

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH,
CENTRAL DIVISION

Kiva United Energy v. Flashpoint Energy Partners, LLC; Brannon
Morse

No. 2:24-cv-00250, United States District Court for the District of Utah, Central Division (March 17, 2026)

SUMMARY

The United States District Court for the District of Utah granted Kiva United Energy’s Rule 56(d) motion and denied without prejudice Brannon Morse’s motion for summary judgment in a trade-secret and contract dispute. The court found genuine factual disputes concerning the alleged trade secrets, their use and protection, Morse’s employment relationship with Kiva or Superior, and the continuing effect of a confidentiality agreement, and directed that discovery proceed before any further dispositive motion.

CASE DETAILS

COURT	United States District Court for the District of Utah, Central Division
WRITING FOR THE COURT	Tena Campbell
JURISDICTION	United States District Court for the District of Utah, Central Division
DECIDED	March 17, 2026
DOCKET	2:24-cv-00250
DISPOSITION	other
PROCEDURAL POSTURE	The court considered Defendant Brannon Morse's motion for summary judgment and Plaintiff Kiva United Energy's motion under Federal Rule of Civil Procedure 56(d) to deny or defer the summary-judgment motion and allow additional discovery.
STANDARD OF REVIEW	Summary judgment is proper when the movant shows that no genuine dispute of material fact exists and the movant is entitled to judgment as a matter of law. A Rule 56(d) request is evaluated under the Tenth Circuit's requirements that the supporting affidavit or declaration identify the probable unavailable facts, explain why they cannot presently be produced, describe the steps taken to obtain them, and explain how additional time will enable the nonmovant to obtain and use them.

PRECEDENTIAL VALUE

unpublished district court memorandum decision and order; persuasive value only

TOPICS

summary judgment

discovery dispute

trade secrets

breach of contract

civil procedure

PRACTICE AREAS

civil procedure

trade secret misappropriation

breach of contract

commercial litigation

QUESTIONS PRESENTED

1. Whether Morse was entitled to summary judgment on Kiva's Utah and federal trade-secret claims because Kiva had not established the existence or misappropriation of a trade secret.
2. Whether Morse was entitled to summary judgment on Kiva's breach-of-contract claim because the 2022 employment agreement superseded or incorporated the earlier Confidentiality Agreement or because the Confidentiality Agreement was void under Utah's Post-employment Restrictions Act.
3. Whether Kiva satisfied Federal Rule of Civil Procedure 56(d) and should receive additional discovery before the court ruled on Morse's summary-judgment motion.

HOLDINGS

1. Kiva sufficiently identified its claimed trade secrets, and disputed factual issues remained regarding whether the information qualified as trade-secret information, whether Kiva adequately protected it, and whether it was known outside Kiva. Those disputes precluded summary judgment.
2. Summary judgment was not proper because genuine disputes existed regarding whether Morse remained employed by Kiva or became an employee of Superior after the acquisition, and regarding the effect of the 2022 employment agreement on the earlier Confidentiality Agreement.
3. Kiva satisfied Rule 56(d)'s requirements and was entitled to additional discovery before adjudication of Morse's summary-judgment motion.

KEY QUOTATIONS

“The “general principle” of Rule 56(d) is “that summary judgment should be refused where the nonmoving party has not had the opportunity to discover information that is essential to his opposition.””

“The court agrees. The court will not entertain additional piecemeal litigation in this matter. Any further dispositive motions must be filed at the close of discovery so that the court may determine on the basis of a full factual record whether there are any triable issues.”

FACTUAL BACKGROUND

Kiva is a wholesale propane supplier that alleges it possesses confidential business information and trade secrets, including customer lists, pricing strategies, supply contracts, and customer-specific information. Morse worked

for Kiva beginning in 2008, signed a confidentiality and noncompete agreement, and later signed a 2022 employment agreement whose relationship to Kiva and the earlier agreement was disputed. After Morse resigned and began working with competing propane supplier Flashpoint, Kiva alleged that he solicited former Kiva customers and used or disclosed Kiva information, causing substantial lost sales and profits.

PROCEDURAL HISTORY

Kiva sued Morse and Flashpoint for breach of contract and misappropriation of trade secrets under the Utah Uniform Trade Secrets Act and the federal Defend Trade Secrets Act. Discovery had been delayed by earlier motions to dismiss, to stay discovery, and for a protective order. Morse moved for summary judgment before discovery was complete, and Kiva moved under Rule 56(d) for additional discovery. After hearing argument, the court granted Kiva's Rule 56(d) motion and denied Morse's summary-judgment motion without prejudice, referring outstanding discovery matters to the magistrate judge and directing that any further dispositive motions be filed after discovery closes.

DISPOSITION

other

REMAND INSTRUCTIONS

The court referred the outstanding discovery motions to Magistrate Judge Dustin B. Pead to establish a discovery schedule permitting timely resolution of the litigation. Any further dispositive motions must be filed after discovery closes.

CASES CITED

- Birch v. Polaris Indus., Inc., 812 F.3d 1238, 1251 (10th Cir. 2016)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Pasternak v. Lear Petroleum Expl., Inc., 790 F.2d 828, 833 (10th Cir. 1986)
- Oklahoma ex rel. Doak v. Acrisure Bus. Outsourcing Servs., LLC, 529 F. App'x 886, 892 (10th Cir. 2013)
- Price ex rel. Price v. W. Res., Inc., 232 F.3d 779, 783 (10th Cir. 2000)
- Wilcox v. Career Step, LLC, No. 2:08-cv-0998, 2012 WL 5997201, at *2 (D. Utah Nov. 30, 2012)
- National Union Fire Insurance Co. of Pittsburgh v. Dish Network, LLC, 17 F.4th 22, 34 (10th Cir. 2021)
- Valley Forge Insurance Co. v. Health Care Management Partners, Ltd., 616 F.3d 1086, 1096 (10th Cir. 2010)
- Committee for the First Amendment v. Campbell, 962 F.2d 1517, 1522 (10th Cir. 1992)
- Cerveny v. Aventis, 855 F.3d 1091, 1110 (10th Cir. 2017)
- Aragon v. Collings, No. 2:18-cv-00620, 2022 WL 1693785, at *2 n.3 (D. Utah Apr. 25, 2022)
- Hanks v. Anderson, No. 2:19-cv-999-DBB-JCB, 2024 WL 4092949, at *11 (D. Utah Sept. 5, 2024)
- Bimbo Bakeries USA, Inc. v. Sycamore, 29 F.4th 630, 641 (10th Cir. 2022)
- Hammerton, Inc. v. Heisterman, No. 2:06-cv-00806-TS, 2008 WL 2004327, at *8 (D. Utah May 9, 2008)
- Microbiological Research Corp. v. Muna, 625 P.2d 690, 700 (Utah 1981)

- Black, Sivalls & Bryson, Inc. v. Keystone Steel Fabrication, Inc., 584 F.2d 946, 952 (10th Cir. 1978)
- Trugreen Companies, L.L.C. v. Scotts Lawn Serv., 508 F. Supp. 2d 937, 950 (D. Utah 2007)
- Jensen v. W. Jordan City, 968 F.3d 1187, 1206–07 (10th Cir. 2020)
- Housing Authority of County of Salt Lake v. Snyder, 44 P.3d 724, 729 (Utah 2002)
- United States v. Mountain West Anesthesia, L.L.C., No. 2:20-cv-00372-TC-CMR, 2023 WL 8456745, at *2 (D. Utah Dec. 6, 2023)

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