

1-1984

Correspondence: January 1984

Lewis Steel '63

STEEL & BELLMAN, P.C.

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 925-7400

Richard F. Bellman
Lewis M. Steel
Gina Novendstern

January 25, 1984

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

Re: Avagliano, et al. v. Sumitomo Shoji America
Incherchera v. Sumitomo Corp. of America

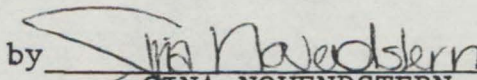
Dear Mr. Gotthoffer:

Enclosed herewith, per your request, is a copy of our latest proposed Confidentiality Order.

Very truly yours,

STEEL & BELLMAN, P.C.

by


GINA NOVENDSTERN

GN:PC
Enclosure

BURTON Z. ALTER
GREYSON BRYAN
JONATHAN H. CHURCHILL
PETER A. DANKIN
DOUGLAS J. DANZIG
SAMUEL M. FEDER*
PETER FIGDOR
ARTHUR J. GAJARSA*
PETER J. GARTLAND
LANCE GOTTHOFFER
CARL J. GREEN
RICHARD LINN*
MATTHEW J. MARKS
EDWARD H. MARTIN
GENE Y. MATSUO
FUMIAKI MIZUKI
JIRO MURASE
ALDEN MYERS
PETER J. NORTON
MICHAEL E. PARRY
WAYNE E. PARTRIDGE
ROBERT D. PILIERO
ROBERT G. ROBISON
JOHN C. ROSENGREN
ROGER L. SELFE
SHU TOKUYAMA
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 NEWYORK
DOMESTIC/INT'L TELEX 220478 or 236562
TELECOPIER (212) 832-3354 or (212) 832-5378

January 23, 1984

RECEIVED JAN 25 1984

PARTNERS RESIDENT IN
LOS ANGELES
WASHINGTON, D. C.
CARACAS
DÜSSELDORF
HAMBURG
LONDON
MEXICO CITY
MILAN
MONTREAL
PARIS
ROME
STOCKHOLM
TOKYO
TORONTO

Gina Novendstern, Esq.
Steel & Bellman
351 Broadway
New York, New York 10013

Re: Incherchera v. Sumitomo Corporation of America

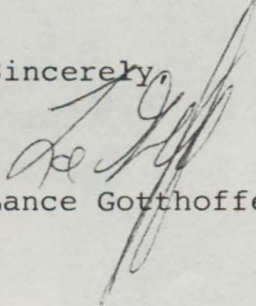
Dear Ms. Novendstern:

This will acknowledge receipt of your letter of January 9, 1984 and the signed transcript of the deposition of Ms. Incherchera.

Since we filed the Incherchera transcript some months ago, and that is the version being considered by the Court without objection from you, I assume you have forwarded the corrected transcript for informational purposes only, and on that basis thank you for your courtesy. On the same basis, I will check with the court reporter respecting the matters you inquire about.

Best regards.

Sincerely,


Lance Gotthoffer

LG/mr

BURTON Z. ALTER
GREYSON BRYAN
JONATHAN H. CHURCHILL
PETER A. DANKIN
DOUGLAS J. DANZIG
SAMUEL M. FEDER*
PETER FIGDOR
ARTHUR J. GAJARSA*
PETER J. GARTLAND
LANCE GOTTHOFFER
CARL J. GREEN
RICHARD LINN*
MATTHEW J. MARKS
EDWARD H. MARTIN
GENE Y. MATSUO
FUMIAKI MIZUKI
JIRO MURASE
ALDEN MYERS
PETER J. NORTON
MICHAEL E. PARRY
WAYNE E. PARTRIDGE
ROBERT D. PILIERO
ROBERT G. ROBISON
JOHN C. ROSENGREN
ROGER L. SELFE
SHU TOKUYAMA
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 NEWYORK
DOMESTIC/INT'L TELEX 220478 OR 236562
TELECOPIER (212) 832-3354 OR (212) 832-5378

