

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**RICHARD TIPTON, ET AL**

**CIVIL ACTION**

**VERSUS**

**NO. 08-1267**

**NORTHROP GRUMMAN CORPORATION**

**SECTION "K"(5)**

**ORDER AND OPINION**

Before the Court is the "Plaintiffs' Motion for Summary Judgment and Suggestion for Rule 11 Sanctions" (Doc. 73). Having reviewed the pleadings, memoranda, and relevant law, the Court, for the reasons assigned, DENIES the motion.

In this motion plaintiffs challenge the affidavit of Kristen Barney filed by defendants Northrop Grumman Ship Systems, Inc. and Northrop Grumman Corporation in support of the "Motion to Dismiss or Alternatively for More Definite (Doc. 27). Plaintiffs contend that the affidavit contains false and misleading statements. Plaintiffs have previously challenged the truthfulness of Ms. Barney's affidavit in their opposition the motion to dismiss filed by NGSS and NGC.

A motion for summary judgment is an attempt to obtain a legal determination on a claim or part of a claim. What plaintiffs seek in this motion for summary judgment is a factual determination concerning the truthfulness of Kristen Barney's affidavit. A motion for summary judgment is not the proper procedural vehicle for challenging an affidavit. Accordingly, the motion is DENIED.

New Orleans, Louisiana, this 2nd day of September, 2009.



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STANWOOD R. DUVAL, JR.  
UNITED STATES DISTRICT JUDGE