IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BISWAJIT CHOUDHURY,

Plaintiff,

v.

DUPONT SPECIALTY PRODUCTS USA, LLC,

Defendant.

Civil Action No. 24-1113-RGA

MEMORANDUM OPINION

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Attorneys for Plaintiff.

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Attorneys for Defendant.

October 16, 2026

ANDREWS, U.S. DISTRICT JUDGE:

Before me is Defendant DuPont Specialty Products USA, LLC's motion for summary judgment. (D.I. 43). I have reviewed the briefing for this motion. (D.I. 44, 47, 54). I heard oral argument on September 28, 2026.[1] For the reasons set forth below, Defendant's motion is GRANTED.

I. BACKGROUND

In 2002, Defendant hired Plaintiff as a scientist in Kingston, Ontario, Canada. (D.I. 1 ¶ 19). Plaintiff started working there and was transferred to Defendant's Wilmington, Delaware Experimental Station Laboratory ("ESL") in 2005. (*Id.* ¶ 20; D.I. 44-1 at 107 of 285 (deposition transcript at 38:19)). Prior to his termination on October 25, 2022, Plaintiff reported to Rakesh Nambiar, one of Defendant's Technical Managers in research and development ("R&D"). (D.I. 50 at 4 of 143; D.I. 44-1 at 66 of 285, 99 of 285 (deposition transcript at 25:14–18)). Nambiar reported to Ken Macturk, another Technical Manager, and Macturk reported to Marty DeGroot, Defendant's Director of R&D. (D.I. 44-1 at 86 of 285).

In 2021, Defendant put together a team (the "Project Team") to work on a new process for manufacturing a plastic composite product in Defendant's Vespel product line. (D.I. 1 ¶ 22). Plaintiff was the chemistry expert and the research and development ("R&D") Principal Investigator on the Project Team. (*Id.* ¶ 23; D.I. 49 at 31 of 185 (deposition transcript at 52:19–53:1); D.I. 50 at 4 of 143). Other team members included Kevin Edwards, an engineer at Defendant's Valley View plant ("Valley View") in Ohio and the team's leader, and Nambiar. (D.I. 44-1 at 62 of 285, 101 of 285 (deposition transcript at 27:12–15)). Brian Carroll was the Valley

[1] Citations to the transcript of the argument (D.I. 60) are in the format "Hearing Tr. at ___."

View plant manager. (*Id.* at 64 of 285). Edwards and Carroll are Caucasian, and Plaintiff is Asian. (*Id.* at 62 of 285).

To develop the new process, the Project Team had to perform trials of different stages in the manufacturing process: Step 1, Step 2, and Step 3. (D.I. 1 ¶ 26). On June 23, 2022, Plaintiff emailed the team to inform them that the Step 1 trial for the new process would take place on June 28, 2022. (D.I. 44-1 at 8–9 of 285). Plaintiff noted in his email that "outgassing" was a potential problem that could arise. (*Id.* at 9 of 285). On June 28, 2022, the team ran the Step 1 trial at a manufacturing facility. (*Id.* at 5 of 285). Plaintiff and Edwards both attended the trial. (D.I. 1 ¶ 28). On June 29, 2022, Plaintiff emailed the Project Team to report that the Step 1 trial had been "successfully" completed, but additional testing was needed before proceeding to Step 2. (D.I. 44-1 at 5–8 at 285).

On July 28, 2022, the Step 2 trial took place at another manufacturing facility. (D.I. 1 ¶ 29; D.I. 50 at 60 of 143). Again, Plaintiff and Edwards both attended the trial. (D.I. 1 ¶ 29). In an email to the team, Plaintiff reported that the first part of the Step 2 trial had gone well and described next steps, which included further testing before proceeding to Step 3. (D.I. 44-1 at 11–14 of 285). On August 3, 2022, Plaintiff emailed the team to inform them that he had conducted tests mimicking the Step-3 trial under controlled conditions in his lab at ESL in Delaware and that the output seemed acceptable but emitted a faint burning smell. (*Id.* at 16 of 285).

A Management of Change ("MOC") is Defendant's procedure for authorizing a research project to progress from development in the lab to testing in a plant. (*Id.* at 114 of 285 (deposition transcript at 45:14–22)). To complete an MOC, the R&D members of a research project team would complete their testing and then forward a technology package to the team's plant engineer to review before the plant is able to take any steps. (*Id.* at 114 of 285 (deposition transcript at

45:22–24)). Defendant required that an MOC be completed before a research project progressed to testing in a plant. (*Id.*).

