

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

LOUIE ALEXANDER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	3:09cv605-MHT
	)	(WO)
EVENING SHADE INC., d/b/a	)	
PENNY PROFFIT CLEANERS, and	)	
RICK HADDOCK,	)	
	)	
Defendants.	)	

OPINION AND ORDER

The case is now before the court on defendants Evening Shade Inc., doing business as Penny Proffit Cleaners, and Rick Haddock's' motion to strike exhibits "K" and "L", affidavits of plaintiff Louie Alexander's Penny Profit co-workers, which were submitted in opposition to the motion for summary judgment. It is ORDERED that the motion (doc. no. 40) is denied.

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Defendants assert that the exhibits fail to comply with Fed. R. Civ. P. 56(e), which requires that affidavits submitted on summary judgment "be made on personal knowledge ... and show that the affiant is competent to testify on the matters stated." They state that the employee affidavits "do not contain affirmations that the affiants were sworn and that the information contained within ... is true and accurate to the best of the affiant[s'] knowledge." Mot. (Doc. No. 40). Furthermore, they contend that both documents were improperly notarized, as the affiants failed to appear personally before the notary republic.

In response to defendants' objections, Alexander submitted, and the court granted, a motion to substitute exhibits K and L with exhibits K-2 and L-2, affidavits that contain testimony identical to that in the original exhibits, but which are prepared in accordance with Fed.

R. Civ. P. 56. Consequently, the court finds defendants' objections to exhibits K and L are now moot.

DONE, this the 10th of August, 2010.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE