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Punitive Phase Begins in \$8M Factory Shooting Trial

BY MAX MITCHELL

Of the Legal staff

A Philadelphia jury on Monday watched surveillance video of a disgruntled Kraft employee shoving a gun into the security booth outside the factory where two of her co-workers were gunned down minutes later.

But the focus of opening arguments in the punitive damages trial in *Wilson v. U.S. Security Associates* was not on the shooter, Yvonne Hiller, but instead on the conduct of two security officials in the few minutes both up to and after Hiller brandished the .357 revolver at the security booth and passed into the factory.

According to Kline & Specter attorney Shanin Specter, the security supervisor for U.S. Security Associates on-site failed to properly escort Hiller to her car, and then, after she returned with the gun, he ran to the boiler room and hid instead of notifying employees inside the building.

"He was the security supervisor. He knew when she came back in with a gun that she was bent on murder," Specter said. "He had a responsibility to let people know

upstairs that Ms. Hiller was inside with a gun."

However, Robert G. Devine of White and Williams, who represented the security company, said the supervisor and the security guard in the booth both promptly called the police just minutes after Hiller re-entered the building with a gun. He further noted the security supervisor did not hide, but instead ran to the main building that Hiller entered, and notified a Kraft official.

"He's not hiding in the boiler room. He's back in the building," Devine said. "That's someone who's trying to help. Not someone who's consciously disregarding the safety of others."

Last month, a jury returned an \$8 million verdict for the estates of LaTonya Brown and Tanya Wilson, both of whom were fatally shot by Hiller in September 2010.

Arguments on punitive damages were initially held immediately following the verdict. However, after the original jury deadlocked after several days, another jury was convened to deliberate solely on punitive damages. Opening statements were made Monday in Philadelphia Court of Common Pleas Judge Frederica Massiah-Jackson's courtroom. The trial is expected to last several days.

Specter said the conduct of the security guards was reckless for failing to properly escort Hiller to her vehicle immediately after she was suspended, and also in failing to notify people in the building that Hiller had returned with a gun.

According to Specter, less than two hours before the shooting, Hiller had gotten into a "fracas" with Brown, Wilson and another employee, and Hiller was immediately suspended following the incident. Specter said the security supervisor believed Hiller to be "psychotic," and had known that there had been an altercation before he escorted Hiller.

Specter said the security supervisor could have notified people in the building by using either his handheld radio, a nearby phone, or by the factory's public address system.

"How long would that take to do? Three seconds? Four seconds?" Specter asked.

Along with watching video of Hiller pointing the gun into the security booth, Specter also showed surveillance video of Hiller leaving the facility after she was suspended.

According to Specter, the security supervisor trailed Hiller out of the building, but did not leave to

escort her to her car. Specter told the jury that, while the security supervisor was supposed to walk side-by-side with Hiller to her car, the supervisor could be seen at a door only momentarily glancing at Hiller as she exited into the parking lot.

Devine countered that escort services typically entailed showing visitors around the facility, and that "disciplinary escort services" were not clearly defined in the contract between Kraft and U.S. Security Associates.

Devine also noted that approximately 120 employees were in the factory that day, and that the security officials, who were both unarmed, were not authorized to order an evacuation of the building.

"That is going to cause mass pandemonium," Devine said. "Who's to say if that was done ... how many more deaths we'd be dealing with today."

Devine played recordings of the 911 phone calls the two security officials made, as well as a radio transmission from the first responder on the scene roughly four minutes later.

Given the circumstances and the state of mind of the security officers, Devine further argued, their conduct was appropriate.

"This case is about whether two security officers who had a gun put in their faces intentionally failed to act," Devine said. "It's not enough that they made a mistake, or that they acted unreasonably."

Earlier on Monday, Specter said he did not fault the security officials for letting Hiller back into the facility, and told the jurors that they might be sympathetic to the security guards. However, Specter

noted, "sympathy can play no part in your deliberations."