UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

# Cheri Shippy v. Banner Life Insurance Company

Shippy · No. CV-25-00177-PHX-JJT · Decided December 16, 2025

## SUMMARY


The United States District Court for the District of Arizona granted Plaintiff Cheri Shippy relief under Federal Rule of Civil Procedure 56(d), finding that additional discovery could create a genuine dispute of material fact concerning the denial of accidental death insurance benefits. The court denied Banner Life Insurance Company’s motion for summary judgment without prejudice and granted leave to file a second motion when appropriate.


## CASE DETAILS

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|---|---|
| COURT | United States District Court for the District of Arizona |
| JURISDICTION | United States District Court for the District of Arizona |
| DECIDED | December 16, 2025 |
| DOCKET | CV-25-00177-PHX-JJT |
| DISPOSITION | other |
| PROCEDURAL POSTURE | Defendant moved for summary judgment on Plaintiff's insurance-related claims. Plaintiff sought relief under Federal Rule of Civil Procedure 56(d), and the court granted that relief, denied the motion for summary judgment without prejudice, and authorized a possible later summary-judgment motion. |
| STANDARD OF REVIEW | Rule 56(d) relief is evaluated based on whether the nonmovant, through affidavit or declaration, identifies specified reasons why it cannot yet present facts essential to oppose summary judgment and whether the requested discovery could produce evidence that would prevent summary judgment. |
| PRECEDENTIAL VALUE | unpublished, nonprecedential district-court order |
| PARTIES | Banner Life Insurance Company v. Cheri Shippy |

## TOPICS

summary judgment · discovery dispute · insurance coverage · insurance bad faith · civil procedure

## PRACTICE AREAS

civil procedure | insurance | insurance coverage | insurance bad faith | contracts

## QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to relief under Federal Rule of Civil Procedure 56(d) because additional discovery could reveal facts essential to opposing Defendant's motion for summary judgment.
2. Whether Defendant's motion for summary judgment should be denied without prejudice while discovery remained open.

## HOLDINGS

1. Rule 56(d) relief was appropriate because Plaintiff sufficiently identified specific additional discovery that could create a genuine issue of material fact relevant to coverage and the insurer's good-faith handling of the claim.
2. Defendant's motion for summary judgment was denied without prejudice, and Defendant was granted leave to file a second motion for summary judgment if or when appropriate.

## KEY QUOTATIONS

> *"This showing cannot, of course, predict with accuracy precisely what further discovery will reveal; the whole point of discovery is to learn what a party does not know or, without further information, cannot prove."* (at 2)

> *"There is still time to conduct discovery in this matter, and Plaintiff sufficiently avers that such discovery may create a genuine issue of material fact that would defeat Defendant's Motion."* (at 3)

> *"Therefore, Rule 56(d) relief is appropriate, and the Court will grant Plaintiff that relief."* (at 3-4)

## FACTUAL BACKGROUND

Cheri Shippy sought accidental-death insurance benefits after her husband died in a three-car collision. Banner denied the claim in part on the ground that Mr. Shippy was street racing, which allegedly triggered a racing exclusion in the policy. Discovery remained open when Banner moved for summary judgment, and Shippy sought depositions and written discovery concerning whether a race occurred, the police report, Banner's interpretation and application of the exclusion, and the investigation underlying the denial.

## PROCEDURAL HISTORY

Plaintiff sued Banner Life Insurance Company in state court on claims for declaratory judgment, estoppel from denying policy coverage, and insurance bad faith; the action was removed to the United States District Court for the District of Arizona. Banner moved for summary judgment before discovery had closed. The court concluded that Plaintiff had adequately shown that additional discovery could produce evidence creating a genuine dispute of material fact and therefore denied the motion without prejudice under Rule 56(d).

## DISPOSITION

other

## CASES CITED

- Atay v. County of Maui, 842 F.3d 688, 698 (9th Cir. 2016)
- Stevens v. CoreLogic, Inc., 899 F.3d 666, 678 (9th Cir. 2018)
- Burlington Northern Santa Fe Railroad Co. v. Assiniboine & Sioux Tribes of the Fort Peck Reservation, 323 F.3d 767, 774 (9th Cir. 2003)

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