PARTNERS RESIDENT IN
LOS ANGELES
WASHINGTON, D. C.
CARACAS
DÜSSELDORF
HAMBURG
LONDON
MEXICO CITY
MILAN
MONTREAL
PARIS
ROME
STOCKHOLM
TOKYO
TORONTO

January 23, 1984

RECEIVED JAN 25 1984

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

Re: Avagliano v. Sumitomo Shoji America, Inc.
Incherchera v. Sumitomo Corporation of America

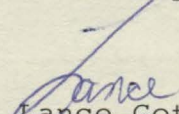
Dear Lew:

In the course of preparing our responses to your interrogatories, I came across one open housekeeping matter. By letter dated June 17, 1983 we transmitted to you documents theretofore produced for your inspection at our offices, together with our request for payment of your share of the copying costs in the amount of \$96.32.

Subsequently, we agreed to credit you \$35.00 in connection with a subpoena fee that you returned to us, leaving a balance due for the copying in the amount of \$61.32. According to our records, this amount has never been paid.

Would you please check and let me know whether this amount has been paid and, if not, please remit the balance due at your earliest convenience.

Sincerely,


Lance Gotthoffer

LG/mr

BURTON Z. ALTER
GREYSON BRYAN
JONATHAN H. CHURCHILL
PETER A. DANKIN
DOUGLAS J. DANZIG
SAMUEL M. FEDER*
PETER FIGDOR
ARTHUR J. GAJARSA*
PETER J. GARTLAND
LANCE GOTTHOFFER
CARL J. GREEN
RICHARD LINN*
MATTHEW J. MARKS
EDWARD H. MARTIN
GENE Y. MATSUO
FUMIAKI MIZUKI
JIRO MURASE
ALDEN MYERS
PETER J. NORTON
MICHAEL E. PARRY
WAYNE E. PARTRIDGE
ROBERT D. PILIERO
ROBERT G. ROBISON
JOHN C. ROSENGREN
ROGER L. SELFE
SHU TOKUYAMA
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 NEWYORK

DOMESTIC/INT'L TELEX 220478 OR 236562
TELECOPIER (212) 832-3354 OR (212) 832-5378

PARTNERS RESIDENT IN
LOS ANGELES
WASHINGTON, D. C.
CARACAS
DÜSSELDORF
HAMBURG
LONDON
MEXICO CITY
MILAN
MONTREAL
PARIS
ROME
STOCKHOLM
TOKYO
TORONTO

January 20, 1984

RECEIVED JAN 23 1984

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

Re: Avagliano v. Sumitomo Shoji America, Inc.
Incherchera v. Sumitomo Corporation of America

Dear Lew:

Transmitted herewith are Defendant's Answers to Plaintiffs' Second Set of Interrogatories and Request for Production of Documents.

Because of your unwillingness to discuss the scope of Judge Tenney's directive limiting discovery to those matters that would not be affected by the grant or denial of the pending class certification motions, we have provided information as to those positions which, based on your pleadings and answers to our discovery requests to date, appear to be the positions that plaintiffs, individually, are claiming that they were discriminatorily denied.

In reviewing the data necessary to respond to your interrogatories, we have also now discovered that many of the plaintiffs' individual claims are jurisdictionally defective, time barred, or otherwise infirm. Thus, according to our records, Dianne Chenicek never filed a charge with the Equal Employment Opportunity Commission; Catherine Cummins did not file a complaint with the New York State Human Rights Commission, and the charge she filed with the Equal Employment Opportunity Commission was filed out of time; and Palma Incherchera apparently obtained a right to sue notice from the Equal Employment Opportunity Commission

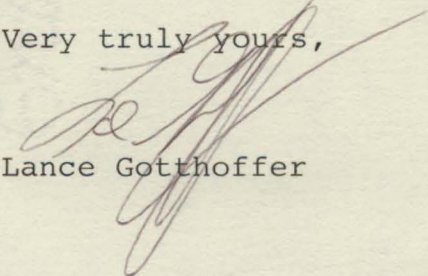
Lewis M. Steel, Esq.
Page 2
January 20, 1984

before the Commission had either terminated its proceedings or considered the matter for the statutorily mandated 180 day period.

