
Retaliation Charges

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

2-11-1983

Palma Incherchera's EEOC Retaliation Charge and Affidavit in Support

Lewis M. Steel '63

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| APPROVED BY: OMB 6-0012 res 12/31/83 | CHARGE OF DISCRIMINATION IMPORTANT: This form is affected by the Privacy Act of 1974. see Privacy Act Statement on reverse before completing it. | CHARGE NUMBER(S) (AGENCY USE ONLY) <input type="checkbox"/> STATE/LOCAL AGENCY <input type="checkbox"/> EEOC |
|--|---|---|

Equal Employment Opportunity Commission and

(State or Local Agency)

| | |
|---|---|
| NAME (Indicate Mr., Ms. or Mrs.) Palma Incherchera | HOME TELEPHONE NUMBER (Include area code) |
| STREET ADDRESS 666 Philip Avenue | (212) 409-5157 |
| CITY, STATE, AND ZIP CODE Bronx, New York 10461 | COUNTY Bronx |

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME. (If more than one list below).

| | |
|--|--|
| NAME Sumitomo Corp. of America | TELEPHONE NUMBER (Include area code) (212) 935-7000 |
| STREET ADDRESS 15 Park Avenue, New York, New York 10154 | CITY, STATE, AND ZIP CODE |
| NAME | TELEPHONE NUMBER (Include area code) |
| STREET ADDRESS | CITY, STATE, AND ZIP CODE |

USE OF DISCRIMINATION BASED ON MY (Check appropriate box(es))

☒ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☒ NATIONAL ORIGIN ☐ OTHER (Specify)

THE MOST RECENT OR CONTINUING DISCRIMINATION TOOK
PLACE (Month, day, and year) continuing

PARTICULARS ARE:

charge Sumitomo Corp. of America with retaliating against me for exercising rights protected under Title VII of the Civil Rights Act of 1964.

I filed a charge with the Equal Employment Opportunity Commission alleging that Sumitomo Corp. of America discriminated against me on January 5, 1982. The charge number is 021-82-0685. By a letter dated June 7, 1982, I was notified by the strict Director that the Commission had issued a right to sue letter. As a result, I filed an action in the United States District Court for the Southern District of New York on July 28, 1982. That action is entitled Incherchera v. Sumitomo Corp. of America, 82 Civ. 4930 and is assigned to the Hon. Charles H. Hynes.

I believe that Sumitomo Corp. of America began to retaliate against me as soon as I learned of the charge which I filed and that this retaliation has escalated against me since that time. On or about January 4, 1983, I was denied a promotion from Senior Secretary to Administrator, which I would have received, but for filing charges and filing a lawsuit and pressing forward with my lawsuit.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PALMA INCHERCHERA,

Charging Party,

-against-

SUMITOMO CORP. OF AMERICA,

Respondent.

AFFIDAVIT IN SUPP
OF CHARGE OF RE-
TALIATION

STATE OF NEW YORK)

ss.:

COUNTY OF NEW YORK)

PALMA INCHERCHERA, being duly sworn, deposes and says:

1. I am the charging party in the above captioned matter and I submit this affidavit in support of my charge of retaliation to request that the Equal Employment Opportunity Commission (EEOC) seek preliminary relief to stop this retaliation.

2. A civil case charging Sumitomo with discrimination in employment has been pending in the United States District Court for the Southern District of New York since July 1982.

3. I have been employed by the respondent for more than ten years. During this period of time, I have worked in a clerical capacity for the credit and legal departments.

4. During my years at Sumitomo, I have performed my work competently and, in fact, until March 1982, I was required to perform secretarial work for seven men, an extremely heavy burden.

5. In early January 1981, I was given the title "Senior

Secretary," although my job functions did not change. At Sumit clericals are now commonly given job title promotions which do involve a change in job duties.

6. I have been informed many times by both officials of personnel department and the manager of my department that these promotions are normally given to employees who have been in the title for two years.

7. In December 1981, I spoke to the respondent's personnel manager, Mr. Tsuwano, and assistant personnel manager, Mr. Okam concerning a request to be promoted to Administrator. At the conclusion of this meeting, I was told that it was too late for me to get such a promotion that year, but if I kept up my good work I would be promoted the following year. At that point, I had not filed any charges with the EEOC.

8. During the same period of time in which I had the above discussion, I also talked with the manager of the credit department where I worked, Mr. Takashima, concerning my work overload and my request for a promotion. During the end of 1981, Sumitomo began interviewing women to perform clerical work in my department and I was told by Mr. Takashima that when the new woman came to work, he would change my job title.

9. On or about January 5, 1982, I filed a charge with the EEOC against Sumitomo alleging discrimination in employment.

10. In March 1982, a new clerical was hired in my department.

yet my job title was not changed.

11. In June 1982, I was advised by the EEOC that I could institute a suit in the United States District Court, which I did in July 1982.

12. In July 1982, two officials from Sumitomo's personnel department, Mr. Kamijama and Mr. Okamoto, sought me out to have conversation as to why I had filed the charge and what could be done to get me to drop it. Both of these men, as well as Mr. O, the general manager of administration, pressed me to drop the charge. In these conversations, I told the Sumitomo representatives that I wanted to be able to consult with my own lawyer, Mr. Steel, if we were to attempt to arrive at a settlement. I was told that I had to drop Mr. Steel. Mr. Okamoto went so far as to say that if I dropped my present attorney, I could pick another lawyer and Sumitomo would help me get one. Needless to say, I did not wish to negotiate under such conditions.

13. During the course of these July 1982 conversations, I asked Mr. Takashima why he had not changed my job title and responsibilities after our department got a new clerical employee in March. He responded that he did not know what to do because of what I had done.

14. In December 1982, I received the same across the board percentage salary increase given to other clerical employees. I also received what I assume to be a standard bonus.

15. On or about January 4, 1983, a memorandum (Exhibit 1 attached hereto) was circulated which listed the promotions of clerical employees. I did not receive a promotion at that time nor have I received one since.

16. I believe that Sumitomo has failed to promote me to Administrator and increase my pay accordingly in order to retaliate against me for charging it with discrimination and actively prosecuting that charge in the district court.

17. I file this charge of retaliation and request that the EEOC seek preliminary relief at this time as Sumitomo's failure to promote me has serious economic consequences for me as I am a single parent raising a child without outside child support, and this also weakens my will to stay at the company itself. I had been promised a new job title which would have put me in a position to further advance myself. Obviously, Sumitomo has now made a decision to lock me into my present position and limit my development. Psychologically, it is very difficult to accept being denied even the most basic opportunities for advancement.

18. Moreover, I feel the failure to give me this small promotion is intended to signal other women working at Sumitomo that they should not cooperate in the prosecution of my lawsuit.

19. Women employees at Sumitomo have already told me that they fear that Sumitomo will retaliate against them also if they publicly express that they are being discriminated against.

20. For all these reasons, I request that the EEOC seek preliminary relief at this time.

Palma Incherchera
PALMA INCHERCHERA

Sworn to before me this 11th
day of February, 1983.

Lewis M. Steel
NOTARY PUBLIC

Lewis M. Steel, Notary Public
State of New York
No. 31-9162590
Qualified in New York County
Commission expires March 30, 1984