
Avagliano v. Sumitomo: District Court
Proceedings

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

7-3-1979

EEOC Motion for Leave to File as Amicus Curiae in Support of Plaintiff's Motion

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Lisa M. AVIGLIANO, et al.,)
) No. 77 Civ. 5641
) (CHT)
) MOTION BY THE EQUAL
) EMPLOYMENT OPPORTUNITY
) COMMISSION FOR LEAVE
) TO FILE MEMORANDUM
) AS AMICUS CURIAE IN
) SUPPORT OF PLAINTIFFS'
) MOTIONS TO RECONSIDER
) OR FOR PERMISSION TO
) APPEAL.

The Equal Employment Opportunity Commission, which has previously participated in this action and which is established by Congress to administer, interpret, and enforce Title VII, Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. (1976), and other federal fair employment discrimination laws moves to file the accompanying five-page memorandum as amicus curiae in support of plaintiffs' motion to reconsider portions of the Court's June 6, 1978, opinion and, alternatively, to permit an interlocutory appeal.

We agree with plaintiffs' arguments in support of their motions but wish to present two additional considerations. First, all of the decisions on which the Court relied in holding that EEOC charges and Title VII suits are not privileged against state tort claims concern employee self-help opposition rather than, as here, employee participation in Title VII's formal processes. Entirely different considerations and provisions of the Act apply to the latter. Second, permissive counterclaims for state torts arising out of EEOC charges and Title VII suits should not be permitted to interfere

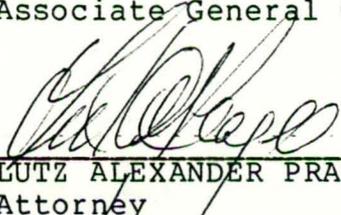
to interfere with litigation of the principal federal issue here, Sumitomo's allegedly unlawful discriminatory practices. See Harris v. Steinem, 571 F.2d 119 (2d Cir. 1978). Indeed, the Court may have no jurisdiction over such claims when no diversity of citizenship exists between the parties. Id.

The memorandum is being submitted two weeks after the Commission first received the Court's June 6 opinion and plaintiffs' initial motion and one week after it received plaintiffs' second motion.

Respectfully submitted,

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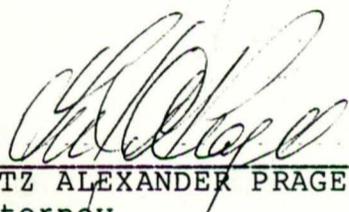
July 3, 1979

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing motion and accompanying memorandum were today mailed to the following counsel of record:

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