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United States Court of Appeals, Second Circuit.

Lori WAGNER, Plaintiff-Appellant,

v.

FIRST UNUM LIFE INSURANCE COMPANY, Defendant-Appellee.

No. 03-7957.

June 14, 2004.

Background: Employee sued plan administrator pursuant to Employee Retirement Income Security Act (ERISA), claiming entitlement to unpaid long-term disability benefits. The United States District Court for the Southern District of New York, [Robert L. Carter, J.](#), [2003 WL 21960997](#), granted plan administrator's summary judgment motion. Employee appealed.

1 Holding: The Court of Appeals held that arbitrary and capricious standard governed review of plan administrator's decision to deny benefits.

Affirmed.

West Headnotes

[1] Labor and Employment 231H ↪687

[231H](#) Labor and Employment

[231HVII](#) Pension and Benefit Plans

[231HVII\(K\)](#) Actions

[231HVII\(K\)5](#) Actions to Recover Benefits

[231Hk684](#) Standard and Scope of Review

[231Hk687](#) k. Arbitrary and Capricious. [Most Cited Cases](#)

Employee failed to show that conflict of interest generated by ERISA plan administrator's dual status as plan administrator and plan insurer affected reasonableness of decision to deny employee's claim for long-term disability benefits, and therefore such decision was subject to judicial review under deferential arbitrary and capricious standard, rather than de novo standard of review. Employee Retirement Income Security Act of 1974, § 2 et seq., [29 U.S.C.A. § 1001](#) et seq.

[2] Federal Civil Procedure 170A ↪1264

[170A](#) Federal Civil Procedure

[170AX](#) Depositions and Discovery

[170AX\(A\)](#) In General

[170Ak1264](#) k. Actions in Which Remedy Is Available. [Most Cited Cases](#)

Employee was not entitled to conduct discovery to investigate effect on denial of long-term disability benefits resulting from conflict of interest generated by ERISA plan administrator's dual status as plan administrator and plan insurer when employee did not show "good cause" in support of discovery request. Employee Retirement Income Security Act of 1974, § 2 et seq., [29 U.S.C.A. § 1001](#) et seq.; [Fed.Rules Civ.Proc.Rule 26\(b\)\(1\)](#), [28 U.S.C.A.](#)

***863** Appeal from the United States District Court for the Southern District of New York ([Carter, J.](#)).

[Peter G. Eikenberry](#), New York, NY, for Plaintiff-Appellant.

[Patrick W. Begos](#), Begos & Horgan, LLP, New York, NY, for Defendant-Appellee.

Present: [NEWMAN](#), [CALABRESI](#), and [SOTOMAYOR](#),
Circuit Judges.

SUMMARY ORDER

****1 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of the District Court be and it hereby is **AF-FIRMED**.

Plaintiff-Appellant Lori Wagner commenced this action under the Employee Retirement Income Security Act of 1974 (“ERISA”), [29 U.S.C. § 1132\(a\)\(1\)\(B\)](#), seeking benefits under a long term disability policy administered by defendant-appellee First Unum Life Insurance Company (“First Unum”).

[1] Wagner asserts that the district court should have applied a *de novo* standard of review to her claim because First Unum's decision denying her long term disability benefits was affected by a conflict of interest. She has not shown, as she must, that the conflict of interest generated by First Unum's dual status as plan administrator and plan insurer “affected the reasonableness of the [administrator's] decision” to deny her long term disability benefits. See [Sullivan v. LTV Aerospace & Def. Co.](#), [82 F.3d 1251, 1259 \(2d Cir.1996\)](#) (internal quotation marks omitted); see also [Pulvers v. First UNUM Life Ins. Co.](#), [210 F.3d 89, 92 \(2d Cir.2000\)](#). The district court was therefore correct to review the defendant's determination under the more deferential arbitrary and capricious standard. Applying this standard of review, we also cannot say that First Unum's decision was “without reason, unsupported by substantial evidence or erroneous*864 as a matter of law.” [Pagan v. NYNEX Pension Plan](#), [52 F.3d 438, 442 \(2d Cir.1995\)](#) (internal quotation marks omitted).

[2] We have considered all of appellant's claims and find them meritless. [FNI](#) Accordingly, we AFFIRM the judgment of the district court.

[FNI](#). Wagner also asserts that the district court should have afforded her discovery to investigate the effect of First Unum's conflict of interest on the decision to deny her benefits. Notwithstanding de-

fendant's contention that such discovery is precluded by our general statement that “under the arbitrary and capricious standard [a district court] is limited to the administrative record,” [Miller v. United Welfare Fund](#), [72 F.3d 1066, 1071 \(2d Cir.1995\)](#), discovery may be appropriate in some cases where a petitioner seeks to show a conflict of interest, see [Liston v. UNUM Corp. Officer Severance Plan](#), [330 F.3d 19 \(1st Cir.2003\)](#) (“certain kinds of claims-e.g., proof of corruption-may in their nature or timing take a reviewing court to materials outside the administrative record”); [Farley v. Arkansas Blue Cross & Blue Shield](#), [147 F.3d 774, 776 n. 4 \(8th Cir.1998\)](#) (noting that “conducting limited discovery for the purpose of determining the appropriate standard of review does not run afoul of the general prohibition on admitting evidence outside the administrative record for the purpose of determining benefits”). But because Wagner has not shown “good cause” in support of her request, we affirm the court's decision below denying discovery. See [Fed.R.Civ.P. 26\(b\)\(1\)](#); [DeFelice v. American Int'l Life Assur. Co.](#), [112 F.3d 61, 66 \(2d Cir.1997\)](#).

C.A.2 (N.Y.),2004.

Wagner v. First Unum Life Ins. Co.

100 Fed.Appx. 862, 2004 WL 1303637 (C.A.2 (N.Y.))

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