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

DENNIS R. MONEY,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 04-846
	:	
v.	:	
	:	
PROVIDENT MUTUAL	:	
LIFE INSURANCE COMPANY,	:	
	:	
Defendant.	:	

MEMORANDUM

BUCKWALTER, S.J. June 15, 2005

Presently before the Court are Defendant's Motion for Summary Judgment (Docket No. 19), Plaintiff's response thereto (Docket No. 20), Defendant's Reply (Docket No. 22), Defendant's Motion for Leave to File Notice of Supplemental Authority (Docket No. 23), Defendant's Notice of Supplemental Authority (Docket No. 25) and Plaintiff's Response to Defendant's Notice of Supplemental Authority (Docket No. 26). For the reasons stated below, Defendant's Motion for Summary Judgment is **GRANTED**.

I. BACKGROUND

Dennis R. Money ("Plaintiff"), an African-American, worked for Provident Mutual Life Insurance Company[1] ("Defendant") from July 1981 to July 2002. Plaintiff began working in Defendant's maintenance department in 1981. In 1982, when Defendant moved to

1. Provident Mutual Life Insurance Company is now Nationwide Life Insurance Company of America. Plaintiff began his career with Continental American Insurance Company, which was later purchased by Provident Mutual Life Insurance Company. In 2002, Provident Mutual Life Insurance Company merged with Nationwide Mutual Life Insurance Company.

Newark, Delaware, Plaintiff was promoted to Senior Maintenance Specialist. In this position, Plaintiff supervised two people and maintained the lighting, electrical, heating and air conditioning of Defendant's Newark facility ("Facility"). Mr. William Campbell became Plaintiff's supervisor in the late 1990s. In 2001 and 2002, Plaintiff received exemplary ratings in his employment reviews.

A. Defendant's Workplace Policies

During Plaintiff's employment with Defendant, Defendant maintained policies forbidding violence and harassment in the workplace. Defendant's workplace violence prevention policy included the following statement:

> Provident Mutual has a strong commitment to maintaining a workplace atmosphere that, to the greatest degree possible, prohibits violent or threatening behavior toward all individuals on Company property. Through implementation of this policy and other supportive measures, the Company addresses the potential for violence and will provide an immediate response to any such behavior or action. Any individual on Provident Mutual property should understand that violence will not be tolerated in this workplace. (Def.'s Br., Ex. 5, Behney Aff., Ex. A.)

Defendant's workplace violence policy dictated the following punishment for violations of the policy:

> Any employee who engages in violent or threatening behavior toward any individual, including, but not limited to other employees, contract employees, or visitors, while the employee is on Company premises, or on Company business, or that is any way related to the employee's employment with the Company, will be subject to immediate discipline up to and including termination of employment. Furthermore, the Company may, at its discretion, file criminal charges against the offender. (Def.'s Br., Ex. 5, Behney Aff., Ex. A.)

Regarding Plaintiff's harassment policy, Plaintiff acknowledged that he received an employee manual from Defendant and that all contents would be applicable to him on October 28, 1982. Plaintiff made this same acknowledgment February 1, 1990 when he received the 1990 version of Defendant's employment manual. Plaintiff made another acknowledgment in 1992. Defendant's harassment/unfair treatment policy directed that "any employee who believes that he or she has been subject to harassment . . . should report the events or incidents to their Human Resources Generalist, the AVP of Employment Relations or VP of Human Resources." (Def.'s Br., Ex. 5, Behney Aff., Ex. A.)

B. Terminated Employees

While Plaintiff worked for Defendant, at least two maintenance employees were terminated. One of employees terminated, Mr. James Tull, was an African-American. According to Plaintiff, Mr. Tull was apparently terminated for improper activity involving a woman.

In 1999 or 2000, an Initial Security guard,[2] who was also an African-American and worked at the Facility, called Plaintiff a "mother fucker." Plaintiff told Mr. Campbell about the guard's action, and Mr. Campbell told Plaintiff to call Mr. Francis Hayes, the supervisor of the Initial Security guards at the Facility. Plaintiff did call Mr. Hayes and told him what happened. Mr. Hayes apparently terminated the guard as the security guard never returned to the Facility.

No employee of Defendant had ever assaulted someone on Defendant's premises before the altercation involved in the instant matter.

