

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Kasten Berry Inc. v. Wallace “Wayne” Stewart

No. 24-2270-JAR (D. Kan. Dec. 18, 2025) · No. 24-2270-JAR · Decided December 18, 2025

SUMMARY

The United States District Court for the District of Kansas ruled on Kasten Berry Inc.’s motion for partial summary judgment concerning Wallace “Wayne” Stewart’s alleged breach of an employment agreement. The court granted summary judgment on liability and entitlement to contractual costs and attorney’s fees, but denied summary judgment on the amount of lost-profit damages because factual issues remained regarding the calculation. The court deferred determining the amount of attorney’s fees until the remaining claims were resolved.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Julie A. Robinson
JURISDICTION	United States District Court for the District of Kansas
DECIDED	December 18, 2025
DOCKET	24-2270-JAR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for partial summary judgment on liability and damages for breach of contract, and for costs and attorney's fees. The court granted the motion as to liability and entitlement to costs and attorney's fees, but denied it as to the amount of damages.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. The evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party. When the movant bears the burden of proof at trial, it must show that no reasonable trier of fact could find for the nonmovant. A party opposing summary judgment must identify specific facts showing a genuine issue for trial.
PRECEDENTIAL VALUE	unknown
PARTIES	Kasten Berry Inc. v. Wallace “Wayne” Stewart

TOPICS

breach of contract

restrictive covenants

employment contracts

summary judgment

attorney fees

PRACTICE AREAS

contract law

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QUESTIONS PRESENTED

1. Whether Kasten was entitled to summary judgment on liability for Stewart's breach of the employment agreement.
2. Whether Kasten established the amount of its claimed lost-profit damages with sufficient certainty to obtain summary judgment.
3. Whether the employment agreement entitled Kasten to recover reasonable costs and attorney's fees.

HOLDINGS

1. Kasten was entitled to partial summary judgment on liability because the undisputed evidence established that Kasten performed the agreement and Stewart breached multiple provisions of its non-solicitation clause.
2. Kasten was not entitled to summary judgment on the amount of lost-profit damages because genuine issues of material fact remained concerning the proper calculation of those damages.
3. Kasten was entitled to reasonable attorney's fees and costs under the employment agreement, but the court deferred determining the amount until the remaining claims were resolved.

KEY QUOTATIONS

"These undisputed facts clearly establish Stewart's breach of several provisions of the Agreement's non-solicitation clause." (III.A.2)

"Accordingly, fact issues persist as to the method of calculating Kasten's lost profits, but the damages are recoverable due to Stewart's breach." (III.A.3)

FACTUAL BACKGROUND

Kasten hired Stewart as a sales representative in May 2022 and entered into an employment agreement containing non-solicitation and customer-diversion restrictions, a Kansas choice-of-law provision, and a contractual fee provision. Kasten terminated Stewart on April 11, 2024, after which Stewart worked for PayCompass and represented thirteen former Kasten merchant customers, installed PayCompass equipment for them, and received compensation based on their processing volume. Kasten sought lost-profit damages based on the diverted customers and a portfolio of future residuals, but the court found material factual disputes concerning the proper calculation of those damages.

PROCEDURAL HISTORY

Kasten Berry Inc. filed suit against Stewart in Johnson County, Kansas District Court, and Stewart removed the action to the United States District Court for the District of Kansas on June 21, 2025. Kasten asserted breach of

contract, breach of fiduciary duty, and faithless-servant claims. Kasten then moved for partial summary judgment on the breach-of-contract claim; the court resolved liability and fee entitlement but left the amount and method of damages for trial.

DISPOSITION

other

CASES CITED

- Grynberg v. Total, 538 F.3d 1336, 1346 (10th Cir. 2008)
- City of Harriman v. Bell, 590 F.3d 1176, 1181 (10th Cir. 2010)
- Bones v. Honeywell Int’l, Inc., 366 F.3d 869, 875 (10th Cir. 2004)
- Wright ex rel. Trust Co. of Kan. v. Abbott Labs., Inc., 259 F.3d 1226, 1231–32 (10th Cir. 2001)
- Thomas v. Metro. Life Ins. Co., 631 F.3d 1153, 1160 (10th Cir. 2011)
- Leone v. Owsley, 810 F.3d 1149, 1153 (10th Cir. 2016)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 256 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 327 (1986)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Whitney v. New Mexico, 113 F.3d 1170, 1173–74 (10th Cir. 1997)
- Ogden v. San Juan County, 32 F.3d 452, 455 (10th Cir. 1994)
- Reed v. Bennett, 312 F.3d 1190, 1195 (10th Cir. 2002)
- Boyd Rosen & Assocs., Inc. v. Kan. Mun. Gas Agency, 123 F.3d 1351, 1352–53 (10th Cir. 1997)
- In re K.M.H., 169 P.3d 1025, 1031–32 (Kan. 2007)
- Mirville v. Allstate Indem. Co., 71 F. Supp. 2d 1103, 1107 (D. Kan. 1999)
- Pepsi-Cola Bottling Co. of Pittsburg, Inc. v. PepsiCo, Inc., 431 F.3d 1241, 1255 (10th Cir. 2005)
- Stechschulte v. Jennings, 298 P.3d 1083, 1098 (Kan. 2013)
- Com. Credit Corp. v. Harris, 510 P.2d 1322, 1325 (Kan. 1973)
- Wagon v. Slawson Expl. Co., 874 P.2d 659, 666 (Kan. 1994)
- Barnett v. Oliver, 672 P.2d 1228, 1238 (Kan. Ct. App. 1983)
- Kay-Cee Enter., Inc. v. Amoco Oil Co., 45 F. Supp. 2d 840, 843 (D. Kan. 1999)
- Hollenbeck v. Household Bank, 829 P.2d 903, 903–06 (Kan. 1992)
- Simon v. Nat’l Farmers Org., Inc., 829 P.2d 884, 887–88 (Kan. 1992)
- Adler v. Wal-Mart Stores, Inc., 144 F.3d 664, 671 (10th Cir. 1998)
- Tapia v. City of Albuquerque, 170 F. App’x 529, 533 (10th Cir. 2006)
- Annett v. Univ. of Kan., 371 F.3d 1233, 1237 (10th Cir. 2004)
- Genzer v. James River Ins., 934 F.3d 1156, 1160 (10th Cir. 2019)
- Conaway v. Smith, 853 F.2d 789, 794 (10th Cir. 1988)
- Hastings v. Campbell, 47 F. App’x 559, 560 (10th Cir. 2002)

- Kan. State Bank v. Overseas Motosport, Inc., 563 P.2d 414, 415 (Kan. 1977)
- Wolfe Elec., Inc. v. Duckworth, 266 P.3d 516, 529 (Kan. 2011)
- Harris Mkt. Rsch. v. Marshall Mktg. & Commc'ns, Inc., 948 F.2d 1518, 1526 n.3 (10th Cir. 1991)

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