

IN THE COURT OF CLAIMS OF OHIO

PATRICIA E. HAMAD

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2020-00668JD

Judge Patrick E. Sheeran
Magistrate Gary Peterson

DECISION

{¶1} On August 29, 2022, Defendant filed a motion for summary judgment pursuant to Civ.R. 56(B). Without leave of court, Plaintiff filed an untimely response on October 19, 2022. The response was a combined memorandum contra and cross-motion for summary judgment.

{¶2} On October 31, 2022, pursuant to Civ.R. 12(F), Defendant filed a motion to strike Plaintiff's October 19, 2022 filing. Plaintiff did not file a response. Defendant notes that the combined motion and memorandum contra was filed after the dispositive motion deadline, after the response time to Defendant's motion for summary judgment, which had been extended at Plaintiff's request, after the non-oral hearing date, and exceeded the page limitation in L.C.C.R. 4(E). Defendant also notes that the documents filed therewith are not authenticated as required by Civ.R. 56(C). Civ.R. 12(F) provides as follows: "Upon motion made by a party before responding to a pleading * * * the court may order stricken from any pleading an insufficient claim or defense or any redundant, immaterial, impertinent or scandalous matter." While the Court will not strike Plaintiff's filing, the Court need not consider Plaintiff's response or her motion for the reasons identified above. Defendant's October 31, 2022 motion to strike is DENIED as moot. Defendant's motion for summary judgment is now before the court for a non-oral hearing pursuant to Civ.R. 56 and L.C.C.R. 4(D).

{¶3} Civ.R. 56(C) states, in part, as follows:

Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show 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. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor.

See also *Gilbert v. Summit Cty.*, 104 Ohio St.3d 660, 2004-Ohio-7108, 821 N.E.2d 564, ¶ 6, citing *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317, 364 N.E.2d 267 (1977).

{¶4} According to the April 26, 2021 amended complaint, Plaintiff brings this action raising claims of employment discrimination on the basis of sex and age, disability discrimination on the basis of a failure to accommodate a disability, and retaliation.¹ In support of its motion for summary judgment, Defendant presented the affidavits of Sharon Salyers, a mental health administrator 4 at the Southern Ohio Correctional Facility (SOCF) who supervised Plaintiff and the affidavit of Andrew Arnett, a human capital management senior analyst at SOCF in addition to exhibits attached to both affidavits.

{¶5} The following facts are derived from the affidavits and exhibits attached thereto. On December 2, 2013, Defendant hired Plaintiff as a social worker 2. Arnett Affidavit Exhibit A. Plaintiff worked as “a member of [the] interdisciplinary mental health treatment team responsible for assigned mental health interventions for a caseload of mentally ill criminal offender patients * * *.” Arnett Affidavit Exhibit B. Plaintiff's duties

¹ Although the amended complaint does not specifically identify the causes of action, it does not appear that there is any disagreement as to the causes of action identified in Defendant's motion for summary judgment.

included screenings, mental health risk assessments including suicide watch assessments, conducting individual and group clinical interventions, providing psychosocial group interventions, and providing mental health liaison services to an assigned caseload. *Id.* Plaintiff's "caseload as a social worker at SOCF was consistent with the other social workers at the facility, and she performed similar duties. As a social worker at SOCF, [Plaintiff] received similar escort protections and support as all other social workers." Salyers Affidavit ¶ 4.

{¶6} Plaintiff's physician appears to have diagnosed Plaintiff with major depressive disorder and generalized anxiety disorder on or about February 2, 2017. Arnett Affidavit Exhibit E. Plaintiff began a disability leave of absence on or about February 22, 2017. Arnett Affidavit Exhibit A. Plaintiff subsequently entered into a Transitional Work Agreement with Defendant on or about June 6, 2017, whereupon it was agreed Plaintiff must work no less than 20 hours per week, cannot work overtime, and cannot work holidays. Arnett Affidavit Exhibit D. Plaintiff thereafter completed the agreement on or about September 6, 2017, returning to work without restrictions. Arnett Affidavit Exhibits A and D.

{¶7} Plaintiff exhibited behavioral and performance issues while under Salyers supervision at SOCF. Salyers Affidavit ¶ 5. Salyers documented one such incident that occurred on May 23, 2018. Salyers Affidavit Exhibit A. During a scheduled social work supervision meeting with several other SOCF employees, Plaintiff, and Salyers, Plaintiff exhibited a hostile attitude, engaged in verbal hostility, and was subsequently asked to leave the meeting. *Id.* Prior to leaving the meeting, Plaintiff laughed and made loud and inappropriate noises. *Id.* Salyers wrote that because of Plaintiff's insubordination, refusal to accept guidance, and poor clinical decision making, Salyers removed Plaintiff from all clinical duties pending further review. *Id.* Salyers wrote that Plaintiff's "erratic and paranoid behaviors with staff and inmates has interfered with her ability to adequately provide appropriate level of care for her clients." *Id.*

{¶8} Salyers further documented Plaintiff's behavioral difficulties and performance shortcomings in a letter to Warden Ron Erdos dated May 30, 2018. Salyers Affidavit ¶ 6, Exhibit B; Arnett Affidavit, Exhibit H, page 113. Salyers identified erratic behavior including inappropriate noises; increased hostility toward peers and supervisors; laughing

at inappropriate times; increased paranoia by continually asking for a union representative; adding people on emails who are not appropriate; refusal to get her own mail because other staff are in the room; only working with certain individuals; insubordinate behavior including deleting mandatory meetings multiple times; refusal to cooperate with clinical supervision; providing clinical intervention despite being instructed not to provide clinical interventions; and refusal to complete her groups at scheduled times as directed by area supervisors. *Id.* Salyers goes on to note that attempts to provide Plaintiff with support were met with hostility and paranoia; that plaintiff refused to comply with clinical directives; that Plaintiff demonstrated an inability to discern or act on inmate safety; that staff requested not to be in meetings with her due to her argumentative attitude; and that Plaintiff demanded that staff agree with her clinical opinions. *Id.*

{¶9} Shortly after Salyers sent the Warden the letter outlined above documenting Plaintiff's behavioral and performance issues, Plaintiff was again on leave. Salyers Affidavit ¶ 7; Arnett Affidavit Exhibit A. Thereafter, Princess Black, a licensed psychologist, performed an independent medical examination of Plaintiff on June 30, 2018, and ultimately concluded that Plaintiff is fit for duty and capable of performing all essential functions of her current position. Arnett Affidavit Exhibit C. Plaintiff made an accommodation request and completed an authorization for release of information on August 9, 2018; the completed accommodation request packet was received in Arnett's office on or around August 17, 2018.² Arnett Affidavit ¶ 8 and Exhibit E. Plaintiff's requests for accommodation included specification of social worker supervisor, listing of all administrative staff who will make assignments to social worker, a copy of any assignment to include social worker directed to supervisor to ensure coordination of workload, written schedule of psych attendant supports, and union representation in discussions related to this accommodation. *Id.* Plaintiff thereafter began a disability leave of absence that continued into January 2019. Arnett Affidavit Exhibit A.

{¶10} Arnett, in his capacity as a worksite coordinator for employee accommodations under the Americans with Disabilities Act (ADA), met with Plaintiff

² The record does not establish when Plaintiff first made a request(s) for an accommodation; nevertheless, an authorization for release of information was signed on August 9, 2018.

regarding her request for an accommodation on or about January 17, 2019, when she returned from a disability leave of absence. Arnett Affidavit ¶ 3, 9. Arnett communicated with Plaintiff regarding her requests for accommodation and the completion and submission of paperwork. *Id.* Arnett also communicated with Plaintiff's supervisor regarding the reasonableness of the requested accommodations and alternatives and subsequently made a recommendation to Defendant's ADA committee. *Id.* Arnett oversaw the implementation of approved accommodations. *Id.* Arnett issued the report on or about January 17, 2019. *Id.*; Arnett Affidavit Exhibit F.

