

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION**

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ROBERT L. WYMORE

CIVIL ACTION NO. 14-3493

VERSUS

JUDGE ELIZABETH FOOTE

LONNIE NAIL, ET AL

MAGISTRATE JUDGE HAYES

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**ORDER**

Before the Court is the Report and Recommendation ("R&R") of the Magistrate Judge. Record Document 53. The R&R recommends that this Court grant Defendants' Motion For Summary Judgment (Record Document 47) and deny Plaintiff's Motion For Summary Judgment. Record Document 39.

For the reasons stated in the R&R, and after an independent review of the record, determining that the findings are correct under the applicable law, and noting the absence of objections in the record, **IT IS ORDERED** that Plaintiff's Motion For Summary Judgment [Record Document 39] be **DENIED**.

In its analysis of the Defendants' Motion For Summary Judgment, the R&R relies for summary judgment evidence on the affidavits of Layne Benson, Johnny White, and Lonnie Nail. Record Document 53, p. 6. These affidavits are all unsigned. Record Documents 47-6, p. 5; 47-8, p.4; 47-9, p. 5. Unsigned affidavits are not competent summary judgment evidence. Roy v. U.S. Dept. of Agric., 115 Fed. Appx. 198, 200 (5th Cir. 2004). Without these affidavits, defendants have not offered sufficient evidence

that there is no genuine dispute of material fact between the parties. Summary judgment is therefore not appropriate. The Court **declines to adopt** the R&R with respect to the Defendants' Motion For Summary Judgment. [Record Document 53].

Defendants' Motion For Summary Judgment [Record Document 47] is **DENIED**.

Defendants may reurge their Motion For Summary Judgment by **February 4, 2017** if it is substantially similar to the motion now denied by the Court.

**THUS DONE AND SIGNED** in Shreveport, Louisiana, this 4th day of January, 2017.

  
ELIZABETH ERNY FOOTE  
UNITED STATES DISTRICT JUDGE