Since these plaintiffs have no viable individual claims, we object to providing discovery as to them.

Of course, if our records are wrong, i.e., if Dianne Chenicek did file a charge with the Equal Employment Opportunity Commission, if Catherine Cummins did file timely with the Equal Employment Opportunity Commission, or if Palma Incherchera's charge was pending the requisite period before the Equal Employment Opportunity Commission, please provide us with appropriate documentation and we shall respond to your interrogatories in respect of these plaintiffs forthwith.

Very truly yours,



Lance Gotthoffer

STEEL & BELLMAN, P.C.

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 925-7400

Richard F. Bellman
Lewis M. Steel
Gina Novendstern

BY HAND

January 20, 1984

Lance Gotthoffer, Esq.
Wender Murase & White
400 Park Avenue
New York, New York

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.

Dear Mr. Gotthoffer:

We are in receipt of your letter of November 15, 1983 regarding plaintiffs' answers to defendant's interrogatories numbers 17, 18, 21, 25, 26, 28(c), 29-33, 44, 50, 51, 60-89, 90, 99 and 100. It is plaintiffs' position that these interrogatories have been answered fully and adequately.

Regarding even numbered interrogatories 60 through 88, we refer you to the answers to interrogatories numbers 8, 14, 21 and 24, in addition to the answers immediately following the interrogatories.

In reference to interrogatory number 90, we point out that Magistrate Raby found interrogatory number 34 "almost identical in form to interrogatory #90." Supplemental answers for interrogatory number 34 were provided by the six plaintiffs who had originally objected to this interrogatory. We, of course, must resolve the question of an appropriate protective order concerning these two interrogatories.

In addition, please note that the text of all of the plaintiffs' answers to interrogatory number 51 includes a sentence which does not belong in that section of the plaintiffs' answers. The first sentence of the plaintiffs' answers to interrogatory 51 was erroneously typed into that section and should be deleted, as all of the plaintiffs asserted an objection to interrogatory 51.

Very truly yours,

STEEL & BELLMAN, P.C.

by Gina Novendstern
GINA NOVENDSTERN

GN:PC

RECEIVED JAN 20 1984

BURTON Z. ALTER
GREYSON BRYAN
JONATHAN H. CHURCHILL
PETER A. DANKIN
DOUGLAS J. DANZIG
SAMUEL M. FEDER*
PETER FIGDOR
ARTHUR J. GAJARSA*
PETER J. GARTLAND
LANCE GOTTHOFFER
CARL J. GREEN
RICHARD LINN*
MATTHEW J. MARKS
EDWARD H. MARTIN
GENE Y. MATSUO
FUMIAKI MIZUKI
JIRO MURASE
ALDEN MYERS
PETER J. NORTON
MICHAEL E. PARRY
WAYNE E. PARTRIDGE
ROBERT D. PILIERO
ROBERT G. ROBISON
JOHN C. ROSENGREN
ROGER L. SELFE
SHU TOKUYAMA
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 NEWYORK

DOMESTIC/INT'L TELEX 220478 or 236562

TELECOPIER (212) 832-3354 or (212) 832-5378

PARTNERS RESIDENT IN

LOS ANGELES

WASHINGTON, D. C.

CARACAS

DÜSSELDORF

HAMBURG

LONDON

MEXICO CITY

MILAN

MONTREAL

PARIS

ROME

STOCKHOLM

TOKYO

TORONTO

January 16, 1984

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

Re: Avagliano v. Sumitomo Shoji America, Inc.
Incherchera v. Sumitomo Corp. of America

Dear Lew:

This is in response to your letter of January 5, 1984 concerning the confidentiality order for use in the above-referenced matters.

