

of Holmesburg from January 1961 and December 1974.¹ See Pls.' Compl. ¶¶ 12, 24, 25, 35, 44, 53, 62. According to the Plaintiffs' allegations, they consented to the testing and signed waivers based upon fraudulent misrepresentations by the Defendants. See id. at ¶¶ 13, 17, 28, 30, 46, 55, 64. As a result of their participation, the Plaintiffs allegedly sustained physical and psychological injuries, and were paid a minimal amount while Defendants reaped large profits. See id. at ¶¶ 12, 16, 22, 27, 30, 31, 35, 36, 37, 39, 45, 48, 51, 54, 57, 63, 66.

On November 7, 2000, this action was removed from the Court of Common Pleas of Philadelphia County to this Court. The City of Philadelphia filed a Motion for Judgment on the Pleadings on April 16, 2001. Subsequently, the University of Pennsylvania filed a Motion for Summary Judgment on September 5, 2001. Both the City of Philadelphia and Dr. Kligman then filed motions with this Court to incorporate by reference the University of Pennsylvania's Motion and Memorandum of Law in Support of Summary Judgment. Plaintiffs have failed to respond to any of the above motions.

II. STANDARD OF REVIEW

A. Judgment on the Pleadings

A motion for judgment on the pleadings under Rule 12(c) of the

¹ While Plaintiffs state in their complaint that they were the subjects of medical experimentation until December 1974, Defendants present evidence that the Philadelphia Prison Board of Trustees banned the testing in January of 1974. See Def. Univ. of Pa.'s Mot. for Summ. J. at 3 (citing Lou Antosh, "Medical Testing Lab Closed at Holmesburg," Phila. Bulletin, Jan. 29, 1974).

Federal Rules of Civil Procedure is treated under the same standard as a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. See Regalbuto v. City of Phila., 937 F.Supp. 374, 376-77 (E.D. Pa. 1995), aff'd, 91 F.3d 125 (3d Cir.) (table), and cert. denied, 519 U.S. 982 (1996); Constitution Bank v. DiMarco, 815 F.Supp 154, 157 (E.D. Pa. 1993). Consequently, this Court must accept as true the facts alleged in the complaint and all reasonable inferences that can be drawn from them." Markowitz v. Northeast Land Co., 906 F.2d 100, 103 (3d Cir. 1990). A court will only dismiss the complaint if "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations.'" H.J., Inc. v. Northwestern Bell Tel. Co., 492 U.S. 299, 249-50 (1989) (quoting Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)).

A motion for judgment on the pleadings may be converted to a motion for summary judgment if "matters outside the pleadings are presented to and not excluded by the court." Fed. R. Civ. P. 12(c). Whether to consider a motion on the pleadings as a motion for summary judgment is a matter for the court's discretion. Brennan v. Nat'l Tel. Directory Corp., 850 F. Supp. 331, 335 (E.D. Pa. 1994). Although the City of Philadelphia did not come forward with any evidence in their Motion for Judgment on the Pleadings, the University of Pennsylvania did present records and documents in support of their arguments in their Motion for Summary Judgment.

The City of Philadelphia then filed a motion to incorporate by reference the University of Pennsylvania's Memorandum and Motion for Summary Judgment, including the substantial appendix. Therefore, the Court will consider the City of Philadelphia's motion as one for summary judgment.

B. Summary Judgment

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). The party moving for summary judgment has the initial burden of showing the basis for its motion. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Ultimately, the moving party bears the burden of showing that there is an absence of evidence to support the nonmoving party's case. See id. at 325. Once the movant adequately supports its motion pursuant to Rule 56(c), the burden shifts to the nonmoving party to go beyond the mere pleadings and present evidence through affidavits, depositions, or admissions on file to show that there is a genuine issue for trial. See id. at 324. A genuine issue is one in which the evidence is such that a reasonable jury could return a verdict for the nonmoving party. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A fact is "material" only if it might affect the outcome of the suit

under the applicable rule of law. See id.

