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[Dec. 10, 1912.]

**KLINE v. DOMINION FIRE INS. CO.***Fire insurance—Removal of goods—Consent—Binder—Authority of agent.*

Kline Bros. & Co., through the agents in New York of the respondent company, obtained insurance of a stock of tobacco in a certain building in Quincy, Flo., and afterwards obtained the consent of the company to its removal to another building. Later, again, they wished to return it to the original location and an insurance firm in New York was instructed to procure the necessary consent. This firm, on Jan. 4th, 1909, prepared a "binder," a temporary document intended to license the removal until formally authorized by the company, and took it to the firm which had been agents of respondents when the policy issued, but had then ceased to be such, where it was initialled by one of their clerks on his own responsibility entirely. On March 19th, 1909, the stock was destroyed by fire in the original location and shortly after a formal consent to its removal back was indorsed on the policy, the respondents then not knowing of the loss. In an action to recover the insurance:

*Held*, affirming the judgment of the Court of Appeal, 25 O.L.R. 534, that the "binder" was issued without authority; that even if the insurance firm by whose clerk it was initialled had been respondents' agents at the time, they had, under the terms of the policy, no authority to execute, and authority would not be presumed in favour of the insured as it might be in case of an original application for a policy; and that it was not ratified by the endorsement on the policy as the company could not ratify after the loss.

Appeal dismissed with costs.

*D. L. McCarthy*, K.C., for appellants. *Hamilton Cassels*, K.C., for respondents.

N.B.]

[Dec. 10, 1912.]

**GUIMOND v. FIDELITY-PHOENIX FIRE INS. CO.***Fire insurance—Insurance on lumber—Conditions—Warranty—Railway on lot—Security to bank—Chattel mortgage.*

A policy insuring against loss by fire a quantity of sawn lumber in a specified location contained a warranty by the