

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

**PRIMERICA LIFE INSURANCE
COMPANY,**

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Plaintiff,

v.

**3:16-CV-2429
(JUDGE MARIANI)**

**CHRISTOPHER G. COLEMAN and
JOSHUA J. COLEMAN**

Defendants.

**FILED
SCRANTON**

NOV 16 2017

PER *JGR*
DEPUTY CLERK

ORDER

The background of this Order is as follows:

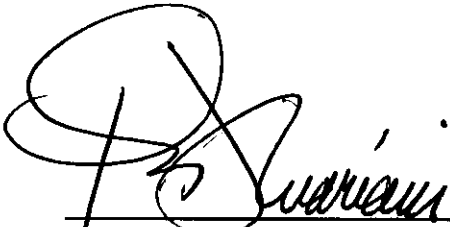
On October 20, 2017, the Court adopted Magistrate Judge Carlson's Report and Recommendation ("R&R") (Doc. 24) as to all pending motions except defendant Joshua Coleman's motion for summary judgment against defendant Christopher Coleman. The Court deferred ruling on that motion because the motion failed to include "a separate, short and concise statement of the material facts" as required by the Local Rules. Doc. 25 at 4-5. Joshua Coleman re-filed his motion for summary judgment on October 24, 2017, including an accompanying Statement of Material Facts. Doc. 26. Not only has Christopher Coleman failed to respond to the latest motion for summary judgment against him, but he has wholly failed to make an appearance or otherwise participate in the case since its inception. R&R, at 8. "[W]here a movant has the burden of proof and a non-movant does not respond to a motion at all, a district court must still find that summary judgment is 'appropriate' under

FRCP 56(c) by determining ‘that the facts specified in or connection with the motion entitle the moving party to judgment as a matter of law.’” *Hitchens v. Cty. of Montgomery*, 98 F. App'x 106, 110 (3d Cir. 2004) (internal citations omitted).

According to Local Rule 56.1, “[a]ll material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.” Thus, Joshua’s statement of material facts, averring, among other things, that he “is the named beneficiary of the [insurance policy]” and that he “did not forge, nor unduly influence the change in Beneficiary, which named him as sole beneficiary, nor did his late father, now deceased, have any diminished mental capacity at the time of the Change of Beneficiary,” is deemed admitted. Doc. 26-2, at 1. Furthermore, the R&R had already found, based on documents previously filed in the case, that “the current, and undisputed, evidence shows that the last designation of beneficiary received from Gerald Coleman, and confirmed by Primerica, designated the only active litigant in this case, Joshua Coleman, as the sole beneficiary of this policy.” R&R, at 11. As the R&R noted, in Pennsylvania, courts shall “give effect to an insured’s intention to change the beneficiary on an insurance policy where...the insured has made every reasonable effort under the circumstances to comply with those provisions.” *Id.*, at 9 (citing *Cipriani v. Sun Life Ins. Co. of Am.*, 757 F.2d 78, 81 (3d Cir. 1985)). Thus, for reasons stated in the R&R, Joshua Coleman’s motion for summary judgment on his crossclaim against Christopher Coleman shall be granted.

ACCORDINGLY, THIS _____ DAY OF NOVEMBER, 2017, upon consideration of defendant Joshua Coleman's motion for summary judgment against defendant Christopher Coleman (Doc. 26), **IT IS HEREBY ORDERED THAT:**

1. For reasons set forth above and in Magistrate Judge Carlson's Report and Recommendation (Doc. 24), Defendant Joshua Coleman's motion for summary judgment on the crossclaim against Defendant Christopher Coleman is **GRANTED.**
2. Plaintiff Primerica is directed to comply with the Court's previous Order (Doc. 25) to deposit the amount of \$88,100.00, plus accrued interest to the date of deposit, into the Court Registry to be invested in the Court Registry Investment System ("CRIS") on or before **Tuesday, November 28, 2017.**
3. Upon Plaintiff Primerica's deposit of the proceeds into the Court Registry, Defendant Joshua Coleman shall **FILE** a motion for a court order to release the funds in accordance with Local Rule 67.1.
4. The Clerk is directed to **MAIL** a copy of this Order by certified mail to Defendant Christopher Coleman at 321 W Mary Street, Old Forge, PA 18518.



Robert D. Mariani
United States District Judge