2. Initial Security provided security guards for Defendant's Facility.

C. Donald Hiles

Mr. Donald Hiles, a white male and a security guard with Initial Security, started working at the Facility in December 2001. On Mr. Hiles' first day at the Facility, Mr. John Lobe, another Initial Security guard, introduced Plaintiff to Mr. Hiles and told Mr. Hiles that Plaintiff was in charge of the Facility. After this introduction, Mr. Hiles responded, "oh yeah, he's an H.N.I.C." When Mr. Hiles made this racial slur, Plaintiff just walked away. Plaintiff tried to contact Mr. Campbell regarding the incident with Mr. Hiles, but Plaintiff did not reach him. Plaintiff did notify Mr. Hayes. According to Mr. Hayes, after Plaintiff told him of Mr. Hiles' slur:

> I'm pretty sure I said to Dennis [Plaintiff], Dennis, we can handle this problem. I'll get rid of him. Which we've done before. We got rid of people. Dennis said, no, because I think Dennis knew -- he realized how hard it was to fill that shift. I'm pretty sure Dennis said to me, I'll just stay away from the man. And I said fine." (Pl.'s Br., Ex. 10, Hayes Dep. 26:9-17.)

There is no evidence that Plaintiff told Mr. Campbell or any of Defendant's Human Resources personnel of Mr. Hiles' comments before the July 1, 2002 incident. After the "H.N.I.C." incident, Plaintiff did attempt to avoid Mr. Hiles. On the occasions when Plaintiff encountered Mr. Hiles, Plaintiff heard Mr. Hiles mutter under his breath, but Plaintiff did not hear any racial slurs in Hiles' "mutterings." Ms. Judith Pease, a white female, also experienced problems with Hiles. Mr. Hayes commented that Mr. Hiles put people "on pins and needles." (Pl.'s Br., Ex. 10, Hayes Dep. 28:14-15.) Mr. Hayes was concerned about future incidents involving Plaintiff and Mr. Hiles.

D. The Incident

On July 1, 2002, when Plaintiff exited the south entrance of the Facility, one of the outside doors of the entrance was propped open by a wooden doorstop. Plaintiff removed the doorstop and closed the door as was required. When Plaintiff began to walk away from the Facility, Plaintiff heard Mr. Hiles call out to him using a racial slur. Plaintiff saw Mr. Hiles attempting to replace the doorstop and began to walk back toward the Facility. As Plaintiff walked back to the Facility, Mr. Hiles told Plaintiff, "who the fuck told you to close that door" and referred to Plaintiff as "nigger." Plaintiff responded saying, "just go inside and leave the door closed." Plaintiff then walked into the building when he alleges Mr. Hiles hit him in the back. Plaintiff then hit Mr. Hiles, knocking Mr. Hiles to the ground and bloodying his face. This altercation was recorded on Defendant's surveillance camera. The court viewed this recording. It does appear that Hiles pushed the Plaintiff, after which Plaintiff forcefully pushed him to the ground.

E. Post-Incident

After the altercation involving Plaintiff and Mr. Hiles, Plaintiff proceeded to the Human Resources Department, where Plaintiff first spoke to Mr. John Cros, Defendant's corporate recruiter. Plaintiff told Mr. Cros that, "[w]hen I turned around to walk back in the building, he hit me in the back. And then I turned around, you know, and I hit him. I mean, you know, I hit him. Reaction, I hit him." (Pl.'s Br., Ex. 7, Money Dep. 95:7-12.) Plaintiff agreed to wait for Ms. Behney, Defendant's Human Resources Manager, to return to the Facility. Ms. Katie Sherry, an administrative assistant for Defendant, telephoned Ms. Behney and asked to her to return to the Facility.

While Mr. Cros and Plaintiff waited for Ms. Behney, Mr. Hiles appeared at the locked door of the Human Resources Department, bleeding from the mouth area. After telling Mr. Cros and Ms. Sherry that Plaintiff hit him, Mr. Hiles engaged Plaintiff in a second argument, and Mr. Cros had to separate the men. No racially derogatory remarks were exchanged. When the confrontation ended, Mr. Hiles left and asked Defendant's Human Resources personnel to tell Mr. Hayes that he was quitting his position with Initial Security. Initial Security terminated Mr. Hiles because he walked off the job.