On August 10, 2022, the Project Team had a virtual meeting, also attended by Carroll. (*Id.* at 18–33 of 285; D.I. 49 at 23–24 (deposition transcript at 43:20–44:6)). During the meeting, Plaintiff updated the team on the testing he had summarized in his August 3 email. (D.I. 44-1 at 16 of 285; D.I. 49 at 23 of 185 (deposition transcript at 44:1–6)). The meeting slides included an estimated timeline showing that Step 3 testing at Valley View would be completed by August 12, 2022. (D.I. 44-1 at 24 of 285). Plaintiff never sent a technology package to any of the Valley View engineers, and an MOC was never completed for the Step 3 testing. (*Id.* at 62, 65 of 286).

On August 11, 2022, the Valley View operations team initiated the Step 3 trial (the "August 11 incident"). (D.I. 50 at 33 of 143). The test material began to emit an odor, so Edwards and Valley View's Environmental Health and Safety ("EHS") Manager called Plaintiff to inform him of the smell and ask what actions to take. (*Id.*). The trial continued and the machinery began to emit fumes. (*Id.*). A Valley View employee attempted to manually shut down the trial and a glass window on the machinery exploded, striking and injuring the employee. (*Id.*).

Defendant assembled a team to investigate the causes of the August 11 incident under its "Root Cause and Failure Analysis" ("RCFA") process. (*Id.* at 37 of 143). The RCFA team included Plaintiff, Carroll, Edwards, and Nambiar, as well as fifteen other individuals. (*Id.*). On August 15, before an RCFA team meeting, Carroll met with Plaintiff individually to discuss the August 11 incident. (D.I. 44-1 at 104, 181 of 285 (deposition transcript at 30:8–9, 169:10–17)). Plaintiff testified that, during this meeting, Carroll said that Plaintiff was from a "different country" and told Plaintiff, "[y]ou don't know how things work here." (*Id.* at 201 of 285 (deposition transcript at 236:8–11)). The RCFA Final Report, released on September 9, 2022, identified

Plaintiff's failure to communicate potential hazards as one of the root causes of the August 11 incident. (D.I. 50 at 33 of 143). The Final Report also identified the failure to develop an MOC as one of the contributing factors. (*Id.*). The front cover of the Final Report has Brian Carroll's name (*id.* at 32 of 143), although the report was "collectively authored" by Carroll and EHS leader Chris Madsen (D.I. 54-1 (deposition transcript at 31:17–21)).

After the RCFA investigation concluded, Defendant put together a Balance of Consequences ("BOC") team to decide on discipline. (D.I. 44-1 at 75 of 285). The BOC team included DeGroot, Shawn McCutchen (the manufacturing technology leader for Defendant's electronics and industrial division), Myoshi Aubain (the manufacturing leader for several industrial solutions businesses), and Gregg Drips (a safety leader). (*Id.* at 222–23 of 285 (deposition transcript at 53:18–54:5)). The BOC team concluded that Plaintiff either failed to recognize or did not effectively communicate the risk posed by the Step 3 trial and that Plaintiff had failed to take accountability for the issues that led to the August 11 incident. (*Id.* at 75–76 of 285). As a result, on October 25, 2022, Defendant terminated Plaintiff's employment. (*Id.* at 67 of 285). The BOC team also imposed various amounts of discipline, but not termination, on five other individuals for their roles in the August 11 incident. (*Id.* at 77 of 285).

On March 6, 2023, Plaintiff began a new job as a scientist at Chemours in Newark, Delaware. (D.I. 1 ¶ 68). In August of 2023, one of Plaintiff's colleagues at Chemours learned of the August 11 incident from an employee of Defendant and asked Plaintiff about the incident. (*Id.* ¶ 69). On November 1, 2023, Plaintiff's employment with Chemours was terminated. (*Id.* ¶ 71). As of October 7, 2024, Plaintiff has applied for at least thirty-two jobs since being terminated by Chemours and has not received any interviews. (*Id.* ¶ 133).

On October 7, 2024, Plaintiff filed the Complaint, alleging race and age discrimination under Title VII of the Civil Rights Act of 1964 ("Title VII") and the Delaware Discrimination in Employment Act ("DDEA"); race discrimination under 42 U.S.C. § 1981 ("§ 1981"); age discrimination under the Age Discrimination in Employment Act ("ADEA"); retaliation under Title VII, the ADEA, the DDEA, and § 1981; intentional interference with prospective contractual relations; and defamation. (*See generally* D.I. 1). On May 7, 2026, Plaintiff voluntarily dismissed his complaints of retaliation, intentional interference with prospective contractual relations, and defamation, so that only his race and age discrimination claims remain. (*See generally* D.I. 41).

II. LEGAL STANDARD

"The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56(a). The moving party has the initial burden of proving the absence of a genuinely disputed material fact relative to the claims in question. *Celotex Corp. v. Catrett*, 477 U.S. 317, 330 (1986). Material facts are those "that could affect the outcome" of the proceeding. *Lamont v. New Jersey*, 637 F.3d 177, 181 (3d Cir. 2011) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). "[A] dispute about a material fact is 'genuine' if the evidence is sufficient to permit a reasonable jury to return a verdict for the non-moving party." *Id.* The burden on the moving party may be discharged by pointing out to the district court that there is an absence of evidence supporting the non-moving party's case. *Celotex*, 477 U.S. at 323.

The burden then shifts to the non-movant to demonstrate the existence of a genuine issue for trial. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87 (1986); *Williams v. Borough of West Chester*, 891 F.2d 458, 460–61 (3d Cir. 1989). A non-moving party asserting that a fact is genuinely disputed must support such an assertion by: "(A) citing to

particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations . . . , admissions, interrogatory answers, or other materials; or (B) showing that the materials cited [by the opposing party] do not establish the absence . . . of a genuine dispute . . . ." FED. R. CIV. P. 56(c)(1). The non-moving party's evidence "must amount to more than a scintilla, but may amount to less (in the evaluation of the court) than a preponderance." *Williams*, 891 F.2d at 460–61.

When determining whether a genuine issue of material fact exists, the court must view the evidence in the light most favorable to the non-moving party and draw all reasonable inferences in that party's favor. *Scott v. Harris*, 550 U.S. 372, 380 (2007); *Wishkin v. Potter*, 476 F.3d 180, 184 (3d Cir. 2007). If the non-moving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. *See Celotex Corp.*, 477 U.S. at 322.

III. DISCUSSION

Defendant moves for summary judgment on Plaintiff's claims of employment discrimination based on race and age.[2]

Plaintiff alleges that Defendant discriminated against him based on race and age by terminating Plaintiff for his role in the August 11 incident despite evidence that Plaintiff was not at fault and that other employees were at fault. (D.I. 1 ¶¶ 80–83, 88–92, 96–99, 102–104).

[2] Defendant also moves for summary judgment on claims of employment discrimination based on national origin. (D.I. 44 at 14). While Plaintiff asserted national origin discrimination before the EEOC (D.I. 1 at 3), he did not assert national origin discrimination in his complaint, and he did not mention national origin discrimination in his answering brief (D.I. 47) responding to the summary judgment motion. Thus, I think Plaintiff has not proceeded on a national origin theory in this Court, and, in any event, if he intended to, he has waived any argument in opposition to the motion for summary judgment on that theory.

The *McDonnell Douglas* burden-shifting framework governs discrimination claims under Title VII. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802–05 (1973). The same framework applies to discrimination claims under § 1981. *Anderson v. Wachovia Mortg. Corp.*, 621 F.3d 261, 267–68 (3d Cir. 2010). The framework also governs claims under the DDEA. *Rodriguez v. Capital Vision Services, LLC*, 2023 WL 2018904, at *5 (D. Del. Feb. 15, 2023).

Under the *McDonnell Douglas* framework, the plaintiff must establish a prima facie case of the complained-of discrimination. *McDonnell Douglas Corp.*, 411 U.S. at 802. The Third Circuit has held that "to establish a prima facie claim of discrimination, a plaintiff must show that: 1) he is a member of a protected class; 2) he was qualified for the position he sought to attain or retain; 3) he suffered an adverse employment action; and 4) the action occurred under circumstances that could give rise to an inference of intentional discrimination." *Vaughan v. Boeing Co.*, 733 F. App'x 617, 622 (3d Cir. 2018) (cleaned up).

If the plaintiff establishes a prima facie case, then the burden shifts to the defendant to provide a legitimate nondiscriminatory reason for the alleged adverse employment action. *McDonnell Douglas Corp.*, 411 U.S. at 801–03. If the defendant provides such a reason, the burden shifts back to the plaintiff to demonstrate that the defendant's articulated reason is pretext. *Id.* at 804. "[T]o avoid summary judgment, the plaintiff's evidence rebutting the employer's proffered legitimate reasons must allow a factfinder reasonably to infer that *each* of the employer's proffered non-discriminatory reasons was either a *post hoc* fabrication or otherwise did not actually motivate the employment action." *Fuentes v. Perskie*, 32 F.3d 759, 764 (3d Cir. 1994) (cleaned up). "[T]he plaintiff must point to some evidence, direct or circumstantial, from which a factfinder could reasonably either (1) disbelieve the employer's articulated reasons; or (2) believe that an

invidious discriminatory reason was more likely than not a motivating or determinative cause of the employer's action." *Fuentes*, 32 F.3d at 764.

Defendant argues that Plaintiff cannot establish any circumstances giving rise to an inference of intentional discrimination because Edwards and Carroll are not valid comparators to Plaintiff, Plaintiff has no evidence that the RCFA Final Report was racially biased, Plaintiff did not establish that Defendant replaced him with younger individuals, and there is no allegation or evidence that the decision-maker, the BOC team, had any discriminatory animus. As a result, Defendant contends that Plaintiff cannot establish the fourth element of his discrimination claim: whether Plaintiff was terminated under circumstances that could give rise to an inference of intentional discrimination.

"To support an inference of intentional discrimination, Plaintiff can show that similarly situated employees outside her protected class were treated more favorably." *Vermeer v. University of Delaware*, 710 F.Supp.3d 401, 414 (D. Del. 2024). "[T]o be considered similarly situated, comparator employees must be similarly situated in all relevant respects." *Wilcher v. Postmaster Gen.*, 441 F. App'x 879, 882 (3d Cir. 2011). "[R]elevant respects" include "the employees' job responsibilities, the supervisors and decision-makers, and the nature of the misconduct engaged in." *Id.*

Under the cat's paw theory of liability,[3] the Third Circuit has held that an employer is liable for discrimination under Title VII "when an employee's 'supervisor performs an act motivated by [discriminatory] animus that is *intended* by the supervisor to cause an adverse employment action, and . . . is a proximate cause of the ultimate employment action.'" *Jones v. Southeastern Pa.*

[3] Plaintiff's brief does not reference this theory. Plaintiff first asserted it at argument on the summary judgment motion. (Hearing Tr. at 32:9–33:24).

Trans. Authority, 796 F.3d 323, 330 (3d Cir. 2015) (citing *Staub v. Proctor Hosp.*, 562 U.S. 411, 422 (2011)). The Supreme Court has held that "an employee is a 'supervisor' for purposes of vicarious liability under Title VII if he or she is empowered by the employer to take tangible employment actions against the victim," such as "hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits." *Vance v. Ball State University*, 570 U.S. 421, 424, 429 (2013).

Plaintiff does not have a case. There are no circumstances relating to Plaintiff's termination that give rise to an inference of intentional discrimination.

First, Edwards and Carroll are not valid comparators to Plaintiff, so Plaintiff's evidence of Defendant administering "disproportionate discipline" to Plaintiff versus Edwards and Carroll does not give rise to an inference of intentional discrimination. Plaintiff contends that Carroll and Edwards are comparators because they were on the same team as Plaintiff and because they all faced discipline administered by the Balance of Consequences team. (Hearing Tr. at 20:21–21:6). However, even though all three employees were on the Project Team, Edwards and Carroll worked in different divisions and had "different job titles" and "different functions" than Plaintiff. (D.I. 44-1 at 176–77 of 185 (deposition transcript at 147:18–148:2)). As a result, Edwards and Carroll were not similarly situated to Plaintiff, and the facts that Edwards and Carroll are Caucasian and faced comparatively minor discipline for their safety violations in the August 11 incident do not give rise to an inference of intentional discrimination.

Second, Plaintiff has failed to offer evidence that supports the cat's paw theory of liability. For an employer to be liable to an employee under the cat's paw theory, the "employee's 'supervisor [must have] perform[ed] an act motivated by [discriminatory] animus that [was] intended by the supervisor to cause an adverse employment action, and . . . [was] a proximate

cause of the ultimate employment action.'" *Jones*, 796 F.3d at 330. Here, the "ultimate employment action" would be Plaintiff's termination, which was determined by the Balance of Consequences team. *Id.* The "act motivated by [discriminatory] animus that [was] intended by the supervisor to cause an adverse employment action" would be Carroll's part in authoring the RCFA Final Report. *Id.* Thus, for Defendant to be liable to Plaintiff under the cat's paw theory, Carroll would have to qualify as Plaintiff's "supervisor." *Id.*

The RCFA Final Report was not racially biased and Carroll was not Plaintiff's supervisor. Either of those conclusions is sufficient to find that Defendant is not liable for discrimination under the cat's paw theory of liability. Plaintiff argues that Defendant's termination of Plaintiff's employment makes Defendant liable for discrimination under Title VII under the cat's paw theory of liability because the Balance of Consequences team relied on a biased report authored by Carroll. (Hearing Tr. at 32:9–37:3).

Plaintiff disagrees with the conclusions of the RCFA Final Report. His theory is that RCFA Final Report blames Plaintiff because Carroll was looking out for himself and his friend Edwards. (D.I. 44-1 at 180–81 of 285 (deposition transcript at 168:24–169:8). Assuming this is so, that is not a theory that gives rise to an inference of intentional discrimination on the basis of race. Self-preservation is not discrimination.

Carroll was not Plaintiff's supervisor. As a result, the cat's paw theory of liability does not apply to Plaintiff's termination even if Carroll wrote the report with discriminatory animus to blame Plaintiff. I repeat, "[A]n employee is a 'supervisor' for purposes of vicarious liability under Title VII if he or she is empowered by the employer to take tangible employment actions against the victim," such as "hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits." *Vance*, 570 U.S. at 424,

429. Here, Plaintiff worked in Defendant's R&D division at its Experimental Station Laboratory in Delaware. (D.I. 44-1 at 107, 177 of 285 (deposition transcript at 38:19, 148:1–2)). On the other hand, Carroll was a Valley View plant manager. (*Id.* at 40 of 285). At Plaintiff's deposition, he agreed that Carroll was in "a totally different role and different part of the business" than Plaintiff. (*Id.*at 176 of 285 (deposition transcript at 147:19–20)). Carroll was not "empowered" by Defendant "to take tangible employment actions against" Plaintiff and thus was not Plaintiff's supervisor. *Vance*, 570 U.S. at 424.

Third, Plaintiff failed to demonstrate that he was replaced by substantially younger individuals. Plaintiff argues otherwise and contends that "the reason for his termination was that he was an older employee and therefore expendable." (D.I. 47 at 19–20). Yet, Defendant did not hire any new employees to assume Plaintiff's former responsibilities. (D.I. 44-1 at 85 of 285). Instead, Plaintiff's former responsibilities were distributed among three preexisting employees. (*Id.*). In *Lynn v. Bank of New York Mellon*, 180 F.4th 133, 141 (3d Cir. 2026), the Third Circuit held that an employee was not replaced because his former employer did not hire anyone to replace him, his position was eliminated, and his responsibilities were taken up by existing employees. Thus, under *Lynn*, Defendant did not replace Plaintiff. *Id.* Further, two of the three employees who assumed Plaintiff's former responsibilities are over 50 years old. (D.I. 44-1 at 85 of 285). Given that Plaintiff was fifty-nine years old when he was terminated, these employees were not substantially younger than Plaintiff. (D.I. 1 ¶ 10).

Because Plaintiff has failed to demonstrate that there are circumstances giving rise to an inference of intentional discrimination, Plaintiff has failed to establish the fourth element of a prima facie case of discrimination. Viewing the evidence in the light most favorable to Plaintiff,

there is not sufficient evidence from which a jury could conclude that Plaintiff has established a prima facie case of discrimination.[4]

IV. CONCLUSION

For the foregoing reasons, Defendant's motion for summary judgment is GRANTED.

An appropriate order will issue.

[4] If I were to conclude that Plaintiff made out a prima facie case, I would nevertheless conclude that Defendant provided a legitimate non-discriminatory reason for Plaintiff's termination, and that Plaintiff's evidence failed to rebut the proffered reason as a post hoc fabrication or as not the actual motivation for the termination.

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ORDER

For the reasons stated in the accompanying Memorandum Opinion, DuPont Specialty Products USA, LLC's Motion for Summary Judgment (D.I. 43) is GRANTED.

IT IS SO ORDERED.

Entered this 16th day of October, 2026

United States District Judge