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2003 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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3-28-2003

## Fotta v. UMWA Health

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UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 01-2097

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ABRAHAM FOTTA, individually and  
on behalf of all other persons  
similarly situated,  
Appellant

v.

TRUSTEES OF THE UNITED MINE WORKERS  
OF AMERICA, HEALTH AND RETIREMENT FUND  
OF 1974; MICHAEL HOLLAND; DONALD  
PIERCE; ELLIOT SEGAL;  
JOSEPH STAHL, II

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O R D E R

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In order to correct a typographic error in a citation made in the fourth paragraph of Section III. A. 1 of the Court's opinion filed February 11, 2003, it is hereby O R D E R E D that the following text is substituted for that paragraph:

In fact, Fotta I did not even address the issue of liability. It determined who has a cause of action under § 502(a)(3)(B). Before Fotta I, only an ERISA beneficiary who had brought a legal action to recover wrongfully withheld benefits could sue for interest under § 502(a)(3)(B). See, e.g., Anthuis, 971 F.2d at 1010. In Fotta I, we were asked to decide whether a beneficiary who recovered wrongfully withheld benefits without resorting to litigation could sue under § 502(a)(3)(B). Fotta I, 165 F.3d at 211. (“This appeal raises an issue of first impression for this court: whether a beneficiary who has been able to receive his her benefits due under an ERISA plan only

after considerable delay, but without resorting to litigation to recover that payment, has a cause of action [under § 502(a)(3)(B)].”) We determined that § 502(a)(3)(B) did provide a cause of action for such plaintiffs. We did not, however, address the standard of liability that would trigger an obligation to pay interest.

For the Court,

/s/ Marcia M. Waldron  
Clerk

Dated: March 28, 2003