

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 06-7046

September Term, 2006

FILED ON: MARCH 29, 2007 [1031766]

EVALINE DOLEY,

APPELLANT

v.

PRUDENTIAL INSURANCE COMPANY OF AMERICA AND
AUTOMATIC DATA PROCESSING, INC. LONG TERM DISABILITY PLAN,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 05cv00277)

Before: GRIFFITH, *Circuit Judge*, and EDWARDS and WILLIAMS, *Senior Circuit Judges*.

J U D G M E N T

This case was considered on the record from the United States District Court for the District of Columbia and the briefs and arguments of the parties, it is

ORDERED AND ADJUDGED that the case be remanded to the district court to determine the contractual bounds of the Prudential “plan,” and in particular, whether the ERISA Statement is part of the plan and therefore confers discretionary authority to Prudential as administrator of the plan under *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 115 (1989). If the ERISA Statement is not part of the insurance plan, we instruct the district court to determine whether discretionary authority is nonetheless conferred by other language in the insurance certificate. Once having made these determinations, the District Court should then assess the parties’ positions on the merits and issue an appropriate judgment.

Pursuant to D.C. Cir. Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after the disposition of any timely petition for rehearing or rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

Deputy Clerk