
Court of Appeals

Sumitomo Shoji America, Inc. v. Avagliano, 457
US 176 - Supreme Court 1982

5-30-1980

Report Following Pre-Argument Conference

Lewis M. Steel '63

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Ms. Lily Chin
Mrs. Rosa Wallace
212-791-0100

SUMITOMO SHOJI AMERICA, INC.,
Defendant-Appellant

-against-

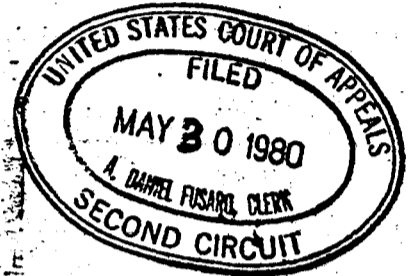
LISA M. AVIGLIANO, DIANNE CHENICEK, ROSEMARY T. CRISTOFARI, CATHERINE CUMMINS, RAELEN MANDELBAUM, MARIA MANNINA, SHARON MEISELS, FRANCES PACHECO, JOANNE SCHNEIDER, JANICE SILBERSTEIN, REIKO TURNER, ELIZABETH WONG,

Plaintiffs-Appellees

CIVIL APPEAL
SCHEDULING ORDER #1

Docket No. 80-7418

80-7418



Noting that Wender, Murase & White, Esqs. counsel for appellant/appellee Sumitomo Shoji America, Inc. has filed a motion for rehearing and leave to appeal being so ordered

~~and being advised as to the progress of the appeal, civil appeal scheduling order dated is modified only in the following respects:~~

IT IS HEREBY ORDERED that the record on appeal be filed on or before June 23, 1980

IT IS FURTHER ORDERED that the appellant's brief and the joint appendix be filed on or before July 10, 1980

IT IS FURTHER ORDERED that the brief of the appellee be filed on or before August 8, 1980

IT IS FURTHER ORDERED that ten (10) copies of each brief shall be filed with the Clerk,

IT IS FURTHER ORDERED that the argument of the appeal be ready to be heard during the week of August 18, 1980

IT IS FURTHER ORDERED that in the event of default by appellant in filing the record on appeal or the appellant's brief and the appendix by the time directed or upon default of the appellant regarding any other provision of this order, the appeal shall be dismissed forthwith.

IT IS FURTHER ORDERED that if the appellee fails to file a brief within the time directed by this order, such appellee shall be subjected to such sanctions as the court may deem appropriate.

A. DANIEL FUSARO,
Clerk

Dated: May 30, 1980
CAMP

By: Nathaniel Fensterstock
Nathaniel Fensterstock
Staff Counsel

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

UNITED STATES COURTHOUSE

FOLEY SQUARE

NEW YORK 10007

A. DANIEL FUSARO
CLERK

Dear Sir:

To assist us in the expeditious processing of your appeal, please complete the enclosed combined notice of appearance, time request, and information form. The form should be returned to the Clerk's office immediately, but no later than the date the brief is filed.

If the attorney who will argue the appeal is not the counsel of record, he or she must file a separate notice of appearance since both must be admitted to the Bar of this court.

Because of the great number of cases on the calendar, counsel is urged to limit argument to the minimum time needed to present the case. The court, which reads all briefs in advance, will allow no more time than it thinks adequate for a proper presentation of the issues.

Very truly yours,

A. Daniel Fusaro,
Clerk

Enclosures

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

UNITED STATES COURTHOUSE

FOLEY SQUARE

NEW YORK 10007

A. DANIEL FUSARO

CLERK

Notice to Counsel

From: A. Daniel Fusaro, Clerk

Subject: Length and Form of Briefs, Contents of Appendix to Briefs, and
Reproduction of Exhibits

While counsel should familiarize themselves with all of the Federal Rules of Appellate Procedure and the local rules of this court supplementing them, particular attention is called to the following requirements.

Length and Form of Briefs Revised Rule 28(g) of the Federal Rules of Appellate Procedure specifies that principal briefs shall not exceed 50 pages and reply briefs shall not exceed 25 pages, exclusive of pages containing the table of contents, tables, citations, etc. This rule applies to all briefs, including those produced by methods other than standard typographical printing. Motions for leave to file briefs exceeding these lengths shall be made not later than seven days before the brief is due in criminal cases and not later than two weeks before the brief is due in all other cases (Rule 27(g)(2) Rules USCA 2nd supplementing FRAP).

