
Incherchera v. Sumitomo

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

2-3-1978

Defendant's Objections to Plaintiffs' Interrogatories

Lewis M. Steel '63

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
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, :

On Behalf of Themselves And All Others :
Similarly Situated, :

Plaintiffs, :

-against- :

SUMITOMO SHOJI AMERICA, INC., :

Defendant. :
-----X

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77 Civ. 5641 (CHT)

DEFENDANT'S OBJECTIONS
TO PLAINTIFFS'
INTERROGATORIES

Defendant Sumitomo Shoji America, Inc. (hereinafter
"Sumitomo"), by its attorneys Wender, Murase & White, hereby
objects to "Plaintiffs First Interrogatories and Request for
Production of Documents", as follows:

INTERROGATORY

7. Does the Corporation use job titles? If the
answer is yes, list all job titles which have been utilized by
the Corporation since April 1, 1969, and state as to each job
title when it came into being, and until what date the job
title was utilized.

OBJECTION

7. Sumitomo has answered this Interrogatory for
the period December 1, 1974 through December 1, 1977, which
period of time is approximately three years prior to commencement
of this action.* Sumitomo objects to furnishing the information
requested for the period prior to December 1, 1974. Even if

* See Defendant's Answers to Plaintiffs' Interrogatories served
and filed herewith (hereinafter "Sumitomo's Answers").

Sumitomo were adjudged liable to plaintiffs for any of the acts or conduct alleged in the complaint, damages, if any, would by applicable law be limited to a period of time of approximately three years prior to commencement of this action. Furthermore, it would be unduly burdensome to require that Sumitomo search its records for such additional period of time to try to determine whether job titles other than the titles already identified for plaintiffs were used, particularly where such job titles may have been used for only a brief period of time.

INTERROGATORY

12. As of the last day of the pay period closest to December 1, 1977, give:

(a) the number of female employees at each of the Corporation's offices, further broken down to give:

1. the number of female employees at each office by category, such as executive, managerial, professional, clerical, etc.
2. the number of female employees at each office, by job title.

(b) the number of employees whose country of national origin is not Japan at each of the Corporation's offices, further broken down to give:

1. the number of employees whose country of national origin is not Japan at each office by category, such as executive, managerial, professional, clerical, etc.
2. the number of employees whose country of national origin is not Japan at each office by job title.

OBJECTION

12. (a) Sumitomo has answered this Interrogatory to the extent that it requests the number of female employees at each of its offices (see Sumitomo's Answers). Sumitomo objects to furnishing the additional information requested by Interrogatory 12(a). Prior to determination by this Court whether this action may be maintained as a class action, the additional information requested does not appear reasonably calculated to lead to discovery of admissible evidence.

INTERROGATORY

15. Does the Corporation have a table of organization, or other chart or document(s) which sets forth the Corporation's supervisory chain of command? If such a document or documents exist, identify all such documents from April 1, 1969 to date, and attach copies to the answers to these interrogatories. If a table of organization exists which has not been reduced to writing, please set forth in this answer.

OBJECTION

15. Sumitomo has answered this Interrogatory with information as of December 1, 1977 and has no objection to answering this Interrogatory for the period commencing December 1, 1974. Sumitomo objects to furnishing the information requested for the period prior to December 1, 1974. Even if Sumitomo were adjudged liable to plaintiffs for any of the acts or conduct alleged in the complaint, damages, if any, would by applicable law be limited to a period of time of approximately three years prior to commencement of this action. Whether Sumitomo had a table of organization prior to December 1, 1974 is not reasonably calculated to lead to discovery of

admissible evidence.

INTERROGATORY

18. Has the Corporation filed with the Equal Employment Opportunity Commission Standard Form 100, known as the Employer Information Report EEO-1? If the answer is yes, please state for what years since 1969 this form has been filed, and attach a copy of the form filed for each year through the present year.

