UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DERRY KRAGER,

Plaintiff,

v.

PILOT/FLYING J, INC., et al.,

Defendants.

2:10-CV-1308 JCM (PAL)

ORDER

Presently before the court is defendant Pilot/Flying J, Inc.'s motion for summary judgment. (Doc. #30). Plaintiff Derry Krager filed an opposition. (Doc. #31). Defendant then filed a reply. (Doc. #35).

In a summary judgment motion, the moving party bears the burden of informing the court of the basis for its motion, together with evidence demonstrating the absence of any genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). "A trial court can only consider admissible evidence in ruling on a motion for summary judgment." *Orr v. Bank of America*, 285 F.3d 764, 773 (9th Cir. 2002). "Authentication is a condition precedent to admissibility . . . ." *Id.* (internal citations omitted). Unauthenticated documents "cannot be considered in a motion for summary judgment." *Id.*

In the case at bar, the moving party has not authenticated the evidence supporting its motion for summary judgment. (*See* Doc. #30). Without properly authenticated supporting evidence, the court is not inclined to hear the instant motion for summary judgment. *See Orr*, 285 F.3d at 773.

James C. Mahan
U.S. District Judge

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Pilot/Flying J, Inc.'s motion for summary judgment (doc. #30) be, and the same hereby is, DENIED.

DATED April 24, 2012.

James C. Mahan

UNITED STATES DISTRICT JUDGE