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10-14-2004

## Kline v. Security Guards Inc

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IN THE UNITED STATES COURT  
OF APPEALS  
FOR THE THIRD CIRCUIT

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NOS. 03-3404, 03-3610, 03-3620

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DAULPH KLINE; TERRY KLINE, individually, and On Behalf of All Others Similarly Situated; DAVID J. BIGG; JOSEPH T. COULSON; ROBERT L. LASH; JOHN M. SPEARS, JR., WILLIAM ALLEN; JAMES ALLEN; JOHN ALSVAN; EDWARD ANDERSON; KENNETH ARTERS, JR.; TONY AZZARELLO; TERRY BACHERT; GLENN BALTHASER; THOMAS BARTASHUS; FRANCIS BEIERSCHMITT; GERALD BENDER; JOE BICKELMAN; BRETT BILLINGS; JOSEPH BISCANTI; VERNON BLOOM, JR.; MICHAEL BODOLUS; CHRISTOPHER BORN; PATRICIA BORRELL; JEFFREY BOSTON; DAVID M. BRAMLEY; THOMAS BRENEMAN; WILLIAM BROWN; JOHN BUGERA; ANTHONY BUONO; ANTHONY CALCAGNO, JR.; JOSEPH CARDELL; RICHARD CARL; WILLIAM CARPENTER; ALAN CLOUSER; FRANK CRAMMER, JR.; ALFRED CRAMMER, JR.; TERRY CROSSELY; ROBERT CRUPI; ANDREW CUCCARO, JR.; LEE DALTON; MINH DAO; ROBERT DAVIDSON; BRENT DAVIS; TIMOTHY DEBECK; MARGARET DECKER; MARK DETTERLINE; KENNETH DEWALD; THOMAS DIETRICH; JOHN DILALLO; BRIAN DOERRMAN; KENNETH ECKERT; BERNARD EHRETS; ANTONIO ESPINOSA; JOSEPH ESSICK; GARY ETTTEL; BART FAUST; STEPHEN FAUST; EDWARD FELEGI; BRUCE FISHBURN; WILLIAM FISHER; GERALD FOGARTY; RAYMOND FOLK, JR.; MICHAEL FREY; RICHARD FRITZ, JR., DERK FRONHEISER; CASEY GANSTER; JOHN GASPERETTI; JAMES GASPERETTI; SANDRA GAWNE; DENNIS GAY; DONALD GEDDIO; GEORGE GEIGER; RONALD GOREY; CARL GRAEFF; RITCHIE GRETH; PERRY GRIESEMER; GILL GROVE; JOE GUIDO; JEFFREY HANNAHOE; DOUGLAS HARRIS; RICHARD HARRIS; JAY HARTMAN; JOHN HEFT; RODERICK HELLER; GLENN HELMAN; RICH HERB; JAMES HESS; ROSE MARIE HESSLER; PATRICK HOLLYWOOD; THOMAS HOLT; JOHN HORNBERGER; MICHAEL HUBIAK; KEVIN IMPINK; GARY JAMES; CHRIS JONES; EDWIN JONES; MARVIN KACHEL; JOHN KAHN, JR.; WALTER KATCHUR; HARRY KAUFFMAN; ALLAN KEHL; MARK KERBER; LARRY KLINE; WILLIAM KOCUR; MARK KRAMMES; ALBERT KUKLIS; GARY LECHNER; TERRY LEESE; BYRON LEIBY; GRANT LEONTI; TODD LESHER; JOHN LISA; ROBERT LONG; WALTER LOOSE; EDWARD LUBAS; DAVID LUCARELLI; RAYMOND LUTZ, III; GARY MADARA; JAMES MARKUS; KARL MATTERN; JEFFREY MAULICK; JESSE MAY; EUGENE MCCLURE; RICHARD

