

*Date 7/11/81  
copy to Legat*

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HON. VITO J. TITONE, Justice Presiding,  
HON. LEON D. LAZER,  
HON. FRANK A. GULOTTA,  
HON. CHARLES MARGETT. } Associate Justices

Tappan Motors, Inc.,  
  
Respondent,  
  
v.  
  
Volvo of America Corporation et al.,  
  
Appellants.

Index No. 19303/79

Cal. No. 28-JC-80

Order on Appeal  
from Judgment  
Civil Action or Proceeding

In the above entitled action, inter alia, for a permanent injunction, the above named Volvo of America Corporation et al., defendants,

having appealed to this court from a judgment of the Supreme Court, Westchester County, entered September 16, 1980, which, after a nonjury trial, inter alia, enjoined them from terminating plaintiff Tappan Motors, Inc. as a franchised Volvo dealer and dismissed the defendants' counterclaim for damages;

and the said appeal having been argued by Frederick L. Whitmer, Esq., of counsel for the appellants, and submitted by Andrew P. O'Rourke, Esq.,

of counsel for the respondent, and due deliberation having been had thereon; and upon this court's opinion and decision slip heretofore filed and made a part hereof, it is:

ORDERED that the judgment appealed from is hereby reversed, on the law and the fact with costs, the plaintiff's complaint is hereby dismissed, the parties' "sales agreement" is hereby declared terminated and defendants' counterclaim for money damages is hereby reinstated and remitted to the Supreme Court, Westchester County, for trial.

LAZER, GULOTTA and MARGETT, JJ., concur.

TITONE, J.P., dissents and votes to affirm the judgment, with a memorandum as contained in the opinion and decision slip of the court herein dated December 14, 1981.

Enter:

IRVING N. SELKIN, Clerk of the Appellate Division of the Supreme Court of the State of New York, do hereby certify that I have compared this with the original and find it to be a true and correct copy of the original, and that this copy is a true and correct transcription of said original. IN WITNESS WHEREOF I have hereunto set my hand affixed this Court on 12/11/81

IRVING N. SELKIN

Clerk of the Appellate Division

RECEIVED

JUN 9 1982

JACK RUBENFIELD  
CHIEF CLERK

*Irving N. Selkin*

EX "P-2"

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I, the undersigned, am an attorney admitted to practice in the courts of New York State, and certify that the annexed has been compared by me with the original and found to be a true and complete copy thereof.

say that: I am the attorney of record, or of counsel with the attorney(s) of record, for know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following:

The reason I make this affirmation instead of is

I affirm that the foregoing statements are true under penalties of perjury. Dated:

STATE OF NEW YORK, COUNTY OF

(Print signer's name below signature)

being sworn says: I am

in the action herein: I have read the annexed know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

the of a corporation, one of the parties to the action; I have read the annexed know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on , 19

(Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF WESTCHESTER DEBORAH D'AMATO,

SS:

age and reside at 83 Winfred Avenue, Yonkers, New York 10704 being sworn says: I am not a party to the action, am over 18 years of On June 7, 1982, I served a true copy of the annexed Order on Appeal from Judgment in the following manner:

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below: by delivering the same personally to the persons and at the addresses indicated below:

Hon. Jack Rubenfield Chief Clerk Westchester County County Courthouse 111 Grove Street White Plains, New York 10601

William E. Bandon, P.C. Attorney for Appellants 14 Mamaroneck Avenue White Plains, New York 10601

Sworn to before me on June 7, 1982

*Sharon A. Bell*

SHARON A. BELL Notary Public, State of New York No. 60-4662490 Qualified in Westchester County Commission Expires March 30, 1985

*Deborah D'Amato*

(Print signer's name below signature) DEBORAH D'AMATO

Index No. 19303  
Cal. No. 28-JC-80

Year 1979

93

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : SECOND DEPARTMENT

TAPPAN MOTORS, INC.,

Respondent,

-against-

VOLVO OF AMERICA CORPORATION and  
VOLVO DISTRIBUTING, INC.,

Appellants.

ORDER ON APPEAL FROM JUDGMENT

*Attorneys for* O'ROURKE & LoCASCIO  
Respondent

50 HAMILTON AVENUE  
WHITE PLAINS, NEW YORK 10601  
(914) 997-7700

To:

*Attorney(s) for*

*Service of a copy of the within*

*is hereby admitted.*

*Dated:*

*Attorney(s) for*

FILED  
JUN 29 1982  
REGINA B. HOFFMAN  
CLERK OF COURT  
APPELLATE DIVISION  
NEW YORK

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF ENTRY  
that the within is a (certified) true copy of a  
entered in the office of the clerk of the within named court on

19

NOTICE OF SETTLEMENT  
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

, at

M.

*Dated:*

O'ROURKE & LoCASCIO  
*Attorneys for*

50 HAMILTON AVENUE  
WHITE PLAINS, NEW YORK 10601

To: