

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

ROSALINO PEREZ-BENITES, et al.

PLAINTIFFS

v.

CASE NO. 07-CV-1048

CANDY BRAND, LLC, et al.

DEFENDANTS

**ORDER**

Before the Court are Defendants' Motion for Partial Summary Judgment (Doc. 154) and Separate Defendant Brooks Linesby's Motion for Summary Judgment (Doc. 156). Also before the Court is Plaintiffs' Rule 56(f) Motion in Response to Defendants' Motion for Summary Judgment. (Doc. 161). Defendants filed a joint motion for partial summary judgment on December 31, 2009. (Doc. 154). Separate Defendant Brooks Linesby also filed a summary judgment motion on December 31, 2009. (Doc. 156). In response, Plaintiffs moved the Court to dismiss Defendants' summary judgment motions without prejudice to re-file (Doc. 161), because the factual record in the case had not been sufficiently developed such that Plaintiffs could adequately respond to the summary judgment motions. *See* Fed. R. Civ. P. 56(f).

Upon consideration, the Court finds that Plaintiffs' Rule 56(f) Motion (Doc. 161) should be and hereby is **GRANTED**. Accordingly, Defendants' Motion for Partial Summary Judgment (Doc. 154) and Separate Defendant Brooks Linesby's Motion for Summary Judgment (Doc. 156) are **DENIED** without prejudice to re-file. The Court notes that Defendants have already either appropriately re-filed their motions for summary judgment or have filed amended motions for summary judgment.<sup>1</sup>

IT IS SO ORDERED, this 30th day of August, 2010.

/s/ Harry F. Barnes  
Hon. Harry F. Barnes  
United States District Judge

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<sup>1</sup>Randy Clanton filed a motion for summary judgment on July 16, 2010. (Doc. 194). Arkansas Tomato Shippers, LLC, Candy Brand, LLC, and Charles Searcy filed an amended motion for partial summary judgment on August 2, 2010. (Doc. 197). Brooks Linesby filed an amended summary judgment motion on August 2, 2010. (Doc. 198).