Legibility of Briefs and Appendices Rule 32(a) of the same rules states: "Briefs and appendices may be produced by standard typographic printing or by any duplicating or copying process which produces a clear black image on white paper." Those which are illegible either in whole or in part will be rejected. Where there is a failure of rejection of illegible papers, the judges will not consider themselves obliged to read them. Rule 32(a) of the same rules requires that: "All printed matter must appear in at least 11 point type on opaque, unglazed paper. Briefs and appendices produced by the standard typographic process shall be bound in volumes having pages 6-1/8 by 9-1/4 inches and type matter 4-1/6 by 7-1/6 inches. Those produced by any other process shall be bound in volumes having pages not exceeding 8-1/2 by 11 inches and type matter not exceeding 6-1/2 by 9-1/2 inches, with double spacing between each line of text."

Contents of Appendix to Briefs Rule 30(a) of the Federal Rules of Appellate Procedure outlines the requirements as to the contents of the appendix to the briefs. Nothing should be included in the appendix to the briefs which has not been included in the record on appeal and which has not been certified as a part thereof. That portion of Rule 30(a) which lists the matter to be included is reproduced for you below. You should consult the whole rule and the local rule supplementing it.

RULE 30. APPENDIX TO THE BRIEFS (a) Duty of Appellant to Prepare and File Content of Appendix; Time for Filing; Number of Copies. The appellant shall prepare and file an appendix to the briefs which shall contain: (1) the relevant docket entries in the proceeding below; (2) any relevant portions of the pleadings, charge, findings or opinion; (3) the judgment, order or decision in question and (4) any other parts of the record to which the parties wish to direct the particular attention of the court. The fact that parts of the record are not included in the appendix shall not prevent the parties or the court from relying on such parts.

Certification of Exhibits as part of the record and reproduction of Copies.

Rule §11 of the local rules of this court supplementing the Federal Rules of Appellate Procedure covers the filing of exhibits in this court. Subdivision (c) requires that the clerk of the district court must transmit the exhibits to the court of appeals after he certifies them as part of the record either physically or by reference. Counsel cannot circumvent in any way transmission by the clerk of the district court.

Reproduction of copies of exhibits for use of the Judges of this court shall be made in accordance with subdivision (e) either in the appendix or in a separate volume of the appendix containing exhibits only. Tender by counsel of loose copies of exhibits will be refused.

§11 EXHIBITS

(a) The district court may, by rule or order, direct that any or all exhibits need not be filed with the clerk upon their offer or receipt in evidence but may be retained in the custody of the attorney (or of a party not represented by an attorney) who produced them, unless an appeal is taken, in which event the following provisions of this rule shall apply.

(b) The parties are encouraged to agree with respect to which exhibits are "necessary for the determination of the appeal." See Rule 11(a). In the absence of agreement, the appellant shall, not later than 15 days after the filing of the notice of appeal, serve on the appellee a designation of the exhibits he considers to be necessary. If the appellee considers other exhibits to be necessary, he shall serve a cross-designation upon the appellant within 10 days after service of appellant's designation.

(c) Except as provided in paragraph (d), it shall be the duty of any attorney or party having possession of an exhibit designated pursuant to paragraph (b) of this rule, promptly to make such exhibit or a true copy thereof available at the office of the clerk of the district court. The clerk of the district court shall transmit all such exhibits to the clerk of the court of appeals as part of the record pursuant to Rule 11(b). Exhibits which have not been designated shall be retained by the clerk of the district court or, if the district court has authorized their retention by an attorney or party pursuant to paragraph (a) of this rule, by such attorney or party, but shall be transmitted to the clerk of the court of appeals on the request of that court acting on the motion of any judge thereof or on the motion of a party showing good cause for failure to include any such exhibit in his designation.

(d) Documents of unusual bulk or weight and physical exhibits other than documents shall remain in the custody of the attorney or party who produced them. He shall permit inspection of them by any other party and shall be responsible for having them available at the argument in the court of appeals if they have been designated, and for their later production if subsequently requested by the court of appeals as provided in the last sentence of paragraph (c) of this rule.

(e) This rule does not relieve the parties of their obligation under Rule 30 to reproduce in an appendix to the briefs or in a separate volume, see Rule 30(e), exhibits (other than those described in paragraph (d) of this rule) to which they "wish to direct the particular attention of the court."

