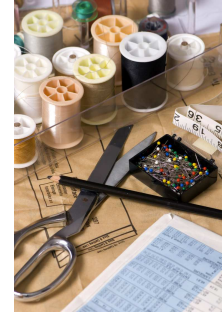

❖ SPC&B Textile Report ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

April 21, 2011

A New Opportunity To Fight Against Duty Discrimination



In previous SPC&B Textile Reports (January 18, 2007, April 26, 2007, July 24, 2008 and February 9, 2010) we brought to your attention the fact that certain importers were, on the basis of gender and age discrimination, challenging, in the US Court of International Trade (CIT), the duty being assessed on a variety of imported articles. We advised that all importers of merchandise subject to the claimed discrimination could preserve their rights to potential refunds by filing their own protective cases. Over the course of our Reports we tracked the progress of the Court case, including the last Report wherein we advised that the Appellate Court had affirmed the CIT's earlier dismissal on the technical grounds that the importer-plaintiff had failed to allege sufficient facts to support its cause of action.

Recently, however, the CIT has accepted a new test case in which the parties have alleged additional facts in an effort to avoid another early dismissal. **Once again importers of the merchandise covered by the following gender and age specific tariff provisions have an opportunity to preserve their rights to potentially recover refunds by filing their own protective court actions and have them suspended, pending the final outcome of the new test case.**

The commencing of a court action now will effectively cover all potential refund claims going back two full years prior to the date of filing and, into the future, until a final decision is rendered. Furthermore, the only information required at this time in order to prepare an applicable court action is designating which of the specific below-listed categories of merchandise were imported by your company and the HTSUS provisions under which duty was assessed for each. The categories of merchandise subject to this gender and age discrimination challenge are:

- Women's Leather Upper Footwear;
- Women's Tracksuits and Ski Suits;
- Women's Cotton Briefs, Panties, Pajamas, Bathrobes, and similar articles;
- Women's Hat Forms, Bodies and Hoods.
- Men's Unlined Gloves of Horsehide or Cowhide;

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- Overcoats, Car coats, Capes, Cloaks, Anoraks, Windbreakers, and similar articles*;
- Suits, Ensembles, Suit-Type Jackets, Blazers, and Trousers*;
- Men's Cotton Nightshirts, Pajamas, Bathrobes, and similar articles; and
- Manmade Fiber Swimwear*

*Some provisions favor women and some favor men, depending on garment component materials and construction.

If you import and pay duties on any of the above and wish to file an action to preserve your potential refund rights, please contact Gail T. Cumins at gcumins@spcblaw.com or Peter Jay Baskin at pjbaskin@spcblaw.com , or call (212) 425-0055.