

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

WILEY JOSEPH SMITH

*

Plaintiff

*

vs.

*

CIVIL ACTION NO. MJG-15-2232

THE PNC FINANCIAL SERVICES
GROUP, et al.

*

*

Defendants

*

*

*

*

*

*

*

*

*

MEMORANDUM AND ORDER RE: SUMMARY JUDGMENT

The Court has before it Defendants' Motion for Summary Judgment [ECF No. 31], Plaintiff's Cross-Motion for Summary Judgment [ECF No. 34], and the materials submitted relating thereto. The Court finds a hearing unnecessary.

As stated in the Memorandum and Order Re: Dismissal issued herewith, the PNC Financial Services Group, Inc., and Affiliates Long-Term Disability Plan ("the Plan") is not a party to the instant motions. Indeed, as matters now stand, there may be a question whether the Plan is a party to the case.

To proceed with the case without the Plan as a party would be the equivalent of a presentation of Hamlet without the Prince of Denmark. Hence, in the Memorandum and Order Re: Dismissal, the Court has required that the parties reach agreement, or proceed to litigate, regarding the status of the Plan as a party to the case. If the Plan is agreed to be, or is determined to

be, a party to the case, it shall be made a party to the instant motions. If the Plan is not a party to the case, the pending summary judgment motions shall be resolved only with regard to Plaintiff's claims against PNC and Liberty.

Accordingly:

1. Defendants' Motion for Summary Judgment [ECF No. 31] is DENIED WITHOUT PREJUDICE.
2. Plaintiff's Cross-Motion for Summary Judgment [ECF No. 34] is DENIED WITHOUT PREJUDICE.
3. The parties (including the Plan if a party to the case) may renew the instant motions with existing briefing by filing a notice to that effect after the status of the Plan is resolved.

SO ORDERED, on Tuesday, March 21, 2017.

/s/ _____
Marvin J. Garbis
United States District Judge