When deciding a motion for summary judgment, a court must draw all reasonable inferences in the light most favorable to the nonmovant. See Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992). Moreover, a court may not consider the credibility of the evidence in deciding a motion for summary judgment, even if the quantity of the moving party's evidence far outweighs that of its opponent. See id. Nonetheless, the party opposing summary judgment must do more than just rest upon mere allegations, general denials, or vague statements. See Trap Rock Indus., Inc. v. Local 825, 982 F.2d 884, 890 (3d Cir. 1992).

III. DISCUSSION

In the instant case, Plaintiffs have failed to respond to Defendants' motions.² In the interest of justice, the Court will examine the Plaintiffs' complaint and the Defendants' objections to it on the merits in order to determine if summary judgment is appropriate. Russo v. Henderson, Civ. A. No. 00-4619, 2001 WL 541119, at *1 (E.D. Pa. May 22, 2001). Because of Plaintiffs failure to respond to any of the Defendants motions, the Court is limited to a consideration of the pleadings filed by the parties

² Pursuant to Rule 7.1(c) of the Local Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania, "any party opposing the motion shall serve a brief in opposition, together with such answer or other response which may be appropriate, within fourteen (14) days after service of the motion and supporting brief." E.D. Pa. R. Civ. P. 7.1(c). Not only did the Plaintiffs in the instant case fail to respond within the required fourteen days, they neglected to respond entirely.

and the exhibits filed by the Defendants.

A. Statute of Limitations

The Defendants argue that they are entitled to summary judgment because Plaintiffs' claims of negligence, fraud, and unjust enrichment are barred by the statute of limitations. See Def. Univ. of Pa.'s Mot. for Summ. J. at 10; Def. City of Phila.'s Mot. for J. on Pleadings at 5. In addition, Defendant City of Philadelphia contends that the appropriate statutes of limitations also prohibit Plaintiffs' section 1983 claim, as well as Plaintiffs' request for an action for an accounting. See Def. City of Phila.'s Mot. for J. on Pleadings at 3, 5. The Court will review the statute of limitations as it pertains to each individual cause of action.

1. Unjust Enrichment

Plaintiffs contend that Defendants were unjustly enriched as a result of fees earned from Plaintiffs' participation in the medical testing at Holmesburg. See Pls.' Compl. at ¶¶ 22, 28, 55. Defendants contend that this claim is barred by the applicable statute of limitations. See Def. City of Phila.'s Mot. for J. on Pleadings at 4; Def. Univ. of Pa.'s Mot. for Summ. J. at 10.

The statute of limitations for a quantum meruit action under Pennsylvania law is four years. See 42 Pa. Cons. Stat. Ann. § 5525(4); Kenis v. Perini Corp., 452 Pa. Super. 634, 641, 682 A.2d 845, 849 (1996); Albert Einstein Med. Care Found. v. Nat'l Ben.

Fund for Hosp. and Health Care Employees, Civ. A. No. 89-5931, 1991 WL 114614, at *11 (E.D. Pa. June 21, 1991). A "quasi-contract/unjust enrichment action is likewise subject to a four-year limitations period, as it constitutes a contract implied in law." Cole v. Lawrence, 701 A.2d 987, 989 (Pa. Super. Ct. 1997). While an action based on contract accrues at the time of breach, Packer Soc'y Hill Travel Agency, Inc. v. Presbyterian Univ. of Pa. Med. Ctr., 430 Pa. Super. 625, 631, 635 A.2d 649, 652 (1993), quantum meruit actions accrue as of the date on which the parties terminate their relationship. See Cole, 701 A.2d at 989.

Here, a four-year statute of limitations applies to Plaintiffs' claims of unjust enrichment against Defendants. Viewing the evidence in the light most favorable to the Plaintiffs, the parties terminated their relationship no later than December 1974 after the medical testing had ceased.³ Therefore, the four-year statute of limitations barred Plaintiffs' unjust enrichment claims as of December 1978. The time alleged in Plaintiffs' complaint shows that the cause of action has not been brought within the statute of limitations. See Bethel v. Jendoco Constr. Corp., 570 F.2d 1168, 1174 (3d Cir. 1978). Therefore, the Court grants Defendants summary judgment as to Plaintiffs' claims for

³ With respect to Defendant City of Philadelphia, the relevant date to determine when the parties terminated their relationship for the purposes of this action is the date when the medical testing ceased, as opposed to the date of the individual Plaintiff's release from prison, because the conditions complained of here relate only to the medical testing, and not to conditions of confinement generally.

unjust enrichment.

