

Filed May 2, 1997

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NOS. 96-2092 and 96-2133

IN RE: FORD MOTOR COMPANY,

Petitioner in No. 96-2092

SUSAN I. KELLY, Administratrix and Personal
Representative of the Estate of GERALD A. KELLY,
deceased, on Behalf of Said Decedent's Heirs-At-Law and
Next-Of-Kin and on Her Own Behalf,

Respondent/Appellee

v.

FORD MOTOR COMPANY,

Appellant in No. 96-2133

Consolidated Petition For A Writ of Mandamus And
Appeal From the United States District Court For
The Eastern District of Pennsylvania
(E.D. PA Civ. No. 94-cv-02579)

Argued: January 28, 1997

Before: BECKER, ROTH, Circuit Judges, and
ORLOFSKY, District Judge.*

(Opinion Filed: April 9, 1997)

*Honorable Stephen M. Orlofsky, United States District Judge for the
District of New Jersey, sitting by designation.

ORDER AMENDING SLIP OPINION

The slip opinion in the above case filed April 9, 1997 is
hereby amended as follows:

1. On page 18, third paragraph, the words "appellate

jurisdiction is plenary; our standard of review under mandamus jurisdiction is for a clear error of law" are replaced by "mandamus jurisdiction is exceedingly narrow, see Westinghouse, 951 F.2d at 1423; our standard of review under appellate jurisdiction varies depending on the issue that we are called on to review."

2. On page 21, second full paragraph, at the end of the fourth sentence, add a semi-colon followed by "in that respect, the district court clearly erred in describing these documents."

3. On page 25, first full paragraph delete the material beginning with "As our discussion makes clear, . . ." and ending with "were not legal department meetings." and replace with the following text:

As our discussion makes clear, the agendas were prepared in anticipation of litigation. That the agendas do not necessarily include legal advice is, as a matter of law, irrelevant provided, as we note above, they were prepared in anticipation of litigation. Moreover, it is of no import, again as a matter of law, that the meetings for which the agendas were prepared were not legal department meetings. Thus, the district court clearly erred (a function in part of legal error) in concluding that the agendas were not prepared in anticipation of litigation.

BY THE COURT:

/s/ Edward R. Becker
Circuit Judge

DATED: May 2, 1997

2

A True Copy:
Teste:

Clerk of the United States Court of Appeals
for the Third Circuit

3