OBJECTION

18. Sumitomo has answered this Interrogatory in respect of its New York City offices for the years 1975 and 1976 and will furnish such information for 1977 when available (see Sumitomo's Answers). Sumitomo objects to furnishing such information or documents for the years prior to 1975, and to furnishing such information or documents for its branch offices. Sumitomo objects to furnishing such information for the period prior to 1975 because even if Sumitomo were adjudged liable to plaintiffs for any of the acts or conduct alleged in the complaint, damages, if any, would by applicable law be limited to a period of time approximately three years prior to commencement of this action. Prior to determination by this Court whether this action may be maintained as a class action, the information requested, insofar as it encompasses branch offices, does not appear to be reasonably calculated to lead to admissible evidence.

INTERROGATORY

20. List the name, age, address, sex, country of national origin, and school years completed by each employee

who is presently employed by the Corporation, and with respect to each such employee state:

- (a) the office in which employee is employed;
- (b) all job titles held since date of initial employment, including present job title;
- (c) the date of each job title change;
- (d) salary received during the 12 month period from December 1, 1976 through November 30, 1977;
- (e) the date of initial employment.

OBJECTION

20. Sumitomo does not maintain this information in a manner which would permit retrieval without undue burden to Sumitomo. Much of the information requested is not verifiable by Sumitomo. Sumitomo does not in any event maintain information relating to country of national origin of its employees. Prior to a determination by this Court whether this action may be maintained as a class action, the information requested does not appear reasonably calculated to lead to discovery of admissible evidence. The information requested is confidential. Absent an appropriate stipulation of confidentiality, and consent by the affected employees to disclosure of the information requested, Sumitomo objects to furnishing the information requested upon the grounds that release of such information by Sumitomo might expose Sumitomo to liability to such employees for the release of such information.

INTERROGATORY

21. List the name, age, address, school year completed of each woman hired by the Corporation who has left the employ of the Corporation since October 8, 1973, and with respect to each such former employee state:

- (a) the date of initial employment;
- (b) all job titles held since date of initial employment;
- (c) date of each job title change.

OBJECTION

21. Sumitomo does not maintain this information in a manner which would permit retrieval without undue burden to Sumitomo. Much of the information requested is not verifiable by Sumitomo. Prior to determination by this Court whether this action may be maintained as a class action, the information requested does not appear reasonably calculated to lead to discovery of admissible evidence. The information requested is confidential. Absent an appropriate stipulation of confidentiality, and consent by the affected employees to disclosure of the information requested, Sumitomo objects to furnishing the information requested upon the grounds that release of such information by Sumitomo might expose Sumitomo to liability to such employees for the release of such information. If Sumitomo is required to collect and furnish any such information to plaintiffs, it should be limited to the period commencing December 1, 1974.

INTERROGATORY

22. List the name, age, address, school years completed of each person whose country of national origin is not Japan hired by the Corporation who has left the employ of the Corporation since October 8, 1973, and with respect to each such former employee state:

- (a) the date of initial employment;
- (b) all job titles held since date of initial employment;
- (c) date of each job title change.

OBJECTION

22. Sumitomo does not maintain this information in a manner which would permit retrieval without undue burden to Sumitomo. Much of the information requested is not verifiable by Sumitomo. Sumitomo does not in any event maintain information as to "country of national origin" of its employees. Prior to a determination by this Court whether this action may be maintained as a class action, the information requested does not appear reasonably calculated to lead to discovery of admissible evidence. The information requested is confidential. Absent an appropriate stipulation of confidentiality, and consent by the affected employees to disclosure of the information requested, Sumitomo objects to furnishing the information requested upon the grounds that release of such information by Sumitomo might expose Sumitomo to liability to such employees for the release of such information. If Sumitomo is required to collect and furnish any such information to plaintiffs, it should be limited to the period commencing December 1, 1974.

INTERROGATORY

25. List the name, address, sex, country of national origin, titles and office where employed of all employees from April 1, 1969 to date who have held, or continue to hold, supervisory positions. With respect to each such employee, state:

- (a) Date of initial employment;
- (b) All job titles held since date of initial employment, including present job title.
- (c) If not presently employed by the Corporation, the date the employee left the Corporation.

(d) Date of each job title change.

(e) Describe the unit, department, section, or other component of the Corporation which the employee supervises, or supervised prior to leaving the Corporation.

(f) The number of employees under the supervision of the supervisor at present, or when the supervisor left the employment of the Corporation.

