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11-25-2002

## Glevicky v. Comm College Alghny

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NOT PRECEDENTIAL

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 01-3277

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BONNI G. GLEVICKY

v.

COMMUNITY COLLEGE OF  
ALLEGHENY COUNTY, Appellant

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On Appeal From the United States District Court  
For the Western District of Pennsylvania  
(D.C. No. 00-cv-00-cv-02328)  
District Judge: Honorable William L. Standish

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Submitted Under Third Circuit LAR 34.1(a)  
October 15, 2002  
Before: BECKER, Chief Judge, ROTH and ROSENN,  
Circuit Judges.

(Filed November 25, 2002)

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OPINION

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BECKER, Chief Judge.

Bonni G. Glevicky brought this action in the District Court for the Western District of Pennsylvania, alleging violations of the Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. § 201, *et seq.*, the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq.*, and the Employee Retirement Income Security Act (ERISA), 29

U.S.C. § 1001, *et seq.* In response to Glevicky's Amended Complaint, defendant Community College of Allegheny County (CCAC) filed an Answer and Counterclaim, alleging misrepresentation under Pennsylvania law. Glevicky then filed a Motion to Dismiss the Counterclaim pursuant to Rule 12(b)(6). The District Court dismissed CCAC's counterclaim for lack of subject matter jurisdiction or, in the alternative, for failure to state a claim upon which relief can be granted. This appeal is from that order.

Glevicky's claim is still alive in the District Court, hence the order dismissing the Counterclaim is not a final order. Absent circumstances not present here, this Court has jurisdiction only over final orders of the District Court. 28 U.S.C. § 1291. Accordingly, the appeal will be dismissed for lack of appellate jurisdiction.

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TO THE CLERK:

Please file the foregoing Opinion.

BY THE COURT:

/s/ Edward R. Becker  
Chief Judge

