

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SAFECO INSURANCE COMPANY OF)
AMERICA,)

Plaintiff,)

v.)

No. 4:10-CV-1160 CAS

LAKE ASPHALT PAVING &)
CONSTRUCTION, LLC, et al.,)

Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on defendants' motion for extension of time to answer plaintiff's motion for partial summary judgment on Count IV. In their motion, defendants request an extension of time "until such time as discovery in this matter has been completed" to respond to plaintiff's motion. For support, defendants cite Federal Rule of Civil Procedure 56(d), which states:

(d) When Facts Are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
- (2) allow time to obtain affidavits or declarations or to take discovery; or
- (3) issue any other appropriate order.

Fed. R. Civ. P. 56(d).

Defendants have not filed any affidavit or declaration as required by Rule 56(d). Nor have defendants stated any specific reasons they cannot present facts essential to justify their opposition. Defendants state merely that they are gathering documents from the Missouri Department of Transportation "which will have some bearing on the resolution of this matter." Because defendants have not satisfied the requirements of Rule 56(d), the motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that defendants' motion for extension of time in which to answer plaintiff's motion for partial summary judgment on Count IV is **DENIED**. [Doc. 55]

A handwritten signature in black ink, appearing to read "Charles A. Shaw", with a long horizontal flourish extending to the right.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 10th day of December, 2010.