Ms. Behney arrived at the Facility twenty minutes after Ms. Sherry called her. Plaintiff explained to Ms. Behney that Mr. Hiles called him racial names. Plaintiff also told Ms. Behney that Mr. Hiles hit him in the back before he hit Mr. Hiles. Ms. Behney then demanded Plaintiff's work identification and keys and suspended Plaintiff until the investigation was over.

In her investigation of the incident and making the determination on whether to punish Defendant, according to Ms. Behney, she reviewed Plaintiff's personnel file, the video of the incident and interviewed Plaintiff, Mr. Cros, Ms. Sherry, Mr. Hayes, Ms. Sharon Henderson, who was apparently an eyewitness, and Mr. Bob Boyd.[3] No one involved in the investigation spoke with Mr. Hiles after he left the building on the day of the incident. After concluding the investigation and consulting her superiors and Defendant's corporate counsel, Ms. Behney made the decision to terminate Plaintiff. Plaintiff was notified of Defendant's decision by a letter dated July 10, 2002. Mr. Campbell had asked that Plaintiff not be terminated. Mr. Brian Morris, a white male, replaced Plaintiff.

---

3. Plaintiff denies he was interviewed by Defendant despite his conversation with Ms. Behney and Mr. Cros after the incident.

F. Procedural History

In Count I of his Complaint, which Plaintiff entitles "Civil Right Violation," Plaintiff alleges violations of Title VII, which consists of claims of unlawful termination, retaliation and hostile work environment. Plaintiff also alleges a violation of 42 U.S.C. § 1981 in Count I. Count II, a claim for age discrimination, was dismissed in this Court's Memorandum and Order of June 7, 2004 (Docket No. 11). In Count III, Plaintiff again alleges claims of retaliation, unlawful termination and hostile work environment. Finally, in Count IV, Plaintiff avers a failure to comply with EEOC conciliation and asks for punitive damages. In its Memorandum and Order of June 7, 2004, the Court denied Defendants' request to dismiss the claim of punitive damages because Plaintiff alleged Defendant took intentional and malicious actions.

II. STANDARD OF REVIEW

A motion for summary judgment will be granted where all of the evidence demonstrates "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." FED. R. CIV. P. 56(c). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Because a grant of summary judgment will deny a party its chance in court, all inferences must be drawn in the light most favorable to the party opposing the motion. U.S. v. Diebold, Inc., 369 U.S. 654, 655 (1962).

III. DISCUSSION

In the remaining claims of his Complaint, Plaintiff alleges violations of Title VII and 42 U.S.C. § 1981. Courts have held that the legal standard for a Title VII claim is identical

to the standard in a § 1981 claim. Harris v. Smithkline Beecham, 27 F.Supp.2d 569, 576 (E.D. Pa. 1998)(citation omitted). Therefore, the Court will examine Plaintiff's claims of discriminatory termination, retaliatory discharge and hostile work environment utilizing Title VII analyses.

A. Discriminatory Termination

The Court will apply the McDonnell-Douglas test to determine if summary judgment should be granted as to the discriminatory termination claim. Under the test, to establish a prima facie claim for discriminatory termination, an employee must first offer sufficient evidence that: (1) he was part of the protected class, (2) he was qualified for his position, (3) he was fired, and (4) nonmembers of the protected class were treated more favorably. Goosby v. Johnson & Johnson Med., Inc., 228 F.3d 313, 318-19 (3d Cir. 2000)(*cited by* Verdin v. Weeks Marine Inc., 124 Fed.Appx. 92, 95 (3d Cir. 2005)). After the employee establishes his prima facie case, the employer must provide a legitimate, non-discriminatory reason for the termination. Id. at 319 (citations omitted). If the employer provides a legitimate, non-discriminatory reason, the employee must show that the employer's reason was merely a pretext for unlawful discrimination. Id. at 319 (citations omitted).

Applying the McDonnell-Douglas test and assuming Plaintiff has met his burden in establishing a prima facie case of discriminatory termination, Defendant provides that it fired Plaintiff because he struck Mr. Hiles, thereby violating Defendant's workplace violence policy. Plaintiff argues that Defendant's reason is pretextual for the following reasons: (1) Defendant conducted an inadequate investigation and made an unreasonable decision in firing Plaintiff; and (2) Ms. Behney's decision was based on racism.

