
Incherchera v. Sumitomo

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

3-24-1983

**Copy - Ellen Dowling Affidavit re: Retaliation against Palma
Incherchera**

Lewis M. Steel '63

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PALMA INCHERCHERA, on behalf of :
herself and all others similarly :
situated, :

Civ. No. 82-4930 (RWS)

Plaintiff, :
-against- :

AFFIDAVIT

SUMITOMO CORP. OF AMERICA :

Defendant. :
----- X

STATE OF NEW YORK)

ss.:

COUNTY OF NEW YORK)

ELLEN DOWLING, being duly sworn, deposes and says:

1. I am employed at Sumitomo Corporation of America as a legal secretary in the legal department and have worked there since September 1981.

2. I work in the same area as both Palma Inchechera and Karen Markowitz. I have worked with Karen Markowitz and have also observed her working with Palma Inchechera in the credit department.

3. I have been asked for my observations about Karen Markowitz's performance as Palma Inchechera is concerned that Sumitomo will use Karen Markowitz's poor performance against her.

4. I can verify that Karen Markowitz is an extremely slow worker, and as a result, Palma Inchechera is often required to do not only her own work, but Karen Markowitz's also. Therefore, Palma Inchechera is often under great pressure to complete her work.


5. While Palma Inchechera is out of the office my manager will come to me and have me do Karen Markowitz's typing.

6. Palma Inchechera, Karen Markowitz and I also rotate doing the mail and the telexes. When it is Karen Markowitz's turn she invariably forgets or does these things late. When this happens Palma Inchechera or myself is asked to do these tasks.

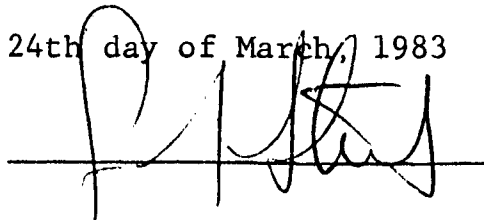
7. I request that this affidavit be kept confidential, if at all possible. I make this request because I am afraid that Sumitomo will retaliate against me if its officials know that I that I have written this affidavit which may be helpful to Ms. Inchechera.

8. When I talk to Palma Inchechera at work (her desk is two rows from mine), I receive intimidating stares from the Japanese managers. After I talk to her, I have noticed that the Japanese managers will not talk to me for the rest of the day, at least, and sometimes this silent treatment lasts days at a time, except to give me work. This treatment makes working at Sumitomo extremely nerve-wracking and uncomfortable.*

9. I can also verify that Palma Inchechera is an extremely good and conscientious worker.


ELLEN DOWLING

Sworn to before me this
24th day of March, 1983



ELLEN DOWLING
Notary Public, State of New York
No. 31-971-000
Qualified in New York County
Term expires March 30, 1984

Ellen Dowling

* I observe that none of the Japanese managers talk to Palma Inchechera except to give her work, and I do not want to be subjected to this treatment.

RECEIVED MAR 22 1983

BURTON Z. ALTER
GREYSON BRYAN
DON T. CARMODY
JONATHAN H. CHURCHILL
PETER A. DANKIN
DOUGLAS J. DANZIG
SAMUEL M. FEDER*
PETER FIGDOR
ARTHUR J. GAJARSA*
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MATTHEW J. MARKS
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ROBERT D. PILIERO
JOHN C. ROSENGREN
ROGER L. SELFE
JOHN B. WADE III
PHILIP WERNER
JOHN TOWER WHITE
IRA T. WENDER
COUNSEL
*NOT ADMITTED IN NEW YORK

WENDER MURASE & WHITE
ATTORNEYS AT LAW
400 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 832-3333
CABLE WEMULAW
DOMESTIC TELEX 125476
INTERNATIONAL TELEX 220478 or 236562
TELECOPIER (212) 752-5378

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TORONTO

March 18, 1983

Lewis M. Steel, Esq.
Steel & Bellman
351 Broadway
New York, New York 10013

Re: Incherchera v. Sumitomo Corporation of America

Dear Lew:

Transmitted herewith are defendant's answers to plaintiff's interrogatories in the above-captioned action.

With respect to your letter of March 14, 1983, inquiring as to our position on various matters we had taking under advisement in connection with your interrogatories in the Avagliano action, we will provide you with information in Avagliano congruent with that provided in the enclosed answers. For example, where we have agreed to produce to you certain documents, as in response to Interrogatory 23, we will provide you with the same documents covering the relevant period for the Avagliano action.

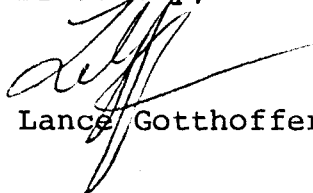
The documents to be produced in the two actions would likely require copying costs in excess of \$100.00. Therefore, I assume you will want to examine the documents at our office before copying is undertaken. You will note that in most instances we will only produce the documents subject to an appropriate confidentiality agreement. If there is a form of agreement you find preferable, please transmit it to me at your earliest convenience so that we can work out the details and expedite your document inspection.

WENDER MURASE & WHITE

Lewis M. Steel, Esq.
Page Two
March 18, 1983

There are a number of other items left open by your letter of March 14, 1983. I will respond to these by letter the early part of next week.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Lance Gotthoffer', written over the typed name.

Lance Gotthoffer

LG/mr
enclosure

RECEIVED MAR 21 1983
UNITED STATES MAGISTRATE
UNITED STATES DISTRICT COURT
UNITED STATES COURTHOUSE
FOLEY SQUARE
NEW YORK, N.Y. 10007

791-0155

MAGISTRATE

Harold J. Raby

March 17, 1983

Wender, Murase & White, Esqs.
400 Park Avenue
New York, New York, 10022
Att: Lance Gotthoffer, Esq.

✓ Steel & Bellman, P.C.
351 Broadway
New York, New York, 10013
Att: Lewis M. Steel, Esq.

Re: AVAGLIANO, et al. v. SUMITOMO SHOJI AMERICA,
INC., 77 Civ. 5641 (CHT)
INCHERCHERA v. SUMITOMO CORP. OF AMERICA, INC.,
82 Civ. 4930 (CHT)

To the above-indicated addressees:

Since hearing argument, on March 7, 1983, on the defendant's motion to compel further discovery herein, I have received letters from counsel dated, respectively, March 8th (3 letters), March 11th and March 16th.

While, to some extent, this post-argument correspondence was generated by my request, I now feel that this matter has been fully briefed and I do not desire to have counsel engage in further correspondence with the Court concerning this matter.

Respectfully,


HAROLD J. RABY
UNITED STATES MAGISTRATE

HJR:EKD