OBJECTION

25. Sumitomo does not maintain this information in a manner which would permit retrieval without undue burden to Sumitomo. Much of the information requested is not verifiable by Sumitomo. Sumitomo does not in any event maintain information relating to "country of national origin" of its employees. Prior to a determination by this Court whether this action may be maintained as a class action, the information requested does not appear reasonably calculated to lead to discovery of admissible evidence. The information requested is confidential. Absent an appropriate stipulation of confidentiality, and consent by the affected employees to disclosure of the information requested, Sumitomo objects to furnishing the information requested upon the grounds that release of such information by Sumitomo might expose Sumitomo to liability to such employees for the release of such information. If Sumitomo is required to collect and furnish any such information to plaintiffs, it should be limited to the period commencing December 1, 1974.

INTERROGATORY

26. List the name, age, address, sex, country of national origin, and school years completed by each present employee of the Corporation, or former employee of the Corporation who worked with the Corporation during the period April 1, 1969 to date, who functions or functioned in a sales or selling capacity. With respect to each such employee, state:

- (a) date of initial employment;
- (b) all job titles held since date of initial employment, including present job title;
- (c) date of each job title change;
- (d) salary, including all commission payments, etc.

OBJECTION

26. Sumitomo does not maintain this information in a manner which would permit retrieval without undue burden to Sumitomo. Much of the information requested is not verifiable by Sumitomo. Sumitomo does not in any event maintain information relating to "country of national origin" of its employees. Prior to a determination by this Court whether this action may be maintained as a class action, the information requested does not appear reasonably calculated to lead to discovery of admissible evidence. The information requested is confidential. Absent an appropriate stipulation of confidentiality, and consent by the affected employees to disclosure of the information requested, Sumitomo objects to furnishing the information requested upon the grounds that release of such information by Sumitomo might expose Sumitomo to liability to such employees for the release of such information. If Sumitomo is required to collect and furnish any such information to plaintiffs, it should be limited to the period commencing December 1, 1974.

INTERROGATORY

35. Does the Corporation maintain personnel files for individual employees? If the answer is in the affirmative, answer the following:

(a) Are the files maintained on all employees. If not, list the job titles for which such files are maintained.

(b) Identify all standard documents contained in such employee's personnel file, stating during that period of

time from April 1, 1969 to date, each document was utilized, and attach blank copies of each form utilized. If different types of files are maintained for different categories of employees, or for employees with different job titles, answer this question category by category, and/or job title by job title.

OBJECTION

35(b) Prior to a determination by this Court whether this action may be maintained as a class action, the information requested does not appear reasonably calculated to lead to discovery of admissible evidence. If Sumitomo is required to collect and furnish such information to plaintiffs, it should be limited to the period commencing December 1, 1974.

INTERROGATORY

36. Has the Corporation ever been charged with discrimination on the basis of sex and/or national origin in any other court, or before any public agency, federal, state or local, in any jurisdiction of the United States? If the answer is in the affirmative, list each case name individually, setting forth the forum, the case identification number, and the status of each case.

OBJECTION

36. Plaintiffs are aware of charges which they filed against Sumitomo with the United States Equal Employment Opportunity Commission and the Division of Human Rights of the Executive Department of the State of New York. Plaintiffs are further aware that neither agency in such proceedings found reasonable or probable cause for the filing of such complaints. In the

course of such proceedings, plaintiffs also became fully aware of another proceeding filed against Sumitomo. The information requested is a matter of public record easily accessible to plaintiffs.

INTERROGATORY

38. Identify separately and with particularity sufficient for use as a description in a subpoena each document (not already identified in the answers to the foregoing interrogatories or produced in response to the requests contained herein) which contains any of the information given in answer to each of the foregoing interrogatories.

OBJECTION

38. The information requested imposes an unreasonable burden on Sumitomo. Many, many documents of Sumitomo may contain some or all of the information given in Sumitomo's Answers. By mere example, Interrogatory "1" asks the state of incorporation of Sumitomo. To demand that Sumitomo search for every document which contains such information is patently unfair and seeks to impose undue burden and expense on Sumitomo. Plaintiffs should be required to frame their own document requests and not try to impose that burden on Sumitomo.

Dated: New York, New York
February 3, 1978

WENDER, MURASE & WHITE

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