

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-1160

KATHYRN A. SCHREIBEIS,

Appellant,

v.

RETIREMENT PLAN FOR EMPLOYEES OF DUQUESNE
LIGHT COMPANY; ADMINISTRATIVE COMMITTEE OF THE RETIREMENT
PLAN FOR EMPLOYEES OF DUQUESNE LIGHT COMPANY; CONCENTRA
MEDICAL CENTER, L.L.C.

Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 04-cv-00969)
District Judge: Honorable Donetta W. Ambrose

Submitted Under Third Circuit LAR 34.1(a)
January 30, 2007

Before: BARRY and ROTH, Circuit Judges, and
DEBEVOISE*, Senior District Court Judge

(Opinion Filed: February 7, 2007)

* Honorable Dickinson R. Debevoise, Senior District Court Judge for the District of New Jersey, sitting by designation.

OPINION

Debevoise, Senior District Court Judge

Appellant, Kathryn A. Schreibeis, filed an action in the District Court against Appellee, Retirement Plan for Employees of Duquesne Light Company (the “Plan”), seeking to recover disability retirement benefits allegedly due to her. The Plan denied that she was entitled to these benefits, because she had not been found by a medical examiner selected by the Plan Administrator to be totally and, presumably, permanently disabled. Schreibeis and the Plan each moved for summary judgment.

The District Court denied the Plan’s motion in all respects relevant to this appeal. The Court granted Schreibeis’s motion for summary judgment against the Plan except to the extent she requested as a remedy an award of disability benefits in her favor. Instead, having found that Schreibeis’s claim was decided without adequate notice and a reasonable opportunity for a full and fair review as required by the Plan, the Court remanded the case to the Plan Administrator for a full and fair review in accordance with the Court’s Opinion, the Plan Document and ERISA.

Schreibeis filed an appeal of the District Court’s denial of her motion for summary judgment to the extent she sought an award of disability retirement benefits. The Plan moved to dismiss the appeal on the ground that this Court lacks appellate jurisdiction. This Court does not have jurisdiction over an appeal that challenges a district court order denying a motion for summary judgment. Robinson v. Hartzell Propeller, Inc., 454 F.3d

163 (3d Cir. 2006). The exception to this general rule is not applicable, as this is not an appeal of a remand for further administrative proceedings which involves an important legal issue that would evade appellate review in the absence of an immediate appeal. See Kreider Dairy Farms, Inc. v. Glickman, 190 F.3d 113 (3d Cir. 1999).

The motion to dismiss the appeal for lack of jurisdiction will be granted. The appeal will be dismissed and the case remanded to the District Court.