{¶11} On February 28, 2019, Defendant issued a memorandum regarding Plaintiff's request for an accommodation. Arnett Affidavit ¶ 10; Arnett Affidavit Exhibit G. Defendant supported the requested accommodations subject to the stipulations identified in the memorandum. *Id.* For example, while Plaintiff requested a listing of all administrative staff who will make assignments, after providing a list of personnel who may make assignments, Plaintiff was advised to seek clarification from her direct supervisor if she has questions regarding the priority of assignments because she must be able to take direction from several sources. *Id.* Salyers received a copy of the memorandum regarding Plaintiff's accommodation request and thereafter complied with the accommodation in her supervision of Plaintiff. Salyers Affidavit ¶ 7.

{¶12} Although Defendant met Plaintiff's accommodations, Plaintiff continued to exhibit unsatisfactory performance and unprofessional behaviors. *Id.* at ¶ 8. Salyers met regularly with Plaintiff to provide additional coaching and support. *Id.* On April 9, 2019, Salyers documented a meeting with Plaintiff wherein they discussed an unprofessional email sent by Plaintiff; Plaintiff canceling group programming that must continue to occur; and ways to improve effective communication, but Salyers was met with paranoia, hostility, and accusations from Plaintiff. Salyers Affidavit Exhibit D. Salyers concluded that Plaintiff was not willing to cooperate and communicate in a positive and professional manner and ended the meeting earlier than intended. *Id.*

{¶13} Salyers went on to document Plaintiff's unsatisfactory performance in a document captioned "Requested Summary Re: Pat Hamad" that Salyers prepared at the request of the Warden. Salyers Affidavit ¶ 9. Salyers documented multiple unsatisfactory instances in Plaintiff's work product and generally observed that several notes identify

issues that should have been referred for follow up, notes not written in the appropriate format, timelines not met for required services, and incomplete or inaccurate notes. *Id.* Plaintiff subsequently went on paid administrative leave beginning on February 26, 2020. Arnett Affidavit Exhibit A.

{¶14} On May 26, 2020, Defendant completed an investigation summary report regarding allegations of Plaintiff's ongoing performance issues. Arnett Affidavit Exhibit H, page 15-36. The investigation consisted of reviewing documentation, interviews with witnesses, and an interview with Plaintiff. *Id.* The investigation determined that on at least 12 different occasions, Plaintiff did not sign or lock her note on the same day as the contact; Plaintiff failed to complete her documentation in a timely manner and used the wrong templates in the electronic healthcare record; Plaintiff failed to use an appropriate confidential space for an assessment by meeting with an inmate at the door of his cell; Plaintiff failed to make appropriate referrals for inmates who are either suicidal or in need of higher care; Plaintiff demonstrated a pattern of discourteous and disrespectful behavior to her coworkers and supervisors being verbally aggressive and easily angered; Plaintiff sends disrespectful emails; and Plaintiff has been asked to leave meetings due to becoming irate. *Id.* The investigator concluded that by not completing the documentation in a timely or correct manner and failing to lock or sign notes, Plaintiff could cause a serious misunderstanding or harm to the client as clinicians who may see the client after her would have incomplete/inaccurate records. *Id.* Defendant determined that plaintiff failed to follow regulations, policies, or directives, failed to carry out work assignments or exercised poor judgment, failed to cooperate with the public, volunteers, contractors, or any individual under the supervision of the department, and failed to act or provide treatment, which could cause harm to any individual under the supervision of the department. *Id.* page 3. Plaintiff was subsequently issued a five-day fine. *Id.* page 1-2. All the coaching, supervision, or discipline that Plaintiff received during her employment was related to her work performance issues, including her behavioral disruptions and her poor clinical judgment and work product. Salyers Affidavit ¶ 10.