Plaintiff argues that Defendant conducted an inadequate investigation and made an unreasonable decision in terminating Plaintiff. Specifically, Plaintiff alleges that in her investigation, Ms. Behney never interviewed Plaintiff,[4] never interviewed Hiles,[5] may not have watched the surveillance video of the incident,[6] and as to the decision to terminate, Ms. Behney ignored the recommendation of Plaintiff's supervisors.[7] Of these allegations, the only allegation which is supported by the record is that Mr. Campbell recommended that Plaintiff not be fired.

4. In his Brief, Plaintiff writes that "[Ms. Behney] admitted in conducting her 'investigation' she never contacted the Plaintiff and assumed he had 'punched' Hiles without provocation." (Pl.'s Br. at 15.) Plaintiff provides no citations for these allegations, and based on the record, the allegations are incorrect. Ms. Behney and Mr. Cros did speak with Plaintiff on July 1, 2002, immediately after the incident. Further, in her deposition, Ms. Behney testified that she tried to contact Plaintiff on several occasions, but Plaintiff never returned her call. (Pl.'s Br., Ex. 8, Behney Dep. 144:11 - 145:2, 160:18-19.)

5. However, in his Brief, Plaintiff does accuse Ms. Behney of contacting Mr. Hiles. Plaintiff writes, "[i]t is therefore suggested that Ms. Behney contacted Hiles and accepted his version because he is white and because the Plaintiff is black. This alone provides an issue for the jury." (Pl.'s Br. at 15.) Plaintiff provides no evidence for his assertion. As noted in Robertson v. Allied Signal, Inc., 914 F.2d 360, 382 n. 12 (3d Cir. 1990)(citation omitted), "an inference based upon a speculation or conjecture does not create a material factual dispute sufficient to defeat entry of summary judgment." In her deposition, Ms. Behney explained that she tried to contact Mr. Hiles through the security company but never talked to him. (Pl.'s Br., Ex. 8, Behney Dep. 70:9 - 72:5.)

6. In this allegation, Plaintiff insinuates that Ms. Behney never watched the surveillance tape, which shows the altercation between Plaintiff and Mr. Hiles. (Pl.'s Br. at 15.) This allegation finds no support in the record and is contradicted by the record. In her deposition, Ms. Behney stated that she viewed the videotape "50 or 60 times." (Pl.'s Br., Ex. 8, Behney Dep. 68:22 - 69:2.)

7. Mr. Campbell asked that Plaintiff not be terminated. (Pl.'s Br., Ex. 11, Campbell. Dep. 69:15 - 70:15.)

Plaintiff also attempts to argue that Ms. Behney was racist. This argument centers on comments of Ms. Behney from the deposition in which she used the word "them."[8] As to why this term provides evidence of pretext, Plaintiff writes:

> [w]hile the use of the term "them" seems innocent enough, it does indicate that Ms. Behney was classifying Plaintiff into a category, and he asserts that category was that he was black. Had she responded that it doesn't give him the right, the response would not have disclosed the pretextual motive nor the retaliatory cause of his termination. (Pl.'s Br. at 12.)

The transcript of the deposition shows, however, that Ms. Behney was simply answering the question using the proper pronoun in response to Plaintiff's counsel's question, not classifying Plaintiff.

---

8. This excerpt from Ms. Behney's deposition provides proper context for this quote. In this excerpt, the questions are from Plaintiff's counsel, and Ms. Behney is providing the answers:

> Q: You wouldn't accept that, would you?
> A: I wouldn't accept what?
> Mr. Hayne: Objection to form.
> Q: You wouldn't accept that as an explanation for him not telling you about the prior discussions.
> A: You know what? Any explanation at that point, doesn't give him the right to physically assault a person.
> Q: Does that have anything to do with his race? Do you believe that perhaps black people are more aggressive than whites?
> A: Doesn't give them the right –
> Mr. Hayne: Objection to form.
> The Witness:-- to physically assault anybody.
> Q: But do you believe he still --
> Mr. Hayne: Objection.
> Witness: Don't put words in my mouth.
> Q: I just asked the question. I said, does this have anything to do with the fact that he's black and Mr. Hiles is white?
> A: No.
> Q: But you don't feel that even though he is black or there was a possible racial slur, that that would?
> A: Doesn't give him the right to physically assault a person. (Pl.'s Br., Ex. 8, Behney Dep. 89:14 - 90:19.)