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
UNITED STATES COURTHOUSE
FOLEY SQUARE
NEW YORK 10007

A. DANIEL FUSARO
CLERK

NOTICE TO COUNSEL AND PRO SE LITIGANTS

The form on the reverse side containing a notice of appearance, time request and availability information must be completed and returned to this office by the time appellant's brief is due.

FAILURE TO FILE THIS FORM ON TIME WILL BE CONSIDERED
BY THE COURT IN DECIDING ANY MOTIONS FOR ADJOURNMENT
BASED ON UNAVAILABILITY.

An individual appearing pro se or counsel of record must complete the form. If an attorney other than counsel of record will argue the appeal, that attorney's name, date of admission to the bar of this court and dates, if any, when that attorney will be unavailable to argue the appeal must be provided. Counsel of record and counsel who will argue, if different, must sign the form.

Counsel of record and counsel who will argue the appeal must be admitted to the bar of this court or otherwise eligible to argue an appeal pursuant to Local Rules §§ 46 and 46(e).

A. DANIEL FUSARO,
Clerk

CIVIL

6/78

Short title:

Docket No.:

NOTICE OF APPEARANCE

Appearance for (provide name of party): _____

Status of party:

- Appellant/Petitioner
- Appellee/Respondent
- Cross-Appellant/Cross-Petitioner
- Cross-Appellee/Cross-Respondent
- Intervenor
- Amicus Curiae
- Other (specify): _____

Date of your admission to the bar of this court (month, day, year): _____

Name of attorney who will argue appeal, if other than counsel of record:

Admitted to the bar of this court on (month, day, year): _____

TIME REQUEST

- Oral argument is not desired.
- Oral argument is desired. Party requests _____ minutes or multiple co-parties request a total of _____ minutes to be apportioned as follows:

If more than 20 minutes per side is requested, set forth reasons:

AVAILABILITY OF COUNSEL

I understand that the person who will argue the appeal must be ready at any time during or after the week of argument which appears on the scheduling order.

- I know of no dates which would be inconvenient.
- I request that the argument of this appeal not be calendared for the following dates, which are inconvenient. I have included religious holidays.

COUNSEL MUST ADVISE THE COURT IN WRITING OF ANY CHANGE IN AVAILABILITY. FAILURE TO DO SO MAY BE CONSIDERED BY THE COURT IN DECIDING MOTIONS FOR ADJOURNMENT BASED ON UNAVAILABILITY.

Signature of counsel of record:

Signature of counsel who will argue the appeal, if different:

Name and Firm:

Address:

Telephone:

Date:

Telephone:

Date:

TITLE OF CASE

SUMITOMO SHOJI AMERICA, INC.,

Defendant-Appellant

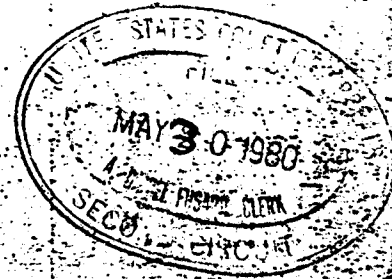
-against-

LISA M. AVIGLIANO, DIANNE CHENICEK, ROSEMARY T.
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TURNER, ELIZABETH WONG,

Plaintiffs-Appellees

PRE-ARGUMENT CONFERENCE

Docket No. 80-7418

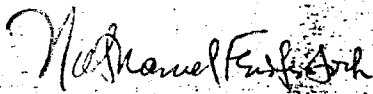


A PRE-ARGUMENT CONFERENCE has been scheduled for

June 11, 1980 at 11 AM ~~PM~~ at theUnited States Courthouse, Foley Square, New York, New York
10007, in Room 2803

The attorneys in charge of the appeal or proceedings are required to attend and to have authority to do whatever is necessary to accomplish the purpose of the conference. A Pre-Argument Conference is for the purpose of considering the possibility of settlement, the simplification of the issues, and any other matters which the Staff Counsel determines may aid in the handling or the disposition of the proceeding. If there is any pertinent matter which counsel wishes to be raised, it may be raised at the Conference.

Dated: May 30, 1980


Nathaniel Fensterstock
Staff Counsel

SEE CIVIL APPEALS MANAGEMENT PLAN OF THE

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT