁸

Adopting the *Dorsey* approach, Motley and Thurgood Marshall argued in federal court that Levitt's corporation and the federal government were so intermingled that the former was subject to the Fourteenth Amendment's equal protection clause.³⁶⁹ The FHA and the federal Veterans Administration had enabled Levittown by insuring mortgages on properties there and providing other benefits.³⁷⁰ But the court rejected Motley and Marshall's innovative argument, ruling that Levitt's corporation did not suddenly transform into a state actor when it accepted federal benefits.³⁷¹ Accordingly, constitutional prohibitions on racial discrimination did not bind the corporation. *Johnson* thus "backfired," affirming that the "Constitution had little application in the private housing market."³⁷² Still, Motley had bravely attempted to enforce the rights of Black homeowners and slow segregation's march northward.

The Levittown litigation was an extension of Motley's work in *Clarke Terrace*. Although *Johnson* was doubtlessly the most aggressive challenge to constructing federally backed housing developments, it was not the first. Nor was *Dorsey*, which considered the entanglement of a private developer and the New York state government. Instead, *Clarke Terrace* held that honor. As Motley explained to Marshall while they contemplated whether to take on *Clarke Terrace*, LDF had "not as yet brought any case . . . for the admission of Negroes" to a private project with federally insured mortgages in 1954.³⁷³ *Clarke Terrace* was thus the first of two cases filed that year challenging, "for the first time, the legality of discrimination in FHA insured housing," reported the NAIRO in its annual review.³⁷⁴ Motley surely

³⁶³ *Id.*

³⁶⁴ *Id.*

³⁶⁵ ROTHSTEIN, *supra* note 94, at 141.

³⁶⁶ *Id.* at 141–42.

³⁶⁷ *Id.* at 142.

³⁶⁸ BROWN-NAGIN, COURAGE TO DISSENT, *supra* note 30, at 77.

³⁶⁹ *Id.* at 77–78.

³⁷⁰ *Id.* at 77.

³⁷¹ *Id.* at 78.

³⁷² *Id.*

³⁷³ Letter from Motley to Marshall, *supra* note 193.

³⁷⁴ *The Year in Intergroup Relations*, *supra* note 199, at 6. The second case is an unidentified action filed in Sacramento, California. *See id.*

would have drawn on her experience in *Clarke Terrace* as she litigated *Johnson* just one year later. *Clarke Terrace* thus likely functioned as a test case used to explore the efficacy of *Dorsey's* strategy against federally backed developments before filing more ambitious challenges in other jurisdictions. And although courts dismissed both *Clarke Terrace* and *Johnson*, Motley continued filing cutting-edge legal challenges to discriminatory housing policies across the country, following the blueprint she established in her 1953 memorandum.³⁷⁵

In addition to deepening scholars' understanding of her career, unpacking Motley's housing work provides another opportunity for the public to appreciate her contributions to American society. Although cases like *Clarke Terrace*, *Heyward*, and *Johnson* have escaped attention, Constance Baker Motley is herself well known among civil rights scholars and advocates.³⁷⁶ But Motley has failed to garner similar recognition among the public despite her extraordinary work at LDF.³⁷⁷ Instead, like other women of the era, traditional narratives of the civil rights movement marginalized Motley, focusing on her male LDF colleagues like Thurgood Marshall, Robert Carter, and Jack Greenberg.³⁷⁸ Indeed, one of her biographers writes that Motley "was relegated to the background while the well-known men in the narratives were placed in the spotlight."³⁷⁹ Any effort to increase awareness of Motley's career thus "expands the view of history from the model of leadership by charismatic men to a more complete model" that includes women leaders.³⁸⁰

This is critical because Motley was often assigned LDF's most dangerous cases in the South precisely because she was a woman. In her words, she was a victim of Thurgood Marshall's "joking theory . . . that [B]lack women were less subject to attack in the South than [B]lack men, 'since all white men had [B]lack

³⁷⁵ See, e.g., *Detroit Hous. Comm'n v. Lewis*, 226 F.2d 180 (6th Cir. 1955) (addressing the application of *Brown's* then-recent desegregation mandate in the context of public housing); *Watts v. Hous. Auth. of Birmingham Dist.*, 150 F. Supp. 552 (N.D. Ala. 1956) (challenging a local housing authority's decision to evict Black tenants in order to build a hospital using federal funds earmarked for slum clearance).

³⁷⁶ See, e.g., Lohier, *supra* note 20, at 1803 ("Constance Baker Motley hardly needs an introduction in American civil rights circles.").

³⁷⁷ See, e.g., FORD, *supra* note 20, at 3 ("In fact, much of the work to desegregate public schools, colleges, universities, housing, transportation, lunch counters, museums, libraries, parks, and other public accommodations was performed by Motley. It stands to reason that she would be famous for orchestrating that. However, that is simply not the case."); Roisman, *An Extraordinary Woman*, *supra* note 19, at 691 ("Constance Baker Motley led an amazingly courageous, trailblazing, justice-making life. She is far less well-known than she should be.").

³⁷⁸ See FORD, *supra* note 20, at 5, 28.

³⁷⁹ *Id.* at 6.

³⁸⁰ *Id.* at 7; see also *id.* at 115 (observing that "traditional historical narratives . . . should be revised to fully examine" Motley's life and contributions along with those of "other diverse female activists and change agents").

Mammies.”³⁸¹ That contention was certainly false—the threat of violence often loomed over Motley during her many trips South.³⁸² During one of her trips to Alabama, Motley was guarded by “six or eight [B]lack men with shotguns and machine guns” because the home she was visiting had been bombed several times before.³⁸³ That experience “sent shivers up my spine,” she later remembered.³⁸⁴ Documenting Motley’s housing cases thus helps to reframe conventional understandings of women like Motley, who risked their lives to challenge injustice while navigating an often sexist and always patriarchal movement.

Finally, and most importantly, studying Motley’s housing work highlights the issue’s importance among the Black families whose lives housing discrimination intimately affected. In Shreveport, African Americans remained relegated to decaying neighborhoods following *Clarke Terrace*’s dismissal. For example, even in 1978, Shreveport’s Allendale neighborhood, where plaintiff John Wilson resided, remained overwhelming Black and comprised of renters rather than homeowners.³⁸⁵ African Americans constituted ninety-nine percent of Allendale residents, and 3,416 of the neighborhood’s 5,600 dwellings were rental properties.³⁸⁶ Rents averaged just \$48 per month.³⁸⁷ And even today, Shreveport’s larger Black community remains walled off from their white neighbors to the east.³⁸⁸ Of course, it is impossible to know what difference the *Clarke Terrace* subdivision would have produced had *Clarke Terrace* been successful.³⁸⁹ But the decades that followed its dismissal at least prove that the bar was low.

³⁸¹ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 163; *see also* FORD, *supra* note 20, at 87 (noting that Marshall’s “constantly sending [Motley] to the South could be classified as discrimination on the basis of sex since her femaleness was clearly a factor in the assignments”).

³⁸² *See* FORD, *supra* note 20, at 87 (explaining that “[B]lack women were not safer in the South” and that Motley “was exposed to acts of violence and danger in much of her work in the South”); Roisman, *An Extraordinary Woman*, *supra* note 19, at 687 (“In her work for LDF, Constance Baker Motley encountered not only discrimination, but considerable danger.”).

³⁸³ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 123.

³⁸⁴ *Id.*

³⁸⁵ BURTON, *supra* note 4, at 116.

³⁸⁶ *Id.*

³⁸⁷ *Id.*

³⁸⁸ *See* Emily Badger & Darla Cameron, *How Railroads, Highways and Other Man-Made Lines Racially Divide America’s Cities*, WASH. POST (July 16, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/07/16/how-railroads-highways-and-other-man-made-lines-racially-divide-americas-cities> [<https://perma.cc/R4QU-PMV9>].

³⁸⁹ According to the *Catholic Interracialist*, a Catholic social justice magazine, one possibility is that *Clarke Terrace* would have become “an interracial community of new homes—the only one in Shreveport.” Mary Dolan, *Shreveport at End of First Year*, CATHOLIC INTERRACIALIST, Jan. 1955, at 5 (on file at Library of Congress, NAACP Legal Defense and Educational Fund Records, Manuscript Division, Washington, D.C.). Because white residents had already begun moving into homes in the subdivision that would have

Housing discrimination in Shreveport was personal for the *Clarke Terrace* plaintiffs, who risked their lives and livelihoods by challenging racism in the Deep South.³⁹⁰ Richard Stewart's family was "devastated when the lawsuit was dismissed."³⁹¹ One of his sons writes that Stewart "looked forward to raising a family and availing himself of the benefits he had earned during his military service."³⁹² Moreover, acquiring a home would have helped ensure that his children "had an opportunity to receive college educations."³⁹³ Richard Stewart's children eventually had illustrious careers befitting the offspring of a civil rights hero despite losing their home in Clarke Terrace. His three sons, Carl, James, and Richard, Jr., have served as Chief Judge of the United States Court of Appeals for the Fifth Circuit, Caddo Parish District Attorney, and United States Navy Captain, respectively.³⁹⁴ But the importance that Stewart placed on securing housing was typical of a generation of twentieth-century African Americans strivers who dreamed of raising their families in decent homes.

That group included Constance Baker Motley. Despite being an advocate for housing equality, Motley spent years living in a functionally segregated housing complex in New York City.³⁹⁵ She rented a unit in the Riverton House development in Harlem, which the Metropolitan Life Insurance Company built after groups protested its racist policies in other projects.³⁹⁶ Met Life had previously constructed the whites-only Stuyvesant Town development in East Manhattan, which was the target of the *Dorsey* litigation Motley chronicled in her 1953 memorandum.³⁹⁷ Robert Carter, Motley's LDF colleague and Riverton House neighbor, recalled that Met Life seemingly practiced "blatant discrimination and sponsor[ed] racial segregation with impunity."³⁹⁸ But even as Carter and Motley were "completely engaged body and soul in an all-out effort to eliminate racial discrimination," Carter never questioned renting from Met Life, "a racist landholder."³⁹⁹ "Decent affordable housing was a dire immediate need," he explained, and for urban African Americans, that need could only be met "within the strictures of segregation—one could reject

been Clarke Terrace, the magazine predicted that a successful lawsuit would have led to the integration of the development. *Id.*

³⁹⁰ See Stewart, *supra* note 147 (noting that Richard Stewart filed *Clarke Terrace* "at a time when initiating such actions against the status quo was risky and could jeopardize one's employment or even life").

³⁹¹ *Id.*

³⁹² *Id.*

³⁹³ *Id.*

³⁹⁴ *Id.*

³⁹⁵ See CARTER, *supra* note 33, at 68–70; GREENBERG, *supra* note 23, at 32; SULLIVAN, *supra* note 24, at 385–86.

³⁹⁶ CARTER, *supra* note 33, at 69; GREENBERG, *supra* note 23, at 32; SULLIVAN, *supra* note 24, at 385.

³⁹⁷ CARTER, *supra* note 33, at 68–69; SULLIVAN, *supra* note 24, at 385.

³⁹⁸ CARTER, *supra* note 33, at 70.

³⁹⁹ *Id.*

either the segregation or the housing.”⁴⁰⁰ Many Black families agreed, as more than fifty thousand New Yorkers applied to live in Riverton House’s twelve hundred units when the complex opened.⁴⁰¹

Motley similarly understood that compromising on housing came with a toll, as Black families living in segregated housing found no respite from their purported inferiority, even at home. Motley channeled that feeling into her brief political career. While a New York state senator, and later as Manhattan borough president, she “devoted considerable time and energy” to promoting equal access to housing.⁴⁰² She championed affordable housing for impoverished New Yorkers, many being people of color, and supported redevelopment projects in Harlem and other urban ghettos that promised “better and new housing stock in areas with extraordinary need.”⁴⁰³ Motley’s political emphasis on housing equality links her housing-focused LDF litigation to her later efforts to remedy discrimination using other forms of advocacy, revealing a through line in her career.⁴⁰⁴ It also illustrates the personal connection between Motley’s lived experiences and the legal causes she championed, as Motley was eager to escape, in her words, the “psychological stigma that every ghettoized person endures.”⁴⁰⁵