MERSINGER; LAWRENCE MICCICKE, JR.; WALTER MILLER; RICHARD MILLER; THOMAS MOYER; RICHARD MULHOLLAND; MICHAEL MULLIGAN; THOMAS MULUTZIE; R. MUNDELL; JOHN MURRAY; CHRISTOPHER NEITHAMER; RAYMOND NEUHEIMER; DAWN NIEDZIELSKI; VITO NINFO; RAY OVERTON, JR.; GEORGE PALM, JR.; HOWARD PALMER; DONALD PAPP; CRAIG PAWLING; DAVID PHILLIPS; WILLIAM PIANO; TIM PONATOSKI; RONALD PORRINO; RORY QUINTER; TERRY RAEZER; DANIEL REEVES; KEITH REICHART; SHIRLEY REICHART; JEFFREY REIFSNYDER; DENNIS REMP; LOUIS REYES; FLOYD RHODES, IV; LOUIS RODINO; JEFFREY ROTHERMEL; GEORGE SALTZMAN, 3RD; RANDY SANDERS; SAMUEL SCHAEFER; MICHAEL SCHAEFFER; TERRY SCHAEFFER, SR.; JOHN SCHAICH; RANDY SCHIES; LINDA SCHLEGEL; DARRELL SCHLEGEL, SR.; DALLAS SCHLIECHER; THOMAS SCHWARTZ; ANTHONY SEDOTI; EUGENE SEDOTI; JAMES SELTZER; TIMOTHY SHERMAN; GENE SHIMP; GEORGE SHIREY, JR.; CHRISTOPHER SHOEMAKER; GEORGE SHUPP; PAUL SILK; JOSEPH SPICA; RICHARD STICHTER; CURTIS STIELY; DOUGLAS STROHL; THEODORE SULLIVAN; NORMAN SUNDAY; JOSEPH TOKONITZ; FREDERICK TRATE, JR.; WALTERS VACULA; RICHARD VALENTINE; BARRY WALTERS; DAVID WALTERS; BRIAN WALTERS; RICHARD WAWRZYNIAK, JR.; LARRY WEBBER; KENNETH WEIDENHEIMER; KENNETH WEIKEL; VICTOR WELLER, JR.; CALVIN WILLIAMS; LAWRENCE WILLIAMS, JR.; ROBERT WILLIAMSON; RICHARD WOLF; MARC WOLFE; MIKE XAVIOS; TERRY ZERBE; JOHN ZIATS; STEVE ARTHUR; WILLIAM BANGS; WILLIAM BARNHART; THOMAS BARRETT; RAYMOND BARTON; MARLIN BASHORE; BRIAN BATES; PETER BECKER; RON BESSIL, JR.; HELEN BILLMAN; JAY BLANKENBILLER; BRADFORD BOLL; ROBERT BORD; PAUL BOYER; GREGORY BOYER; SAM BROBST; ROBERT CHILA, SR.; LEWIS COLLINS; BRIAN CONRAD; FERRELL COOPER; GARY COOPER; ROBERT COULTER; MICHAEL DAVIDSON; DAVID DEANGELO; PAUL DELBO, SR.; RICHARD DIEHL; LARRY DURHAM; GLENN FISHER; EVAN FOURNRIS; ANTHONY GATTO, JR.; STEPHEN GERAS; ALFRED GIACOMINI; GEORGE GRENUS; LAFAYETTE HAYES; JOHN HECKMAN, SR.; RANDY HERTZOG; DENNIS HILL; JOHN HORNING; SHAWN INGRAM; STANLEY JOHNSON; RUSSELL KLINE; LESTER KLOCK; RICHARD KOHARCHECK; KEITH KRAMMES; ROBIN KRICK; STEVEN KRUSZEWSKI; RAYMOND KUBACKI, JR.; S. KEITH KULP; PATRICIA LAYTON; THOMAS LECHNER; THEODORE LEWIS; JOSEPH LISA; ROSALIE LONG; JOSEPH MARONE; GEORGE MATALAVAGE; JAMES MAY; JACK MCNERNY, JR.; WILLIAM MERRIWEATHER; H. DAVID MILLER; JANE MILLER; WILLIAM MOLINA; ANDREW MOORE; GARY MOYER; SCOTT NEITHAMER; GLENN NEWCOMB; MAURIO PETA; GERARD PETERKA; RANDALL PHILLIPS;

RICHARD PHILLIPS; WILLIAM PICKUP, JR.; MIKE PINKASAVAGE; RONALD PRESSLEY; JEFFREY PRINCE; DON QUIRE; STEVEN REICHART; WINFRED ROMAN; KEVIN RORKE; BARRY SCHAEFFER; DONALD SCHIEN; TODD SWARTZ; GENE SEDOTI; WILLIAM SHUPP, III; ANNETTE SICENAVAGE; JAMES SIMMONS; BARRY SNYDER; ROBERT SNYDER, JR., D. STUBBLEBINE; ANGELO TADDEO; STEPHEN THOMPSON; TERRY TRAYER; JOHN WALCHAK, JR.; ROBERT WALLACE; ARLAN WEAVER; TERRY WENZ; RON WESSNER; WADE WESSNER; RICHARD WOLF; ROBERT YENSER; CHARLES ZAMBIASI; GREGORY D. ARTERS; AARON C. AUGHTRY; KENNETH BAIR; GLENN D. BEARSTIER; DALE A. BENDER; MARIO BISBANO; HARRY E. BOWERS, JR.; JIMMIE CALDWELL; JOSEPH T. COULSTON, JR.; HOWARD C. CRAWFORD, JR.; KURT D. DAHMS; GREGORY L. DUFFIN; PATRICK J. DUGGAN; ROY M. FLOWERS; LEROY G. FREY; MICHAEL J. GALAVAGE; NATHAN A. GARBER; DERRICK L. GRAVES; ARNEL C. GRETH; MICHAEL R. HANSFORD; STEVEN J. HAUGER; DENIS J. HEYDT; JOHN J. HOMKA, JR.; MARC HUNTZINGER; THOMAS C. ISETT; CHRISTOPHER W. JONES; ROBERT C. JONES; Individually and in his capacity as Pottstown Borough Manager; TIMOTHY O. KAHL; DIANE LEFFLER; GERALD E. LUTZ; WILLIAM M. MCANDREW; SCOTT R. MELL; JEFFREY S. NOLL; GEORGE R. O'NEILL; RICKY C. OSWALD; KENNETH A. PLANER; WILLIAM H. RAVERT; SALVATORE L. RIZZO; GREGORY C. SANCINELLA; RICHARD D. TOLLAND; KENNETH WARFIELD; GARY L. WEISS; LARRY L. WOLFE; JOSEPH E. YAKAITIS; FRANCIS M. ZELLER; JOHN CONTSICOS; HAROLD J. FASIG; CHARLES E. FELTY, JR.; DALE FOX; CARL FURILLO; MICHAEL GROSS; TOM HOLLAND; MARK K. OUDINOT; JEFFREY G. RACZKA, SR.; GERALD B. RHOADS; ANTHONY W. ROTKISKE, JR.; RICHARD J. SEISLER, II; JOSEPH F. SHOUMLSKY,

Appellants in No. 03-3404

Cross Appellees in Nos. 03-3610

and 03-3620

v.

SECURITY GUARDS, INC.

Appellant in No. 03-3610

Cross Appellee in No. 03-3404;

DANA CORPORATION

Appellant in No. 03-3620

Cross Appellee in No. 03-3404

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On Appeal From the United States  
District Court  
For the Eastern District of Pennsylvania  
(D.C. Civil Action No. 00-cv-00566)  
District Judge: Hon. Franklin S. VanAntwerpen  
Magistrate Judge: Hon. Linda K. Caracappa

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Argued June 29, 2004

BEFORE: AMBRO, ALDISERT and STAPLETON,  
Circuit Judges

(Opinion Filed: October 6, 2004)

ORDER AMENDING OPINION

It is now ORDERED that the precedential Opinion in the above matter filed on October 6, 2004, be amended as follows:

Page 21, bottom left column: “New Jersey’s” should be replaced with “Pennsylvania’s” so that the paragraph reads in part, “Section 16 of Pennsylvania’s Detective Act . . . .”

By the Court

/s/ Walter K. Stapleton  
United States Circuit Judge

DATED: October 14, 2004