

**N THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 1:13-cv-00507-REB-BNB

THE PHOENIX INSURANCE COMPANY,  
THE TRAVELERS INDEMNITY COMPANY, and  
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA,

Plaintiffs.

v.

CANTEX, INC.,  
CONCRETE MANAGEMENT CORP.,  
LANDMARK AMERICAN INSURANCE COMPANY,  
OLD REPUBLIC INSURANCE COMPANY, and  
RBR CONSTRUCTION, INC.,

Defendants.

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**ORDER GRANTING CANTEX INC.'S RULE 56(d) MOTION**

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**Blackburn, J.**

The matter before the court is defendant **Cantex Inc.'s Rule 56(d) Motion To Deny Landmark's Motion for Summary Judgment, or in the Alternative, To Continue the Deadline for Cantex To Respond to Landmark's Motion for Summary Judgment** [#212],<sup>1</sup> filed January 23, 2015. Exercising the prerogative of the court to rule on the motion without awaiting the benefit of a response, **see D.C.COLO.LCivR 7.1(d)**, the court grants the motion and denies Landmark's corresponding summary judgment motion without prejudice.

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<sup>1</sup> “[#212]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

The discovery deadline in this case is August 17, 2015, and dispositive motions are not due until September 17, 2015. Two motions to dismiss are still pending before the magistrate judge for recommendation. As the parties well know, the landscape of this case has shifted significantly since the case was filed originally, and given the current procedural posture, seems likely to change yet further as the case develops. Moreover, Landmark's motion addresses only one aspect of the claims made against it,<sup>2</sup> such that resolution of its motion appears unlikely to narrow appreciably the issues that remain to be resolved in the case.

Given all these considerations, the court believes that it would be more efficient, efficacious, and fair to address the issues raised by and inherent to the summary judgment motion with the benefit of a more fully developed record and in the likely context of dealing with some or all of the other issues implicated by this case.

**THEREFORE, IT IS ORDERED** as follows:

1. That **Cantex Inc.'s Rule 56(d) Motion To Deny Landmark's Motion for Summary Judgment, or in the Alternative, To Continue the Deadline for Cantex To Respond to Landmark's Motion for Summary Judgment** [#212], filed January 23, 2015, is **GRANTED**; and

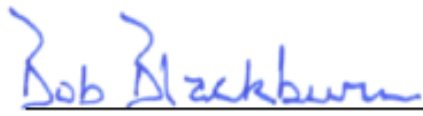
2. That **Landmark American Insurance Company's Motion for Summary Judgment** [#206], filed January 12, 2015, is **DENIED WITHOUT PREJUDICE** to refiling at a later date.

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<sup>2</sup> The motion thus should have been designated in its title as one for partial summary judgment.

Dated January 26, 2015, at Denver, Colorado.

**BY THE COURT:**

A handwritten signature in blue ink that reads "Bob Blackburn". The signature is written in a cursive style with a horizontal line underneath the name.

Robert E. Blackburn  
United States District Judge