IV. CONCLUSION

Commemorating Judge Constance Baker Motley’s death in 2005, Justice Ruth Bader Ginsburg wrote that it was her “great good fortune to be among the legions whose lives Judge Motley touched.”⁴⁰⁶ Motley taught the late Justice that “law and courts could become positive forces in achieving our nation’s high aspiration—as carved above the entrance to the U.S. Supreme Court—Equal Justice under Law.”⁴⁰⁷ Ginsburg hoped that Motley’s legacy would inspire young lawyers and that her achievements would “stand as basic building blocks for the work that remains to be done.”⁴⁰⁸

⁴⁰⁰ *Id.*

⁴⁰¹ SULLIVAN, *supra* note 24, at 385.

⁴⁰² Brown-Nagin, *Identity Matters*, *supra* note 20, at 1716; *see also* Michelle Washington, *Constance Baker Motley: Black Woman, Black Judge*, 1 BLACK L.J. 173, 174 (1971) (“[Motley] labored to improve the city’s housing and education and decrease unemployment” and that Motley “transformed a quiescent symbolic office into a platform for political activism.”).

⁴⁰³ Brown-Nagin, *Identity Matters*, *supra* note 20, at 1716–17.

⁴⁰⁴ *See* Johnson, *supra* note 20, at 1976 (“Tellingly, before Motley’s appointment to federal court, her ‘civil rights’ work shifted to state and city government policymaking, realized in her efforts to promote community revitalization and enhance availability of affordable housing in New York.”).

⁴⁰⁵ MOTLEY, EQUAL JUSTICE, *supra* note 25, at 203.

⁴⁰⁶ Ruth Bader Ginsburg, *Tribute to Constance Baker Motley*, 32 HUM. RTS. 26, 26 (2005).

⁴⁰⁷ *Id.*

⁴⁰⁸ *Id.*

Historians have only recently begun documenting Motley's foundational contributions to American society and law. The challenge is to record Motley's career in ways that invigorate passion and dialogue while remaining true to the totality of her work as a lawyer and judge. Until now, scholars have focused on Motley's efforts litigating *Brown v. Board of Education* and later desegregating the South's public schools and universities. Her contributions in that arena cannot be overstated. *Brown* was the landmark constitutional event of the twentieth century, and Motley's efforts to enforce the decision opened the doors of higher education to millions of African Americans in the South. Motley is rightly celebrated for her role defeating Jim Crow in this context.

But despite the singularity of *Brown* and its progeny, myopic focus on Motley's school desegregation litigation disserves her career and legacy. To truly understand Motley's life, scholars must broaden their perspectives beyond schools and universities. This Article thus focused on Motley's housing docket at LDF, exploring *Stewart v. Clarke Terrace Unit No. 1* as an example. That analysis highlights the passion Motley brought to all of her cases and demonstrates that Motley's clients found her housing work essential, even if historians traditionally have not. But like school desegregation cases, the housing litigation chronicled here represents only a fragment of Motley's civil rights practice. Future historians must embrace and bring to light other neglected parts of her history as well.

Honoring Motley's life and career requires no less. As Motley described in her memoir, "Becoming a part of history is a special experience, reserved for only a few. It's like earning a law degree or a Ph.D.; nobody can take it away from you. You may be forgotten, but it's like immortality: You will always be there."⁴⁰⁹ Constance Baker Motley has doubtlessly "earned her immortality," and she "will always be there."⁴¹⁰ But fully appreciating her legacy demands that neither Motley nor her work addressing housing inequality in *Clarke Terrace* and other forms of discrimination in lawsuits filed across the country are "forgotten."⁴¹¹

⁴⁰⁹ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 106.

⁴¹⁰ Roisman, *An Extraordinary Woman*, *supra* note 19, at 691.

⁴¹¹ MOTLEY, *EQUAL JUSTICE*, *supra* note 25, at 106.