

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

ALBERT FORTUNATO,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
vs.	:	NO. 10-3289
	:	
NESTLE WATERS NORTH AMERICA, JAMES BLAIR, BILL TRACKIM and KEN SAFFT,	:	
	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 28th day of September, 2011, upon consideration of the Motion for Summary Judgment of Defendants Nestle Waters North America (“NWNA”), James Blair, Bill Trackim and Ken Safft (Docket No. 24)¹ filed March 28, 2011; upon consideration of Plaintiff’s Answer to Defendants’ Motion for Summary Judgment (Docket No. 28) filed April 18, 2011;² upon consideration of Plaintiff’s Motion for Partial Summary Judgment (Docket No. 23) filed March 28, 2011; upon consideration of Defendants’ Memorandum of Law in Opposition to Plaintiff’s Motion for Partial Summary Judgment (Docket No. 27) filed April 15, 2011; and for the reasons expressed in the foregoing Memorandum Opinion,

IT IS ORDERED that Defendants’ Motion for Summary Judgment is **GRANTED** in part and **DENIED** in part.

IT IS ORDERED that Defendants’ Motion is **GRANTED** as to Count II of the

¹ The Memorandum of Law of Defendants Nestle Waters North America, James Blair, Bill Trackim and Ken Safft in Support of their Motion for Summary Judgment and their Statement of Undisputed Facts were filed simultaneously with their Motion.

² Plaintiff’s Reply to Defendants’ “Statement of Undisputed Facts” Contra Defendants’ Motion for Summary Judgment and Exhibits P1-P6 were filed simultaneously with his brief in opposition.

Complaint, and Count II is **DISMISSED** in its entirety.³

IT IS FURTHER ORDERED that Defendants’ Motion is **GRANTED** as to Plaintiff’s Age Discrimination in Employment Act (“ADEA”) claims in Count I of the Complaint against individual Defendants James Blair, Bill Trackim and Ken Safft.⁴

IT IS FURTHER ORDERED that Defendants’ Motion is **DENIED** as to Plaintiff’s ADEA claims in Count I against Defendant NWNA.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Partial Summary Judgment is **GRANTED**.

BY THE COURT:

/s/ Henry S. Perkin
HENRY S. PERKIN,
United States Magistrate Judge

³ In his Response to Defendants’ Motion for Summary Judgment, Plaintiff concedes the dismissal of the claims in Count II of the Complaint.

⁴ In his Response to Defendants’ Motion for Summary Judgment, Plaintiff concedes the dismissal of the ADEA claims in Count I of his Complaint against individual Defendants James Blair, Bill Trackim and Ken Safft.