2. Action for an Accounting

Plaintiffs assert a claim against Defendants for an accounting. Specifically, Plaintiffs seek an order from this Court that Defendants "account to the Plaintiffs for all monies received from the use of their persons for human experimentation." See Pls.' Compl. at ¶¶ 20,33, 60. Defendants counter that an action for an accounting is time barred under the statute of limitations. See Def. City of Phila.'s Mot. for J. on the Pleadings at 5.

"An accounting is an essentially equitable remedy, the right to which arises generally from the defendant's possession of money or property which, because of some particular relationship between himself and the plaintiff, the defendant is obligated to surrender." American Air Filter Co. v. McNichol, 527 F.2d 1297, 1300 (3d Cir. 1975). Under Pennsylvania law, an action for an accounting may be maintained at law or in equity. Ebbert v. Plymouth Oil Co., 348 Pa. 129, 134, 34 A.2d 493, 495 (1943). A Pennsylvania court asked to grant equitable relief will generally adopt and apply that statute of limitations which governs the analogous action at law. See id. at 135, 496. "Thus, where the corresponding legal right is barred by the statute of limitations equitable relief will be denied." West v. Williamsport Area Cmty. Coll., 492 F. Supp. 90, 98 (M.D. Pa. 1980).

In Pennsylvania, a six-year statute of limitations applies to

an action for an accounting at law. See 42 Pa. Cons. Stat. Ann. § 5527; Ebbert, 348 Pa. at 135, 34 A.2d at 496. Therefore, the same six-year limitation governs an action for an accounting in equity. See Ebbert, 348 Pa. at 135, 34 A.2d at 496 (“[T]he statute of limitations is generally held to be a bar to proceedings in equity for an accounting when it would be a bar to an action at common law for the same matter.”). A statute of limitations does not begin to run until the accrual of the cause of action. Pennsylvania Tpk. Comm’n v. Atlantic Richfield Co., 375 A.2d 890, 892 (Pa. Commw. Ct. 1977). An action for an accounting accrues as of the date the funds were allegedly diverted away from the plaintiff. Ebbert, 348 Pa. at 135, 34 A.2d at 496; Pennsylvania Tpk. Comm’n, 375 A.2d at 892 (finding cause of action for an accounting exists once alleged improper payment is made).

Here, Plaintiffs’ claim for an accounting is governed by the six-year statute of limitations. This claim accrued no later than December of 1974, which, according to Plaintiffs, is the latest possible date when Plaintiffs and Defendants received any funds from the medical testing at Holmesburg Correctional Facility. See Ebbert, 348 Pa. at 135, 34 A.2d at 496. Therefore, the six-year statute of limitations for this action for an accounting ran as of December 1980. The complaint in this case was not filed until October of 2000 – twenty years after the statute of limitations had run. Drawing all reasonable inferences in the light most favorable

to the Plaintiffs, the Court finds that Plaintiffs can allege no set of facts that would permit them to recover in an action for an accounting. Therefore, Defendants are entitled to summary judgment on Plaintiffs' claims for an action for an accounting.

3. Negligence and Fraud

Next, Defendants contend that they are entitled to summary judgment because the statute of limitations has also run on Plaintiffs' claims of fraud and negligence. According to the Plaintiffs, they consented to medical testing and signed waivers based upon Defendants' fraudulent misrepresentations. See Pls.' Compl. at ¶¶ 13, 17, 28, 30, 46, 55, 64. In addition, Plaintiffs accuse Defendants of negligently permitting, supervising, inspecting, and controlling the medical experimentation. See id. at ¶¶ 12, 27, 54. Construing the pleadings in the light most favorable to Plaintiffs, the alleged fraudulent and negligent acts occurred no later than 1974.

In Pennsylvania, a two-year statute of limitations applies to both fraud and negligence actions. See Pa. Cons. Stat. Ann. § 5524. "A claim for fraud accrues when the injury is suffered, and the statute begins to run when the plaintiff knows, or reasonably should know, that he or she has been injured and that the injury was caused by the conduct of another." Dongelewicz v. First Eastern Bank, 80 F.Supp.2d 339, 345 (M.D. Pa. 1999). Similarly, the statute of limitations begins to run on a negligence claim from

the time the negligent act is done. Montanya v. McGonegal, 757 A.2d 947, 950 (Pa. Super. Ct. 2000)(citation omitted); Moore v. McComsey, 313 Pa. Super. 264, 270, 459 A.2d 841, 844 (1983). This two-year period begins to run "as soon as the right to institute and maintain suit arises; lack of knowledge, mistake or misunderstanding do not toll the running of the statute." Pocono Int'l Raceway, Inc. v. Pocono Produce, Inc., 503 Pa. 80, 84-85, 468 A.2d 468, 471 (1983).

Here, the Defendants' alleged negligent and fraudulent acts, according to Plaintiffs' complaint, occurred no later than 1974. Therefore, the applicable two-year statute of limitations barred Plaintiffs' negligence and fraud claims as of 1976. Since the prescribed statutory period has expired, Plaintiffs are "barred from bringing suit unless it is established that an exception to the general rule applies which acts to toll the running of the statute." Pocono Int'l Raceway, 503 Pa. at 85, 468 A.2d at 471.⁴

4. Section 1983

Finally, Plaintiffs allege, under section 1983, that the City of Philadelphia "deprived [them] of their constitutional rights by allowing them to sign vague, confusing 'waiver' forms" and by "charging a fee for their use as tests subjects in human medical experimentation." Pls.' Compl. at ¶¶ 17-18. Defendant City of Philadelphia contends that since the events giving rise to the

⁴ The question of whether Plaintiffs claims were tolled under Pennsylvania's "discovery rule" is addressed infra in Part III.B of this Memorandum.

alleged constitutional violations took place between 1961 and 1974,

Plaintiffs' section 1983 claims are also barred by the statute of limitations.

In Wilson v. Garcia, 471 U.S. 261, 276 (1985), the Supreme Court held that state personal injury statutes of limitations govern suits under section 1983. The Pennsylvania statute of limitations for personal injury is two years. See 42 Pa. Cons. Stat. Ann. § 5524(2); Bougher v. Univ. of Pittsburgh, 882 F.2d 74, 78 (3d Cir. 1989). It is well settled that "only the length of the limitations period, and closely related questions of tolling and application, are to be governed by state law." Wilson, 471 U.S. at 269. Determining whether a federal cause of action accrues is a matter governed by federal law. Stouffer v. City of Reading, Civ. A. No. 99-2663, 2000 WL 326190, at *2 (E.D. Pa. March 16, 2000) aff'd 254 F.3d 1078 (3d Cir 2001); Subacz v. Sellars, Civ. A. No. 96-6411, 1997 WL 539693, at *3 (E.D. Pa. Aug. 7, 1997). Generally, a claim accrues in a federal cause of action "as soon as a potential claimant either is aware, or should be aware, of the existence of and source of injury, not when the potential claimant knows or should know that the injury constitutes a legal wrong." Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1386 (3d Cir. 1994). A plaintiff does not need to possess all of the facts necessary to state a cause of action; rather, a plaintiff need only have sufficient notice to alert him or her of the need to begin investigating. See Zeleznik v. U.S., 770 F.2d 20, 22-23 (3d Cir.

1985), cert. denied, 475 U.S. 1108, 89 L. Ed. 2d 913, 106 S. Ct. 1513 (1986).

Here, Plaintiffs' section 1983 claim is bound by Pennsylvania's two-year statute of limitations on personal injury actions. Since the alleged constitutional violations that form the basis of the section 1983 claim, according to Plaintiffs, occurred no later than 1974, the two-year limitations period barred Plaintiffs' section 1983 claims as of 1976. See Bougher, 882 F.2d at 78 ("Because [Plaintiff] failed to allege any unlawful acts actionable under section 1983 during the two year period prior to filing this complaint, . . . she fails to state a cause of action under section 1983."). Therefore, the pivotal question for Plaintiffs' section 1983 claims, as well as Plaintiffs' negligence and fraud claims, is whether the statute of limitations was tolled.

B. The Discovery Rule

In Pennsylvania, the "discovery rule" is an equitable exception to the general rule that the statute of limitations begins to run as soon as the underlying cause of action accrues. See Bohus v. Beloff, 950 F.2d 919, 924 (3d Cir. 1991). The discovery rule tolls the running of the statute of limitations until such a time as the plaintiff "knows, or should know through the exercise of reasonable diligence," that plaintiff has sustained an injury caused by the other party. Vernau v. Vic's Market, Inc., 896 F.2d 43, 46 (3d Cir. 1990); O'Brien v. Eli Lilly & Co., 668

F.2d 704, 711 (3d Cir. 1981); Svarzbein v. Saidel, No. Civ. A. 97-3894, 1999 WL 729260, at *7 (E.D. Pa. Sept. 10, 1999). Under the general rule "lack of knowledge, mistake or misunderstanding do not toll the running of the statute of limitations." Pocono Int'l Raceway, 503 Pa. at 84, 468 A.2d at 471. Under the discovery rule, however, the statute of limitations commences as soon as a reasonable person in the plaintiff's position would have been aware of the "salient facts" - that is, when "the plaintiff knows, or reasonably should know, (1) that he has been injured, and (2) that his injury has been caused by another party's conduct.'" Bohus, 950 F.2d at 924 (citing Cathcart v. Keene Indus. Insulation, 324 Pa. Super. 123, 136-37, 471 A.2d 493, 500 (1984)); see also O'Brien, 668 F.2d at 710. Furthermore, the discovery rule does not delay the accrual of a cause of action until the plaintiff has identified every party who may be liable on its claim. Zeleznik v. U.S., 770 F.2d 20, 24 (3d Cir. 1985).

The standard of reasonable diligence under the discovery rule is an objective one. Bohus, 950 F.2d at 925; Cochran v. GAF Corp., 542 Pa. 210, 217, 666 A.2d 245, 249 (1995). The rule focuses not on what the plaintiff actually knew, but on whether the pertinent information was knowable to plaintiff through the exercise of due diligence. Bohus, 950 F.2d at 925. In applying the discovery rule, the Third Circuit has recognized that "there are very few facts which cannot be discovered through the exercise of reasonable

diligence." Vernau, 896 F.2d at 46; Urland v. Merrell-Dow Pharm., Inc., 822 F.2d 1268, 1273 (3d Cir. 1987). Once the plaintiff knows of the "salient facts," a failure to exercise reasonable diligence will not prevent the statute of limitations from running. O'Brien, 668 F.2d at 710.

The point at which the plaintiff should reasonably be aware that he or she has suffered an injury is generally an issue of fact to be determined by the jury. Bohus, 950 F.2d at 925; Sadtler v. Jackson-Cross Co., 402 Pa. Super. 492, 501, 587 A.2d 727, 732 (1991). However, a court may enter summary judgment where "the undisputed facts lead unerringly to the conclusion that the time it took to discover an injury was unreasonable as a matter of law." A. McD. v. Rosen, 423 Pa. Super. 304, 308, 621 A.2d 128, 130 (1993); see also Kingston Coal Co. v. Felton, 456 Pa. Super. 270, 279, 690 A.2d 284, 288 (1997) ("[W]here the facts are so clear that reasonable minds cannot differ as to whether the plaintiff should reasonably be aware that he suffered an injury," the commencement of the limitations period may be determined as a matter of law.).

Here, in order for the discovery rule to toll the statute of limitations, the Court must find that, in the exercise of due diligence, it was reasonably possible for Plaintiffs to discover their alleged injuries attributable to the Holmesburg medical testing as late as October 1998 - twenty-four years after the medical testing ceased and two years before the filing of the

instant complaint. Drawing all reasonable inferences in the light most favorable to the Plaintiffs, no such conclusion can be reached. It is clear from the evidence presented that reasonable minds could not differ as to whether Plaintiffs exercised reasonable diligence in filing the instant claim in 1998.

