

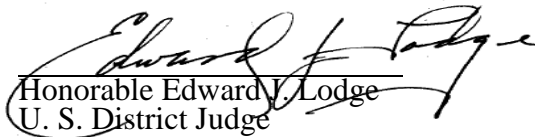
the Report and Recommendation entered on November 4, 2008, (Docket No. 21), should be, and is hereby, **INCORPORATED** by reference and **ADOPTED** in its entirety.

THEREFORE, IT IS HEREBY ORDERED as follows:

- 1) Defendant's Cross-Motion for Summary Judgment (Dkt. No. 14) is **GRANTED**.
- 2) Plaintiffs' Motion for Summary Judgment (Dkt. No. 11) is **DENIED**.



DATED: **January 5, 2009**


Honorable Edward J. Lodge
U. S. District Judge