First, I believe the gravamen of your complaint has already been resolved by Magistrate Raby, since the language in the order I forwarded to you is the precise language submitted to Magistrate Raby prior to the argument on December 21, 1983. However, notwithstanding the fact that I think that the matter was disposed of by the Magistrate's ruling, I am always willing to discuss any good faith proposals that would strengthen the order, reduce time or burden, or otherwise be mutually beneficial.

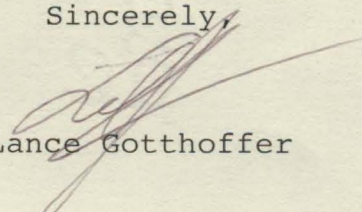
Although as a general proposition I feel our for of order is preferable for a number of reason, one principal problem I see with your proposed order is that it will likely necessitate motion practice virtually every time you file a notice of deposition or otherwise want to make disclosure of confidential information. Conversely, because of the provision for prior consultation between us if we object to your proposed disclosure, our form of order should minimize the number of times court assistance is required.

Lewis M. Steel, Esq.
Page 2
January 16, 1984

Toward a middle ground, you might want to think about restructuring the order along the following lines. In the first instance, you will provide the requisite prior notice with respect to disclosure to potential witnesses and deponents. We will provide you with our objections, if any, within ten days with good faith negotiations to resolve differences to follow immediately, and with your having the ability to seek an appropriate order as soon as you feel such negotiations are no longer fruitful. I think this would eliminate some of the timing problems you found objectionable, provide an alternative to motion practice where feasible, and keep the tenor of the order a neutral one.

Please let me know your thoughts as soon as possible.

Sincerely,



Lance Gotthoffer

LG/mr

STEEL & BELLMAN, P.C.

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 925-7400

Richard F. Bellman
Lewis M. Steel
Gina Novendstern

January 9, 1984

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

Re: Incherchera v. Sumitomo Corp. of America

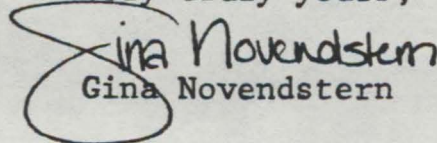
Dear Mr. Gotthoffer:

Your office notified us by letter dated September 27, 1983 that it had filed the unsigned deposition of Ms. Incherchera in the district court.

This letter is to inform you that Ms. Incherchera has reviewed her deposition and made several corrections to the transcript. Enclosed please find the corrected, signed deposition. Please note that Ms. Incherchera corrected and signed a copy of the deposition transcript, as the original was never received by this office.

I would like to point out that there are two areas in the deposition where it appears as if questions and answers were omitted by the reporter. Both page 8, lines 12-19, and page 132, lines 18-19 do not make any sense. You might wish to contact the court reporter in this regard.

Very truly yours,


Gina Novendstern

GN:PC
Enclosure

STEEL & BELLMAN, P.C.

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 925-7400

Richard F. Bellman
Lewis M. Steel
Gina Novendstern

January 5, 1984

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

Re: Sumitomo Confidentiality Order

Dear Lance:

This letter is in response to your letter of December 28, 1983 with regard to the form of the confidentiality agreement.

At the outset, I note that your summarization of the Magistrate's rulings failed to include the fact that your requests for certain language in the undertaking to be signed by persons to whom disclosure of confidential material is made was denied. In fact, the form of undertaking which the Magistrate dictated essentially follows the language already contained in plaintiffs' draft order.

Now, let me turn to the problem area of your draft order. During the discussion before the Magistrate as to whether paragraph 4 of plaintiffs' draft order should be changed to require the giving of notice with regard to certain categories of persons, the Magistrate made clear his belief that he could foresee few situations in which he could anticipate that such a designation would be appropriate. The Magistrate emphasized that this was not a trade secrets case where he could understand the need for such protections. Nonetheless, because the Magistrate indicated that the defendant could obtain the names of witnesses through discovery in any event, he did not see the harm in the defendant's proposal.

Your proposed redraft of paragraph 4(a) turns the Magistrate's ruling on its head. Your language not only allows defendant's counsel to object to the designation of "qualified" to certain persons, but, in the event Sumitomo persists in its objection, places a burden on plaintiffs' counsel to seek an order of the Court permitting disclosure to these people, "which shall be granted only upon the showing that good cause therefor exists." In other words, you are attempting to shift the burden onto the plaintiffs to convince the Court that it would be appropriate to make such disclosure to a person willing to sign the Court's undertaking. This is totally contrary to the Magistrate's indication that under normal circumstances plaintiffs' counsel could disclose material to whomever

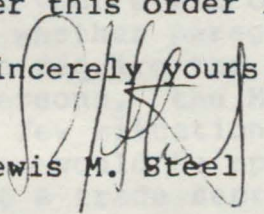
counsel pleased, and that he was altering the normal practice only on the highly speculative chance that somehow Sumitomo could show in a particular instance that such disclosure would be so harmful to it that disclosure should be prohibited.

Additionally, with regard to your revisions of paragraph 4(a), I believe that the time sequences in that paragraph are unclear. You first refer to fifteen days prior notice and then speak of the defendant's right to refuse to consent by advising plaintiffs' counsel within ten days of receipt of notice. I believe that the only "timing language" which is necessary is the ten day period.

I note also that you have deleted my paragraph 7. At no time before Magistrate Raby did you raise an objection to paragraph 7 in plaintiffs' draft order. In fact, you stressed to the Magistrate that you were merely seeking a few modest modifications of what was essentially plaintiffs' form. I assume by your deletion of paragraph 7 you are attempting to create a situation whereby defendant's counsel could adjourn every deposition of a non-qualified person so as to invoke the time sequences in paragraph 4(a). If this is your intent, I believe it to be another alteration of the confidentiality order. Obviously, with regard to depositions, you will have the name of the deponent well in advance of the deposition. Therefore, if the defendant does not wish confidential material to be shown to this person, the burden should be on the defendant to apply for a protective order. I can understand, however, how pursuant to the Magistrate's ruling, you would want the deponent to sign the undertaking.

I am enclosing with this letter modifications of plaintiffs' draft confidentiality order which reflect all of the above. Please let me know at your earliest convenience whether this order is acceptable.

Sincerely yours,


Lewis M. Steel

LMS:PC
Enclosure

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
LISA M. AVAGLIANO, et al.,
Plaintiffs,

77 Civ. 5641 (CHT)

-against-

SUMITOMO SHOJI AMERICA, INC.,
Defendant.

-----x
PALMA INCHERCHERA,
Plaintiff,

CONFIDENTIALITY
ORDER

-against-

SUMITOMO CORP. OF AMERICA,
Defendant.

82 Civ. 5641 (CHT)

-----x
WHEREAS, the parties to these actions are about to engage in
discovery; and

WHEREAS, documents and other material are about to be
furnished to counsel for plaintiffs; and

WHEREAS, defendant contends that some of the data and
documents being sought contain confidential information, the
unauthorized disclosure of which would unfairly invade the privacy
of its employees; and

WHEREAS, defendant contends that some of the data and
documents being sought contain commercial information, the un-
authorized disclosure of which would or might adversely affect its
business dealings and competitive position; and

3. Confidential data shall be made available only to
qualified persons. Qualified persons, by signing a copy of this
order, agree to maintain such data and all copies, extracts and

WHEREAS, defendant contends that some of the data and documents being sought contain information received by it pursuant to an understanding that the confidentiality thereof would be maintained.

IT IS HEREBY ORDERED that:

1. "Confidential data" means any type or classification of information, whether it be in a document or in a response to an interrogatory or in a response to a deposition question which defendant designates as "Confidential." In designating information "Confidential," defendant will make such designation only as to such materials that it in good faith believes contains either (i) information, the disclosure of which would unfairly invade the privacy of its employees, or (ii) commercial information, the disclosure of which would or might adversely affect its business dealings and competitive position, or (iii) information received by it pursuant to an understanding that the confidentiality thereof would be maintained. In the event that information disclosed during the course of a deposition is deemed confidential by defendant, the designation thereof as "Confidential data" shall be made during the course of the deposition.