{¶15} Plaintiff thereafter grieved the fine alleging that she should not have been disciplined because of an ADA accommodation. Arnett Affidavit Exhibit I. The hearing officer noted that Plaintiff failed to log vital information, failed to make proper referrals for

suicidal and high-risk inmates, was discourteous and disrespectful to coworkers and supervisors, and that Plaintiff's ADA accommodation was not violated as she received direct instructions from her supervisors along with follow-up emails in accordance with her ADA accommodations. *Id.*

{¶16} Plaintiff began continuous disability leave on July 18, 2020, with an estimated return to work date in January 2021. Arnett Affidavit Exhibit J. Following a pre-separation hearing, Plaintiff was involuntarily disability separated effective December 18, 2020, and was eligible for reinstatement through July 17, 2022. *Id.*

Discrimination on the Basis of Age and Sex

{¶17} R.C. 4112.02 provides, in pertinent part, that: "It shall be an unlawful discriminatory practice: (A) For any employer, because of the * * * sex * * * disability, [or] age * * * of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any other matter directly or indirectly related to employment." In Ohio, "federal case law interpreting Title VII of the Civil Rights Act of 1964, Section 2000(e) et seq., Title 42, U.S.Code, is generally applicable to cases involving alleged violations of R.C. Chapter 4112." *Little Forest Med. Ctr. v. Ohio Civil Rights Comm.*, 61 Ohio St.3d 607, 609-610, 575 N.E.2d 1164 (1991). "To prevail in an employment discrimination case, a plaintiff must prove discriminatory intent' and may establish such intent through either direct or indirect methods of proof." *Dautartas v. Abbott Labs.*, 10th Dist. Franklin No. 11AP-706, 2012-Ohio-1709, ¶ 25, quoting *Ricker v. John Deere Ins. Co.*, 133 Ohio App.3d 759, 766, 729 N.E.2d 1202 (10th Dist.1998).

{¶18} There is no evidence in the record of direct discriminatory intent, thus Plaintiff seeks to establish discriminatory intent through the indirect method, which is subject to the burden shifting analysis established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). See *Nist v. Nexeo Solutions, LLC*, 10th Dist. Franklin No. 14AP-854, 2015-Ohio-3363, ¶ 31. "Under McDonnell Douglas, a plaintiff must first present evidence from which a reasonable [trier of fact] could conclude that there exists a prima facie case of discrimination." *Turner v. Shahed Ents.*, 10th Dist. Franklin No. 10AP-892, 2011-Ohio-4654, ¶ 11-12. "In order to establish a prima facie

case, a plaintiff must demonstrate that he or she: (1) was a member of the statutorily protected class, (2) suffered an adverse employment action, (3) was qualified for the position, and (4) was replaced by a person outside the protected class or that the employer treated a similarly situated, non-protected person more favorably.” *Nelson v. Univ. of Cincinnati*, 10th Dist. Franklin No. 16AP-224, 2017-Ohio-514, ¶ 33. “If the plaintiff meets her initial burden, the burden then shifts to the defendant to offer ‘evidence of a legitimate, nondiscriminatory reason for’ the adverse action. * * * If the defendant meets its burden, the burden then shifts back to the plaintiff to demonstrate that the defendant’s proffered reason was actually a pretext for unlawful discrimination.” *Turner, supra*, at ¶ 14.

{¶19} “To establish pretext, a plaintiff must demonstrate that the proffered reason (1) has no basis in fact, (2) did not actually motivate the employer’s challenged conduct, or (3) was insufficient to warrant the challenged conduct. *Dews v. A.B. Dick Co.*, 231 F.3d 1016, 1021 (6th Cir.2000). Regardless of which option is chosen, the plaintiff must produce sufficient evidence from which the trier of fact could reasonably reject the employer’s explanation and infer that the employer intentionally discriminated against [her]. *Johnson v. Kroger Co.*, 319 F.3d 858, 866 (6th Cir.2003). A reason cannot be proved to be a pretext for discrimination unless it is shown both that the reason was false, and that discrimination was the real reason. *St. Mary’s Honor Ctr. v. Hicks*, 509 U.S. 502, 515 (1993).” *Knepper v. Ohio State Univ.*, 10th Dist. Franklin No. 10AP-1155, 2011-Ohio-6054, ¶ 12. “The ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff.” *Texas Dept. of Comm. Affairs v. Burdine*, 450 U.S. 248, 253 (1981).

