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Avagliano v. Sumitomo: District Court  
Proceedings

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

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3-6-1980

## Plaintiffs Reply to Defendant's Counterclaims

Lewis M. Steel '63

# PHONE-A-GRAM®

for:

LMS

M Hicks of \_\_\_\_\_

☒ Telephoned

☒ Please return the call

☐ Will call again

☐ Came in

☐ See me

Message:

Asked re settlement.

I indicated I would begin work

Phone:

8323333

Date

4/10

Time

9:25

By

AS

**EISNER, LEVY, STEEL & BELLMAN, P.C.**

Attorneys at Law

351 Broadway, New York, New York 10013  
(212) 966-9620

Eugene G. Eisner  
Richard A. Levy

Lewis M. Steel  
Richard F. Bellman

Mary M. Kaufman  
Counsel

March 6, 1980

Clerk  
United States District Court  
Southern District of New York  
Foley Square  
New York, New York 10007

Re: Avigliano, et al. v. Sumitomo  
Shoji America, Inc.  
77 Civ. 5641 (C.H.T.)

Dear Sir:

I enclose for filing plaintiffs' reply to  
defendant's counterclaims. The affidavit of service  
is attached.

Sincerely yours,



Lewis M. Steel  
Attorney for Plaintiffs

LMS:PMM  
Enclosures

**EISNER, LEVY, STEEL & BELLMAN, P.C.**

Attorneys at Law

351 Broadway, New York, New York 10013  
(212) 966-9620

Eugene G. Eisner  
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Counsel

March 6, 1980

J. Portis Hicks, Esq.  
Wender, Murase & White  
400 Park Avenue  
New York, New York 10022

Re: Avigliano, et al. v. Sumitomo  
Shoji America, Inc.  
77 Civ. 5641 (C.H.T.)

Dear Portis:

I enclose a copy of plaintiffs reply to the  
amended counterclaims.

Sincerely,

  
Lewis M. Steel

LMS:PMM  
Enclosure

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

-----X  
LISA M. AVIGLIANO, et al.,

Plaintiffs,

-against-

SUMITOMO SHOJI AMERICA, INC.,

Defendant.  
-----X

: 77 Civ. 5641 (C.H.T.)

: REPLY TO COUNTERCLAIMS

Plaintiffs, by their attorneys Eisner, Levy, Steel & Bellman, P.C., for their reply to defendant's counterclaims, allege as follows:

1. Plaintiffs admit that defendant claims to invoke jurisdiction pursuant to 28 U.S.C. §§1331 and 1343, and the doctrine of ancillary jurisdiction, but deny that jurisdiction is properly invoked.
2. Deny paragraph 19 of the amended counterclaims.
3. Deny all of paragraph 20 of the amended counterclaims except with regard to that aspect of the paragraph that alleges that the Equal Employment Opportunity Commission violated its own rules and Sumitomo was required to spend substantial amounts of time and money responding thereto. As to these allegations, plaintiffs lack information sufficient to form a belief.
4. Plaintiffs lack information sufficient to form a belief as to paragraph 21 of the amended counterclaim.
5. Deny paragraphs 22, 23, 24, 25 and 26 of the alleged counterclaim.
6. Plaintiffs interpose no reply to paragraphs 27, 28 and 29 of the amended counterclaim as the court below ruled that they did not state a cause of action.
7. In response to paragraph 30 of the amended counterclaim, plaintiffs incorporate by reference their prior answers to

8. Deny paragraphs 31, 32 and 33 of the amended counterclaim.

9. As to paragraph 34 of the amended counterclaim, plaintiffs incorporate by reference the replies to the paragraphs incorporated in this paragraph.

10. Deny paragraphs 35, 36 and 37 of the amended counterclaim.

11. As to paragraph 38 of the amended counterclaim, plaintiffs incorporate by reference the replies to the paragraphs incorporated in this paragraph.

12. Deny paragraphs 39, 40 and 41 of the amended counterclaim.

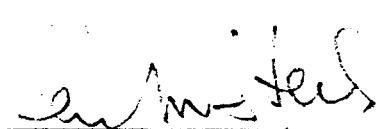
WHEREFORE, plaintiffs pray judgment as follows:

- (a) That the counterclaims herein be dismissed with prejudice;
- (b) That plaintiffs be awarded the costs of defending these counterclaims, including reasonable attorneys' fees; and
- (c) That plaintiffs be awarded such other and further relief as to this Court may seem just and proper.

Dated: New York, New York  
March 6, 1980

EISNER, LEVY, STEEL & BELLMAN, P.C.  
Attorneys for Plaintiffs  
351 Broadway  
New York, New York 10013  
(212) 966-9620

By

  
LEWIS M. STEEL

TO: CLERK  
UNITED STATES DISTRICT  
COURT  
WENDER, MURASE & WHITE  
Attorneys for Defendant

STATE OF NEW YORK, COUNTY OF

ss.:

The undersigned, an attorney admitted to practice in the courts of New York State,

☐ Certification By Attorney certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.  
☐ Attorney's Affirmation shows: deponent is

Check Applicable Box

the attorney(s) of record for in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

ss.:

☐ Individual Verification the being duly sworn, deposes and says: deponent is in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

☐ Corporate Verification the of in the within action; deponent has read the foregoing and knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on

19

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

**Patricia Mosley** being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at **351 Broadway, New York, N.Y. 10013**

☒ Affidavit of Service By Mail On **March 6,** 19 **80,** deponent served the within **Reply to Counterclaims** upon **Wender, Murase & White** attorney(s) for **Defendant** in this action, at **400 Park Ave., N.Y.C. 10022** the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

☐ Affidavit of Personal Service On 19 at upon deponent served the within

herein, by delivering a true copy thereof to h personally. Deponent knew the person so served to be the person mentioned and described in said papers as the therein.

Sworn to before me on **March 6,** 19 **80.**

The name signed must be printed beneath

**Patricia Mosley**

PATRICIA MOSLEY  
Notary Public in the State of New York  
Commission Expires 12/31/1980

NOTICE OF ENTRY

Sir:-Please take notice that the within is a (certified)  
true copy of a  
duly entered in the office of the clerk of the within  
named court on 19

Dated,

Yours, etc.,

EISNER, LEVY, STEEL & BELLMAN, P.C.

Attorneys for

Office and Post Office Address

351 Broadway  
NEW YORK, N. Y. 10013

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:-Please take notice that an order

of which the within is a true copy will be presented  
for settlement to the Hon.

one of the judges of the within named Court, at

on

19

M.

Dated,

Yours, etc.,

EISNER, LEVY, STEEL & BELLMAN, P.C.

Attorneys for

Office and Post Office Address

351 Broadway  
NEW YORK, N. Y. 10013

To

Attorney(s) for

Index No. 77 Civ. 5641 Year 19

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

LISA M. AVIGLIANO, et al.,

Plaintiffs,

-against-

SUMITOMO SHOJI AMERICA, INC.,

Defendant.

REPLY TO COUNTERCLAIMS

EISNER, LEVY, STEEL & BELLMAN, P.C.

Attorneys for Plaintiffs.

Office and Post Office Address, Telephone

351 Broadway  
NEW YORK, N. Y. 10013  
(212) 966-9620

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for