Reviewing the actual evidence presented by Plaintiff, the sole piece supported by the record is the fact that Mr. Campbell recommended that Plaintiff not be fired. As the Third Circuit wrote in Fuentes v. Perskie, 32 F.3d 759 (3d Cir. 1994), in a plaintiff's attempt to discredit an employer's reason for terminating him or her, "the plaintiff cannot simply show that the employer's decision was wrong or mistaken, since the factual dispute at issue is whether discriminatory animus motivated the employer, not whether the employer is wise, shrewd, prudent or competent." Id. at 765. The remaining evidence of Plaintiff does not concern racial animus, just the decision not to follow Mr. Campbell's advice. Therefore, Plaintiff has failed to overcome his burden of showing that Defendant's reason for terminating him was pretextual. The Court grants summary judgment in favor of Defendant on the discriminatory termination claim.

B. Retaliation

Under Title VII, to establish a prima facie claim for retaliation, an employee must show he engaged in a statutorily protected activity, the employer took an adverse action against him, and there is a causal connection between the two events. Goosby, 228 F.3d at 323 (citation omitted). Once the employee has met this burden, the employer must offer a legitimate, nondiscriminatory reason for the employment action. Smithkline Beecham, 27 F.Supp.2d at 580 (citing Quiroga v. Hasbro, Inc., 934 F.2d 497, 501 (3d Cir. 1991)). Then the employee must show that the employer's reason is a pretext for retaliation. Id. at 580 (citing Waddell v. Small Tube Prods., Inc., 799 F.2d 69, 73 (3d Cir.1986)).

Assuming Plaintiff could establish a prima facie case, Plaintiff has failed to offer sufficient evidence that Defendant's reason for terminating Plaintiff was pretextual, which the

Court discussed in the previous section. Therefore, the Court grants summary judgment in favor of Defendant on this claim.

C. Hostile Work Environment

Plaintiff also asserts a hostile work environment claim against Defendant. A hostile work environment exists when the "workplace is so permeated with discriminatory intimidation, ridicule, and insult, that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." Natl' R.R. Passenger Corp. v. Morgan, 536 U.S. 101, 115-116 (2002)(internal citations omitted). To establish a prima facie case for hostile work environment, Plaintiff must show that: (1) he suffered intentional discrimination because of his membership in a protected class; (2) the discrimination was pervasive and regular; (3) the discrimination detrimentally affected him; (4) the discrimination would detrimentally affect a reasonable person of the same protected class in that position; and (5) the existence of respondeat superior liability. Kunin v. Sears Roebuck & Co., 175 F.3d 289, 293 (3d Cir.1999)(citing Andrews v. City of Philadelphia, 895 F.2d 1469, 1482 (3d Cir. 1990)).

Plaintiff argues that he was subjected to pervasive and regular discrimination. In asserting a hostile work environment claim, "a plaintiff cannot rely upon casual, isolated or sporadic incidents to support [his] claim of hostile work environment." Smithkline Beecham, 27 F.Supp.2d 578 (citing Andrews, 895 F.2d at 1483; Harris v. Forklift Systems, Inc., 510 U.S. 17, 20 (1993)). The first piece of evidence offered by Plaintiff is Plaintiff's initial interaction with Mr. Hiles. As stated above, in the interaction, Mr. Hiles referred to Plaintiff as "H.N.I.C." The second piece of evidence offered by Plaintiff is that immediately before the altercation with Mr. Hiles, Mr. Hiles called Plaintiff a "nigger." These are the only two incidents involving racial

language experienced by Plaintiff in his 21 years working for Defendant.[9] These two instances are insufficient to establish that the discrimination was pervasive or regular. See Jackson v. Flint Ink N. Am. Corp., 370 F.3d 791, 795 (8th Cir. 2004)(affirming grant of summary judgment on claim of hostile work environment when the plaintiff was exposed to six derogatory comments over six months); Boyer v. Johnson Matthey, Inc., No. CIV.A.02-8382, 2005 WL 35893, at *17-18 (E.D. Pa. Jan. 6, 2005)(granting summary judgment on hostile work environment claim when the plaintiff was subjected to six racial comments); Bonora v. UGI Utils., Inc., No. CIV.A.99-5539, 2000 WL 1539077, at *4 (E.D. Pa. Oct. 18, 2000)(found that less than ten incidents over two years was not sufficiently pervasive); Johnson v. Souderton Area Sch. Dist., No. CIV.A.95-7171, 1997 WL 164264, at *6 (E.D. Pa. April 1, 1997)(found that nine alleged events over three years was not pervasive or regular).