2. "Qualified person" means plaintiffs, and members of, associates, legal assistants and other personnel employed by Steel & Bellman, P.C. who are engaged in the preparation of this action for trial.

3. Confidential data shall be made available only to qualified persons. Qualified persons, by signing a copy of this order, agree to maintain such data and all copies, extracts and

summaries thereof in confidence and not to use or reveal the same to anyone other than another qualified person in connection with this action, except that nothing shall prevent disclosure beyond the terms of this order if defendant consents in writing to such disclosure or if the Court, after notice to all parties and upon motion, orders such disclosure. In no event, however, may confidential data be utilized by qualified persons for any purpose other than that of prosecuting these lawsuits.

4(a). In the event counsel makes a good faith determination that in order to prepare these cases for trial they must disclose confidential data to an expert or a potential witness who is not a qualified person as defined in paragraph 2, above. Such data may be disclosed only on ten days' prior written notice from plaintiffs' counsel to defendant's counsel, providing the identity, function, title, profession or other capacity, of the individual designated to receive such data. If defendant's counsel does not object in writing within this ten day period, such confidential data may be disclosed, after compliance with paragraph 4(b), below. Defendant's counsel may refuse to consent to such disclosure by advising plaintiffs' counsel within ten days of receipt of such notice. If counsel cannot resolve any differences with regard to such issues, defendant may seek a protective order from the Court denying such disclosure, and shall have the burden of proof with regard to such motion. Defendant must file such a motion for a protective order within ten days of the date defendant's counsel has advised plaintiffs' counsel that it objects to the designation. If a motion is not filed within this ten day period, or if the ten

day period has not been extended by consent or order, plaintiffs' counsel may make disclosure upon compliance with paragraph 4(b), below.

4(b). Upon consent or absence of objection by the defendant's counsel, or upon the failure of defendant's counsel to timely seek a protective order consistent with paragraph 4(a), above, or if the Court does not issue a protective order pursuant to paragraph 4(a), above, plaintiffs' counsel, before giving a potential witness or expert confidential data, shall provide each such potential witness or expert whom plaintiffs seek to designate as a qualified person under this paragraph with a copy of this order and obtain the expert's or potential witness' signed undertaking, in the form annexed hereto as Exhibit A, to maintain confidential data and all copies, extracts and summaries thereof in confidence. The expert or potential witness shall then be deemed a qualified person subject to the provisions of this order. Plaintiffs' counsel shall provide defendant's counsel with a copy of such undertakings. In the event a potential witness or person declines to sign the required undertaking, there shall be no disclosure of confidential data made to that person; however, on notice to defendant, plaintiffs may move the Court for an order permitting such disclosure.

5. If counsel for plaintiffs believes material is improperly classified as confidential, counsel may, after attempting to resolve the matter informally, seek, on notice, an order from this Court declassifying the material in question. Unless and

until the Court declassifies such material, however, counsel shall treat the material as classified. The requesting party will have the burden of proof on challenging the confidentiality designation.

6. Each qualified person, by signing a document in the form appended hereto as Exhibit A, agrees to be bound by all its terms and submits to the jurisdiction of the United States District Court for the Southern District of New York with respect to the issuance of all orders necessary for the implementation and enforcement of this order, including, without limitation, the provisions of the paragraph 10, below.

7. Plaintiffs' counsel may, in the course of a deposition of a person who is not a qualified person, show such witness confidential data and examine the witness concerning confidential data, provided the witness is informed that the data is confidential and is instructed that pursuant to court order, such confidentiality must be maintained. Such deponent shall also be shown a copy of this confidentiality order and shall sign the undertaking in the form appended hereto as Exhibit A before being shown confidential data. In the event such person declines to sign the required undertaking, plaintiffs shall make no disclosure of confidential data to that person; however, on notice to defendant, plaintiffs may move the Court for an order permitting such disclosure. Only qualified persons, defendant or its counsel, or persons present at the request of defendant or its counsel, may be present at any such deposition during examination concerning confidential data.