{¶20} Defendant argues that Plaintiff cannot establish a prima facie case of age or sex discrimination as there is no evidence a comparable, non-protected person was treated more favorably. Defendant put forth evidence that Plaintiff’s caseload as a social worker at SOCF was consistent with the other social workers and that she performed similar duties. Salyers Affidavit ¶ 4. Defendant also put forth evidence that Plaintiff received similar escort protections and support as all other social workers. *Id.* Defendant also put forth evidence that all coaching, supervision, or discipline that Plaintiff received

during her employment was related to her work performant issues, including her behavioral disruptions and her poor clinical judgment and work product. *Id.* at ¶ 9.

{¶21} Plaintiff's April 26, 2021 amended complaint references a male social worker who was treated more favorably. However, because Defendant put forth evidence that Plaintiff cannot establish a prima facie case of age or sex discrimination, Plaintiff was obligated pursuant to Civ.R. 56(E) to respond with evidence demonstrating a genuine issue of material fact. Civ.R. 56(E) provides as follows: "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party's pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party."

{¶22} As stated previously, Plaintiff did not timely respond, even after receiving an extension of time to respond. However, even if Plaintiff had timely responded, Plaintiff failed to put forth evidence pursuant to Civ.R. 56(C) as the exhibits Plaintiff submitted were not authenticated. Documents that have not been authenticated in any way have no evidentiary value and shall not be considered by the trial Court. *State ex rel. Shumway v. State Teachers Retirement Bd.*, 114 Ohio App.3d, 280, 287 (10th Dist.1996). Moreover, the majority of the documents that Plaintiff submitted were already submitted by Defendant and failed to establish that any similarly situated employee was treated more favorably. Even if Plaintiff had demonstrated a genuine issue of material fact on that basis, Defendant articulated a legitimate non-discriminatory reason for its actions. Defendant put forth evidence that its actions were the result of Plaintiff's performance issues, behavioral disruptions, poor clinical judgment, and poor work product. Salyers Affidavit ¶ 10. Plaintiff failed to respond with Civ.R.56(C) evidence demonstrating a genuine issue of material fact. Accordingly, Defendant is entitled to judgment in its favor on Plaintiff's claims of age and sex discrimination.

Disability Discrimination

{¶23} In Ohio, "federal case law interpreting Title VII of the Civil Rights Act of 1964, Section 2000(e) et seq., Title 42, U.S. Code, is generally applicable to cases involving

alleged violations of R.C. Chapter 4112.” *Plumbers & Steamfitters Joint Apprenticeship Comm. v. Ohio Civ. Rights Comm.*, 66 Ohio St.2d 192, 196 (1981). To establish a prima facie case of failure to accommodate an employee must show that: (1) she is disabled within the meaning of the ADA; (2) she is otherwise qualified for the position, such that she can perform the essential functions of the job with or without a reasonable accommodation; (3) the employer knew or had reason to know of her disability; (4) the employee requested an accommodation; and (5) the employer failed to provide a reasonable accommodation thereafter. *Coomer v. Opportunities for Ohioans with Disabilities*, 10th Dist. Franklin No. 21AP-158, 2022-Ohio-387 ¶ 17; *Johnson v. Cleveland City Sch. Dist.*, 443 F. Appx. 974, 982-83 (6th Cir. 2011). The reasonableness of a requested accommodation is generally a question of fact. *Keith v. County of Oakland*, 703 F.3d 918, 927 (6th Cir. 2013). Once an employee establishes a prima facie case, “the burden shifts to the employer to demonstrate that any particular accommodation would impose an undue hardship on the employer.” *Id.* at 983.