In addition to the deficiency as to the pervasive and regular element of his hostile work environment claim, Plaintiff failed to show the respondeat superior liability of Defendant. An employer-defendant is liable for a hostile work environment if the "defendant knew or should have known of the harassment and failed to take prompt remedial action." Kunin, 175 F.3d at 293-94 (citing Andrews, 895 F.2d at 1486). First, Plaintiff argues that informing Mr. Hayes, who worked for Initial Security, of Mr. Hiles' "H.N.I.C." comment put Defendant on notice. Plaintiff claims Mr. Campbell instructed him "to bring any complaints about harassment by guards to the attention of Francis Hayes." (Pl.'s Br. at 26.) Although Plaintiff provides no citation to the record for this assertion, this claim apparently stems from Mr. Campbell's instructions to

9. Plaintiff also offers Mr. Hiles' "mutterings" as evidence, but Plaintiff admitted in his deposition that he never heard any racial comments in Mr. Hiles' "mutterings." (Pl.'s Br., Ex. 7, Money Dep. 136:5-16.)

Plaintiff to tell Mr. Hayes of the words of the security guard who called Plaintiff a "mother fucker." In Plaintiff's description of this conversation with Mr. Campbell during his deposition, there is no evidence that Mr. Campbell's instructions pertained to every situation as Plaintiff asserts. (Pl.'s Br., Ex. 7, Money Dep. 32:13-34:9.) Further, accepting Plaintiff's allegation as true, there is no support for Plaintiff's conclusion that these words would relieve Plaintiff of his responsibility of notifying Defendant. It does not follow that because Mr. Campbell allegedly informed Plaintiff to notify Mr. Hayes of problems with the security guards, Plaintiff was not to inform Defendant too.

Second, Plaintiff claims that Mr. Hayes "may have told Mr. Campbell of the incident." (Pl.'s Br. at 26.) This claim is contradicted by the record. In his deposition, when Mr. Hayes was asked if he ever talked to Mr. Campbell about Mr. Hiles' "H.N.I.C." comment, Mr. Hayes said "I don't recall that. I don't think I did." (Pl.'s Br., Ex. 10, Hayes Dep. 30:12-14). Third, Plaintiff claims "the testimony of Judith Pease clearly notified Campbell and his secretary of the conditions being created by Hiles." (Pl.'s Br. at 26.) In her deposition, Ms. Pease testified that she did not recall hearing Mr. Hiles make a racial slur or sexual reference. (Pl.'s Br., Ex. 9, Pease Dep. 8:11-19.) Ms. Pease told Mr. Campbell about the comments that Mr. Hiles made to people getting off the elevator or coming out of ladies room. (Pl.'s Br., Ex. 9, Pease Dep. 9:16-19.) According to Ms. Pease, Mr. Hiles asked the people "if everything came out all right." (Pl.'s Br., Ex. 9, Pease Dep. 9:20-22.) Although Defendant may have been notified that Mr. Hiles was crass, based on the record, it was not notified as to Mr. Hiles' "H.N.I.C." comment. Viewing the facts in light most favorable to Plaintiff, Plaintiff has failed to show the respondeat superior liability of Defendant.

Plaintiff fails in at least two elements of his hostile work environment claim. Thus, summary judgment will be granted in favor of Defendant on this claim.

IV. CONCLUSION

For the foregoing reasons, the Court grants Defendant's Motion for Summary Judgment. An appropriate order follows.

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

DENNIS R. MONEY,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 04-846
	:	
v.	:	
	:	
PROVIDENT MUTUAL	:	
LIFE INSURANCE COMPANY,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 15th day of June, 2005, upon consideration of Defendant's Motion for Summary Judgment (Docket No. 19), Plaintiff's response thereto (Docket No. 20), Defendant's Reply (Docket No. 22), Defendant's Motion for Leave to File Notice of Supplemental Authority (Docket No. 23), Defendant's Notice of Supplemental Authority (Docket No. 25) and Plaintiff's Response to Defendant's Notice of Supplemental Authority (Docket No. 26), it is hereby **ORDERED** that Defendant's Motion for Summary Judgment is **GRANTED**. Judgment is entered in favor of Defendant Provident Mutual Life Insurance Company and against Plaintiff Dennis R. Money.

This case is **CLOSED**.

BY THE COURT:

_____

RONALD L. BUCKWALTER, S.J.