As evidence of extensive public record that exists concerning the Holmesburg medical testing, Defendants append to their motion forty-six copies of the numerous newspaper articles, court records, and public hearings detailing the public backlash against prisoner medical testing. See Def. Univ. of Pa.'s Mot. for Summ. J., App. For over two decades, articles concerning the testing appeared in newspapers and magazines such as The Philadelphia Inquirer, The Philadelphia Bulletin, The Washington Post, The New York Times, The Philadelphia Tribune, The Philadelphia New Observer, and Atlantic Monthly. See id. at 3-8. In addition, public hearings were held concerning the medical testing on prisoners before both the United States Senate Subcommittee on Health and Pennsylvania's Departments of Justice and Public Welfare. Id. at 5, Ex. 9, 10. The controversy over the medical experimentations at Holmesburg again resurfaced in 1981 when the Philadelphia Inquirer revealed in a series of articles that the chemical agent Dioxin had been tested on seventy Holmesburg prisoners. Id. at 6, Ex. 19, 20. Moreover, from 1973 to 1990, six other lawsuits were filed by former Holmesburg inmates alleging many of the same claims against many of

the same defendants as those in the instant case. See id. at 7-9, Ex. 12, 18, 30, 31, 32, 36, 37.

There is no question that the substantial publicity surrounding the tests, as well as the other lawsuits, contained the "salient facts" which should have "awakened inquiry" on the part of the Plaintiffs about "the who and what" of their injuries long before October 1998. See A. McD., 423 Pa. Super. at 309, 621 A.2d at 131 (quoting Baily v. Lewis, 763 F.Supp. 802, 806-07 (E.D. Pa. 1991)). Based on an October 18, 2000 article in the Philadelphia Inquirer, Defendant University of Pennsylvania surmises that Plaintiffs brought the current suit in response to the 1998 publication of a book entitled Acres of Skin. See Def. Univ. of Pa.'s Mot. for Summ. J. at 9. Even if Plaintiffs raised this argument, it is unreasonable to assert that the publication of one book could "awaken inquiry" when twenty-five years of extensive media coverage did not. Plaintiffs are responsible to exercise reasonable diligence to become properly informed of the facts and circumstances upon which they may assert a claim, and to bring such a claim within the designated statutory period. Cochran, 542 Pa. at 217, 666 A.2d at 249. Plaintiffs in the instant case have failed to conform to this standard.

In light of the documentary evidence presented by the Defendants, it was incumbent upon Plaintiffs to establish that a disputed fact for trial concerning Plaintiffs' discovery of the

alleged injuries exists. As the United States Supreme Court explained in Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986), "the plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Moreover, the plaintiff has the burden of proving that reasonable diligence was used in bringing the claim. See Cochran, 542 Pa. at 220, 666 A.2d at 250. Here, Plaintiffs, by neglecting to respond to any of Defendants' motions, have failed to meet either burden.

Statutes of limitation are not mere "technicalities" but rather are "fundamental to a well-ordered judicial system." U.S. v. Richardson, 889 F.2d 37, 40 (3d Cir. 1989). "Where information is available, the failure of a plaintiff to make the proper inquiries is failure to exercise reasonable diligence as a matter of law." Kingston Coal Company v. Felton, 456 Pa. Super. 270, 280, 690 A.2d 284, 289 (1997). In light of the extraordinary media attention paid to the medical experiments conducted on prisoners at Holmesburg, as well as the six other lawsuits filed by former Holmesburg prisoners, a reasonable person in the Plaintiffs' positions would have been aware of the salient facts years before the current action was filed. The only reasonable conclusion from the competent evidence of record, construed most favorably to the

Plaintiffs, is that the time it took the Plaintiffs to file suit in this case was unreasonable. Summary judgment, therefore, is granted in favor of the Defendants.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

YUSUF ABBDULAZIZ, <u>et al.</u> ,	:	CIVIL ACTION
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, <u>et al.</u>	:	NO. 00-5672

O R D E R

AND NOW, this 18th day of October, 2001, upon consideration of the Defendant City of Philadelphia's Motion for Judgment on the Pleadings (Docket No. 10), Defendant the Trustees of the University of Pennsylvania's Motion for Summary Judgment (Docket No. 16), Defendant City of Philadelphia's Response to Defendant, the Trustees of the University of Pennsylvania's Motion for Summary Judgment (Docket No. 17), and Motion for Summary Judgment of Defendant Albert M. Kligman, M.D. (Docket No. 18) IT IS HEREBY ORDERED that the Defendants' Motions are **GRANTED**.

BY THE COURT:

HERBERT J. HUTTON, J.