8. All documents filed with the Court that refer to or contain confidential data shall be filed under seal.

9. Nothing in this order shall prejudice the rights of any party to obtain at trial any modification of this order which may be necessary and appropriate for use of confidential data at trial.

10. At the conclusion of the proceedings herein (including appeals, if any), all documents containing data designated as confidential and in the possession of counsel for plaintiffs, or any other person who has received such documents pursuant to the provisions of this order, together with any and all copies, extracts and summaries thereof (other than such extracts and summaries constituting work product and used in preparation for litigation and/or as exhibits at trial, which counsel will keep confidential or destroy), shall be returned to defendant and the information contained in said documents shall not be used in any other judicial or other proceeding or for any other purpose.

11. This order may be amended by agreement of counsel without leave of the Court in the form of a signed stipulation which shall be filed in these actions. In the event counsel are unable to reach agreement, either party may apply to the Court for modification of any provision of the order.

12. The undersigned counsel agree to be bound by the provisions of this order pending its approval by the Court.

We consent to the entry of this order.

Dated: New York, New York

STEEL & BELLMAN, P.C. Plaintiffs,

By _____
Attorney for Plaintiffs
351 Broadway
New York, New York 10013

WENDER MURASE & WHITE Defendants,

By _____
Attorney for Defendant
400 Park Avenue
New York, New York 10022

77 Civ. 5641 (CMT)

CONFIDENTIALITY
ORDER

SO ORDERED: 5641 (CMT)

U.S.D.J.

WHEREAS, the parties to these actions are about to engage in discovery; and
WHEREAS, documents and other material are about to be furnished to counsel for plaintiffs; and
WHEREAS, defendant contends that some of the data and documents being sought contain confidential information, the unauthorized disclosure of which would unfairly invade the privacy of its employees; and
WHEREAS, defendant contends that some of the data and documents being sought contain commercial information, the unauthorized disclosure of which would or might adversely affect its business dealings and competitive position; and

BURTON Z. ALTER
GREYSON BRYAN
JONATHAN H. CHURCHILL
PETER A. DANKIN
DOUGLAS J. DANZIG
SAMUEL M. FEDER*
PETER FIGDOR
ARTHUR J. GAJARSA*
PETER J. GARTLAND
LANCE GOTTHOFFER
CARL J. GREEN
RICHARD LINN*
MATTHEW J. MARKS
EDWARD H. MARTIN
GENE Y. MATSUO
FUMIAKI MIZUKI
JIRO MURASE
ALDEN MYERS
PETER J. NORTON
MICHAEL E. PARRY
WAYNE E. PARTRIDGE
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 NEWYORK
DOMESTIC/INT'L TELEX 220478 or 236562
TELECOPIER (212) 832-3354 or (212) 832-5378

PARTNERS RESIDENT IN
LOS ANGELES
WASHINGTON, D. C.
CARACAS
DÜSSELDORF
HAMBURG
LONDON
MEXICO CITY
MILAN
MONTREAL
PARIS
ROME
STOCKHOLM
TOKYO
TORONTO

January 3, 1984

RECEIVED JAN 03 1984

BY HAND

Steel & Bellman, P.C.
351 Broadway
New York, New York

Re: Avagliano v. Sumitomo
Incherchera v. Sumitomo

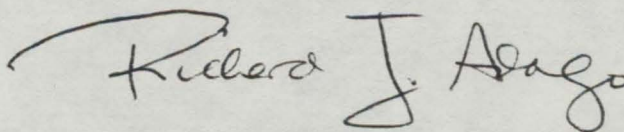
Dear Pat,

As per our conversation this morning, enclosed herein is your copy of Defendant's First Interrogatories to Plaintiff Palma Incherchera, which was personally served upon your office on December 29, 1983.

Would you please be so kind as to return the original set of interrogatories, which the messenger mistakenly left in your office.

Thank you for your assistance on this.

Very truly yours,



Richard J. Adago
Managing Clerk

Enclosure