{¶24} Here, Defendant argues that Plaintiff cannot establish a prima facie case because Defendant accommodated her disability throughout her employment. For the purposes of this motion, Defendant only challenges the fifth element and concedes the first four. The undisputed evidence establishes that after Plaintiff requested an accommodation, the parties engaged in the interactive process ultimately concluding in an accommodation. Arnett Exhibit G. The accommodation was not identical to the request made by Plaintiff; nevertheless, the employer need not provide the accommodation that the employee requests or prefers. *Id.*; *Trepka v. Bd. Of Educ.*, 28 F.Appx.455, 459 (6th Cir.2002) (holding an employer need not provide the accommodation that the employee requests or prefers and retains “ultimate discretion” to choose another effective accommodation, particularly if less expensive or easier to provide, unless the employee can establish the inadequacy of the alternative). Because Plaintiff was required to take direction from several sources, Defendant provided a list of sources from whom Plaintiff must take direction and advised Plaintiff to direct any clarification regarding the priority of assignments to her direct supervisor. Arnett Exhibit G. Salyers, Plaintiff’s direct supervisor, accommodated Plaintiff’s disability. Salyers Affidavit ¶ 7. Because Plaintiff did not come forth with evidence to contradict that

put forth by Defendant, Defendant is entitled to judgment on Plaintiff's claim of disability discrimination.

Retaliation

{¶25} R.C. 4112.02(l) states that it shall be an unlawful discriminatory practice: "For any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code." Absent direct evidence of retaliatory intent, Ohio Courts analyze retaliation claims using the evidentiary framework established by the United States Supreme Court in *McDonnell Douglas Corp. v. Green* (1973), 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 * * *." *Veal v. Upreach LLC*, 10th Dist. Franklin No. 11AP-192, 2011-Ohio-5406, at ¶ 16. Indirect proof of retaliation is thus examined via a similar burden-shifting analysis to discrimination. The only difference is the elements of the prima facie case that Plaintiff must establish: "Specifically, the plaintiff must establish that (1) she engaged in a protected activity, (2) the defending party was aware that the claimant had engaged in that activity, (3) the defending party took an adverse employment action against the employee, and (4) there is a causal connection between the protected activity and adverse action." *Id.* at ¶ 16. "If the plaintiff meets this burden, then the onus shifts to the defendant to articulate a legitimate, non-discriminatory reason for the adverse * * * action." *Barlia v. MWI Veterinary Supply, Inc.*, 721 Fed.Appx. 439, 450 (6th Cir.2018). "In the event this occurs, the burden shifts back to the plaintiff to show 'that the proffered reason for the action was merely * * * pretext[.]'" *Id.*, quoting *Penny v. United Parcel Serv.*, 128 F.3d 408, 417 (6th Cir.1997).

{¶26} Defendant argues that Plaintiff's retaliation claims fails because there is no evidence of a causal link between any protected activity and adverse action and no evidence of pretext. Without addressing Defendant's argument that there is no causal connection, the evidence before the Court establishes that Plaintiff failed to create a genuine issue of material fact by putting forth evidence of pretext. As stated previously, Defendant put forth evidence establishing that all of the coaching, supervision, or

discipline that Plaintiff received during her employment was related to her work performance issues, behavioral disruptions, poor clinical judgment, and work product. Salyers Affidavit 10. Plaintiff did not come forward with any evidence to rebut that put forth by Defendant and create a genuine issue of material fact. Therefore, Defendant is entitled to judgment as to Plaintiff's claim of retaliation.

{¶27} Based upon the foregoing, the Court concludes that there is no genuine issue of material fact and that Defendant is entitled to judgment as a matter of law. Accordingly, Defendant's motion for summary judgment shall be granted and judgment shall be rendered in favor of Defendant.

PATRICK E. SHEERAN
Judge

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JUDGMENT ENTRY

{¶28} For the reasons set forth in the decision filed concurrent herewith, the Court concludes that there are no genuine issues of material fact and that Defendant is entitled to judgment as a matter of law. As a result, Defendant's motion for summary judgment is GRANTED and judgment is hereby rendered in favor of Defendant. All previously scheduled events are VACATED. Court costs are assessed against Plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK E. SHEERAN
Judge