

Inc., 232 F.3d 779, 783 (10th Cir. 2000)). Here, defendant has not had an opportunity to conduct discovery on multiple issues raised in plaintiff's summary judgment motion.

Plaintiff has not been, and will not be, prejudiced by the court denying his motion as premature because he may re-file his motion after the parties have conducted discovery and are in a position to fully brief the facts and legal issues relevant to plaintiff's claims.

IT IS THEREFORE ORDERED that plaintiff's Motion to Modify Memorandum and Order Denying Plaintiff[s] Motion for Summary Judgment as Premature Pursuant to Fed. R. Civ. P. 59(e) (Doc. 64) is denied.

Dated this 10th day of December 2009, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge