IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Quaker Chemical Corp.,	:	
	:	Case No. 1:08CV449
Plaintiff,	:	
	:	Chief Judge Susan J. Dlott
v.	:	
	:	ORDER DENYING PLAINTIFF'S
Castrol Industrial North America, Inc., et al.,	:	MOTION FOR A PRELIMINARY
	:	INJUNCTION
Defendants.	:	

This matter comes before the Court on Plaintiff's Motion for a Preliminary Injunction. (Doc. 4.) The Court held a three-day hearing on Plaintiff's motion and accepted post-hearing briefs from the parties. (Docs. 53, 54, 58.) For the reasons set forth below, the Court **DENIES** Plaintiff's motion.

I. BACKGROUND

The plaintiff, Quaker Chemical Corp. (hereinafter "Quaker") provides chemical products, chemical management services, and technical expertise to a wide range of industries, including steel, automotive, mining, aerospace, tube and pipe, and coating and construction materials. Typically, when providing chemical management services to a client, Quaker (a) assumes overall responsibility for the acquisition, maintenance, and control of process chemicals; (b) ensures environmental compliance and participates in waste reduction programs; and (c) provides on-site assistance to optimize the customer's product-processes, capture and track performance data, and analyze the customer's performance results. (See Prelim. Inj. Hr'g Tr. 6:5-7:11.[1]) Defendant

[1] The transcript of the preliminary injunction hearing appears in several parts at CM/ECF document numbers 36, 47, 48, and 52. One portion of the transcript, the cross examination of Jason Randall, was transcribed in excerpted form and paginated separately. The excerpt of

Castrol Industrial North America, Inc. ("Castrol") provides similar chemical management services and is in competition with Quaker. Defendant Jason Randall, a former Quaker employee, left Quaker to work for Castrol in 2008 when Castrol took over Quaker's chemical management duties at the Ford Motor Company ("Ford") transmission plant in Sharonville, Ohio.

Randall holds an undergraduate degree in chemical engineering from the University of Toledo. (Tr. 281:15-25, 282:16-25.) He is married and has five children ranging in age between one and eight years old. In 2000, while Randall was attending college, he began working for Quaker on a temporary basis in a chemical management services co-op position at the General Motors ("GM") Metal Center in Flint, Michigan. (Tr. 283:13-21; Pl. Ex. 1.) Effective March 4, 2002, following Randall's graduation from college, Randall began working for Quaker on a full-time basis at the GM plant in Flint.[2] (Tr. 121:21-122:8, 284:2-9; Pl. Ex. 2.) At that time, Randall held the position of Technical Service Specialist I, an entry-level engineering position now referred to as Site Engineer – Level I. (Tr. 122:3-12, 284:5-6; Pl. Ex. 2.) According to Randall, his job responsibilities in that position were similar to his current responsibilities: He was primarily responsible for testing fluids and troubleshooting equipment problems. He also had a minor purchasing role. (Tr. 284:5-14.) Prior to accepting full-time employment with Quaker, Randall signed a memorandum of employment ("2002 Employment Agreement") that

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Randall's cross examination testimony appears at CM/ECF document number 36. Hereinafter, in citations, the Court refers to the main transcript at "Tr." and to the excerpt of Randall's testimony as "Randall Tr."

[2] Upon Randall's acceptance of the full-time position, Quaker gave Randall $10,000 to relocate his family from Toledo, Ohio to Flint, Michigan. (Tr. 122:17-123:7.)

included a covenant not to compete. (Tr. 124:9-125:19; Pl. Ex. 3.)

In May 2003, Quaker promoted Randall to Technical Service Specialist II, a title that was later changed to Site Engineer II. (Tr. 126:2-5, 285:3-20; Pl. Ex. 4.) At that time, Randall signed another memorandum of employment ("2003 Employment Agreement"). (Tr. 126:18-127:7; Pl. Ex. 5.) The 2003 Employment Agreement contained a covenant not to compete identical to the covenant included in the 2002 Employment Agreement. (Id.) That covenant states in relevant part as follows:

> In consideration of your employment with Quaker and the training you are to receive from Quaker, you agree that during your employment with Quaker and for a period of one (1) year thereafter, regardless of the reason for your termination, you will not:
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> a. directly or indirectly, together or separately or with any third party, whether as an employee, individual proprietor, partner, stockholder, officer, director or investor, or in a joint venture or any other capacity whatsoever, actively engage in business or assist anyone or any firm in business as a manufacturer, seller, or distributor of chemical specialty products which are the same, like, similar to, or which compete with Quaker (or any of its affiliates') products or services; and
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> b. at the Chemical Management Services sites to which you are, have or will specifically ever be assigned in the future, directly or indirectly, together or separately or with any third party, whether as an employee, individual proprietor, partner, stockholder, officer, director, or investor, or in a joint venture or any other capacity whatsoever, actively engage in business or assist anyone or any firm in business as a provider of chemical management services which are the same, like, similar to, or which compete with Quaker (or any of its affiliates') services; and
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> * * *
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> The parties consider these restrictions reasonable, including the period of time during which the restrictions are effective. However, if any restriction or the period of time specified should be found to be unreasonable in any court proceeding, then such restriction shall be modified or the period of time shall be shortened as is found to be reasonable so that the foregoing covenant not to compete may be enforced. You agree that in the event of a breach or threatened

> breach by you of the provisions of the restrictive covenants contained in Paragraph 4 or in this Paragraph 5, Quaker will suffer irreparable harm, and monetary damages may not be an adequate remedy. Therefore, if any breach occurs, or is threatened, in addition to all other remedies available to Quaker, at law or in equity, Quaker shall be entitled as a matter of right to specific performance of the covenants contained herein by way of temporary or permanent injunctive relief. In the event of any breach of the restrictive covenant contained in this Paragraph 5, the term of the restrictive covenant shall be extended by a period of time equal to that period beginning on the date such violation commenced and ending when the activities constituting such violation cease.

(Pl. Ex. 5 at 2-3, ¶ 5.)[3]

In or around September 2005, Quaker secured a contract to provide chemical management services at two Ford automotive transmission plants – one in Batavia, Ohio (the "Batavia Plant") and the other in Sharonville, Ohio (the "Sharonville Plant"). Both plants manufactured transmissions and other equipment used in Ford vehicles. (Tr. 8:9-10.) Upon securing that contract, in September 2005, Quaker offered Randall a special assignment to work on the launch team for the Batavia and Sharonville Plants. (Tr. at 128:19-22, 285:25-286:2; Randall Tr. 8:4-21; Pl. Ex. 8.) Randall accepted the position, though it was only temporary, because he viewed it as an opportunity to expand his career and to potentially move his family closer to his wife's parents, who live in Fairfield, Ohio. (Randall Tr. 8:4-24; Tr. 285:25-286:11.) As a member of the launch team, Randall assisted with the implementation of total chemical management at the Batavia site. (Tr. 287:3-9.) Quaker follows a protocol when launching chemical management services at new sites. (See Pl. Ex. 58.) When Randall joined the launch team in Batavia, Quaker gave him a copy of that protocol. (Tr. 288:4-6.) According to Randall, the protocol was never designated as "confidential" or a trade secret document. (Tr. 288:7-14.)

[3] Quaker requires all of its employees, including secretaries, unskilled laborers, and janitorial staff, to sign noncompete agreements. (Tr. 154:23-155:19.)

Randall did not read through the entire protocol and did not consult the document during the launch. (Tr. 288:15-22.) According to Randall, he was given such a specific role to play in the launch that he had no need to consult the protocol. (Tr. 288:23-289:1.)

Near the end of September, 2005, Randall applied for and was offered the position of Site Engineer II on the permanent chemical management team at the Batavia Plant. (Tr. 289:2-10; Pl. Ex. 9; Def. Ex. 2002.) Randall had heard rumors that the plant might close and discussed those rumors with Carol O'Connor, who worked in Quaker's human resources department, and Chris Mobley, the Operations Manager at the Batavia Plant, during his interview for the position. (Tr. 289:12-290:4.) According to Randall, Mobley and O'Connor acknowledged those rumors, but indicated that they nonetheless were confident that Quaker's contract for that plant would be extended. (Tr. 290:5-10; Randall Tr. 10:17-11:11.) Randall admits, however, that O'Connor never guaranteed that the plant would not close. (Tr. 339:1-5.) Nonetheless, Randall accepted the offer of employment at the Ford Batavia Plant,[4] and relocated his family to the Cincinnati, Ohio area. (Tr. 133:2-5.)

At the Batavia Plant, Randall was initially responsible for procuring chemicals, issuing purchase orders, monitoring inventory, tracking chemical usage, and disbursing the chemicals to the necessary departments. (Tr. 290:11-17.) Randall received training in the use of J.D. Edwards computer software and used that program to issue and keep track of purchase orders. (Tr. 291:5-20.) After some time, Randall's responsibilities evolved. A new Quaker employee took over Randall's purchasing responsibilities and Randall began to perform more lab work

[4] The offer letter that Randall signed states that "[t]he terms and conditions of your employment as they existed on the date prior to effective date remain in effect, except as specifically set forth above." (Pl. Ex. 9 at 1; Def. Ex. 2002 at 1.)

involving testing the chemical operations and trouble shooting when problems arose with Ford's equipment. (Tr. 292:5-293:10.)

In January 2006, Ford announced that it was closing the Batavia Plant. (Tr. 293:14-17.) However, the plant appears to have stayed operational for at least two more years. Quaker ceased providing chemical management services to the Batavia Plant as of May 30, 2007. (Tr. 293:18-20.) A different company, Coolants Control, Inc. ("CCI"), took over the chemical management services for the Batavia Plant. (Tr. 294:16-295:3.) With Quaker's permission, Randall stayed at the plant for another two weeks to assist Ford with the transition. (Tr. 293:21-294:6.) During that time, Randall trained the CCI employees in lab work and reporting, helped familiarize them with the plant equipment and the problems Ford was experiencing with the equipment, and helped them understand the lab testing that he had been working on in relation to the equipment problems. (Tr. 294:7-15.) According to Randall, no one from Quaker ever informed him that he could not share his knowledge about lab techniques or the nature of Ford's equipment with the new chemical management team. (Tr. 295:4-7.)

When Randall left the Batavia Plant in June 2007, Quaker did not have another permanent position for him in the Cincinnati area, but allowed him to transfer to a temporary position at the Ford Sharonville Plant.[5] (Tr. 134:3-8, 295:21-296:10, Pl. Ex. 11.) In July 2007, Randall applied for the job of Site Manager III at a GM plant in Grand Blanc, Michigan. (Tr. 296:15-18.) The Site Manager III position would have involved greater responsibility because Randall would have had to run the entire site with no assistance. (Tr. 137:16-138:3, 296:19-23.)

[5] Like previous offer letters, the letter Randall signed in recognition of his acceptance of the position stated the following: "The terms and conditions of your employment as they existed on June 15, 2007 remain in effect, except as specifically set forth above.

After Randall attended an interview for the position, Quaker informed him that he was not qualified for the position of Site Engineer III but offered him a position at the same plant as a Site Engineer II. (Tr. 136:6-15, 296:24-297:15.) Randall felt Quaker was essentially asking him to perform the same role as a Site Engineer III without awarding him the promotion in title or the pay increase. (Tr. 161:2-5, 297:19-22.) With the incentive of a promotion no longer on the table, Randall was unwilling to relocate his family once again.[6] (Tr. 297:1-23.) Randall therefore declined the offer, opting to remain in his temporary position at the Sharonville Plant. (Tr. 300:1-14.)

The Ford Sharonville Plant spans approximately 200 acres and is comprised of the main production plant and several outbuildings, including a power house that created steam for the plant through boiler operations and a wastewater treatment facility. (Tr. 7:18 -8:1.) There are three main categories of equipment at the plant: (1) the process washers, which clean the parts manufactured at the plant;[7] (2) the central systems, which are large cooling reservoirs or recycling stations that filter and clean the fluids used in the machines so that those fluids can be reused;[8] (3) and individual machines that perform any number of tasks, such as drilling a hole, to

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[6] Randall's decision not to accept the position was also due in part to his understanding that there was no specific start date for the position and therefore he was unsure when he would have to move his family to Michigan. This gave him pause because he had to know when to sell his house and where to enroll his children in school, but could not make those decisions without knowing when he would be expected to start in Michigan. (Tr. 298:5-299:16.)

[7] There are around 120 process washers at the plant. The smallest type of washer, a fifty-gallon washer, is not much bigger than the typical dishwasher that would be found in a house. The largest washer was a few thousand gallons. Tr. 9:3-10.)

[8] There are around forty-three central coolant systems, ranging in size from 1000 to 60,000 gallons. (Tr. 9:11-14.) The central systems work throughout the production day, cleaning fluids on a continual basis. (Tr. 9:24-10-1.)

make the different parts needed for the transmissions. (Tr. 8:14-25, 9:16-24, 10:2-6.) As Site Engineer II, Randall was involved with the monitoring of that equipment. (Tr. 10:9-24.) The first shift at the Sharonville Plant usually started at 5:00 a.m. (Tr. 33:15-19.) On a typical day, Randall arrived at the plant at approximately 6:00 a.m. and left between 2:00 to 3:00 p.m. unless required to stay later. (Tr. 33:4-11.) Upon arrival, Randall checked his email for any urgent problems and then headed out to the plant floor to take meter readings from each piece of equipment. (Tr. 33:20-34:15.) In doing so, Randall became familiar with Ford's equipment and interacted with and built a relationship with Ford employees, who in turn informed him of various problems with the equipment. (Tr. 34:16-35:6.)

The other Quaker personnel who worked on-site at the Sharonville Plant included Charlie King, who held the position of Site Engineer I, Sheila Vander Maas, who served as the Inventory Control Planner, and Chris Colgate, the Site Manager. (Tr. 5:5-14, 10:25-11:11.) Vander Maas was in charge of purchasing. In that role, she discussed the products she needed to purchase with Ford, kept records of the how the products were ordered and how much lead time was required, monitored inventory levels, and notified the other Quaker team members of the excessive use of any product. (Tr. 11:22-12:12.) Randall had no purchasing responsibilities. (Tr. 301:9-18.) Instead, Randall focused on monitoring fluid usage, testing fluids, and looking for fluid loss issues. (Tr. 301:5-8.) King performed functions similar to those performed by Randall. (Tr. 11:14-21.)

Randall worked on a number of projects aimed at optimizing the performance of the plant's machinery. (Tr. 24:16 -30:17.) One of the projects centered around inconsistencies in the reliability of two identical process washers. One washer was consistently reliable, meaning

all of the parts fed into the machine were washed properly and emerged oil and rust- free, whereas a second identical washer had a tendency to rust the parts. Randall discovered that there was a design flaw in the second washer, and he attempted to find a solution.[9] (Tr. 26:3-18.) King worked on similar projects as Site Engineer I and Randall had knowledge of those projects, some of which King was working on when Quaker learned that Castrol would be taking over chemical management services at the Sharonville Plant. (Tr. 32:1-33:1.)

Through all of these projects, Randall worked closely with several Ford employees. His primary contact at the Ford Sharonville Plant was Ron Campbell, a Ford Area Manager. (Tr. 21:18-25.) Randall worked with Campbell on a regular basis to address concerns regarding manufacturing issues. (Tr. 2215-21.) Randall also regularly had contact with Anne Leunge, a financial analyst from the controller's office at Ford. (Tr. 22:22-23:4.) Leunge's responsibilities included notifying each area of the plant of their rate of fluid usage so that each department remained aware of their performance as compared with the budget. (Tr. 23:7-11.) As part of his job, Randall developed a spreadsheet that organized data collected by CCI technicians, who worked in a subcontractor role at the Sharonville Plant.[10] The spreadsheet was used to track

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[9] Colgate also testified about projects known as "business case" projects, a term used within Quaker to refer to a certain type of project wherein a Quaker engineer would document and analyze a problem identified by the client and then propose a solution. (Tr. 31:2-23.) Randall acknowledged working on the projects described by Colgate, but did not characterize them as business cases. (Tr. 304-309.) Instead, he maintained that he was never involved in putting together any business cases and never presented any business cases to Ford while he was at the Sharonville Plant. (Tr. 302:24-303:10.) Colgate also admitted that Randall never drafted or presented a business case to Ford while at the Sharonville Plant. (Tr. 77:12-17.)

[10] At the Sharonville Plant, the Quaker team was aided by personnel from a number of subcontractors, including CCI and Metal Working Lubricants ("MWL"). (Tr. 19:21-20:5, 63:13-22, 90:14-91:10.) CCI provided various services such as laboratory testing and maintenance while MLW was more of a supplier. (Id.) The subcontractors were already providing similar

chemical usage by volume and dollar amount attributable to each process washer in the plant. (Tr. 23:12-24-5.) Randall regularly emailed Leunge an updated version of the spreadsheet. (Id.)

Randall also attended a number of different meetings, including: (1) daily performance meetings; (2) weekly "straight oil" and "case line" meetings, during which Randall addressed performance and budgetary issues as well as any problems with the manufacturing machinery; and (3) bimonthly total fluid management ("TFM") meetings, during which Quaker reported on its monthly performance. (Tr. 13:8-17, 16:10-20:9.) Aside from members of the Quaker team, various other individuals, including Ford managers and employees, union representatives, contractors, and representatives of chemical management services subcontractors were typically present at those meetings. (Tr. 14:2-13, 15:12-16:7, 19:14-25, 81-91, 103:24-104:12.) On occasion, during bimonthly meetings, Randall prepared and presented reports regarding hydraulic leaks, excessive usage of materials, or other usage abnormalities. (Tr. 20:10-24.)

According to Colgate, Randall had knowledge of Quaker's profits and losses. (Tr. 45:5-7.) Colgate also testified that Randall was trained in the use of Quaker's Warehouse Information System ("QWIS"), an electronic system used to manage various aspects of Quaker's chemical management services, such as vendor and supplier pricing and minimum and maximum inventory levels. (Tr. 45:8-25.) Randall testified that he never actually used the QWIS program while at the Sharonville Plant. (Tr. 301:19-24.)

Randall was never offered a permanent position at the Ford Sharonville Plant. By the fall

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services at the Ford Sharonville Plant prior to Quaker taking over chemical management services at that site. (Tr. 91:22-92:5.) Castrol ultimately hired one of the CCI technicians to work on its team at the Sharonville Plant. (Tr. 92:16-93:13.)

of 2007, Quaker was aware that Castrol was vying for an opportunity to take over chemical management services at the Sharonville Plant. (Tr. 47:3-6.) In November 2007, representatives of Castrol visited the plant and gave a presentation to Ford representatives regarding the cost-saving measures Castrol could employ as a chemical management services provider.[11] (Tr. 476:19-47-2.) The presentation was apparently successful because in early 2008, Ford awarded Castrol a three-year contract to provide chemical management services at the Sharonville Plant.[12] (Tr. 17-20; 138:19-21.)

On February 14, 2008, the members of the Quaker team at the Sharonville Plant participated in a telephone conference with Carol O'Connor and Russ Waters, a Quaker Operations Manager. (Tr. 138:22-139:11.) During that conference, O'Connor and Waters advised Randall and the others that Castrol would be taking over chemical management services and discussed some of the logistics of the impending transition. (Tr. 48:3-25.) The team was instructed, for example, not to release any information to Castrol. (Id.) Colgate was chosen to be the point person for the transition and to the extent that Quaker had to share any information with Castrol, the team was instructed that the information should go through Colgate. (Id.) O'Connor and Waters also told the team that Quaker intended to enforce their noncompete agreements and advised them not to discuss any employment possibilities with Castrol. (Tr. 50:6-13, 140:2-7.) Instead, Randall and the others were instructed to seek out and apply for other positions within Quaker. (Tr. 49:5-15, 139:14-140:7.) According to Colgate and O'Connor, the members of the Sharonville team were to be given preference when applying for

[11] Randall was not present at the Castrol presentation. (Tr. 80:22-81:1.)

[12] Ford awarded Castrol the contract without initiating a competitive bid process, meaning Ford never gave Quaker an opportunity to bid on the contract. (Tr. 62:24-63:12.)

internal Quaker positions to the extent that there was no other applicant more qualified for the position. (Tr. 49:16-25, 140:10-141:1.)

Castrol planned to take over chemical management operations at the Sharonville Plant in or around May 2008, and Quaker employees were required to cease operations no later than May 30, 2008. (Tr. 192:3-12.) Ford expected Quaker to assist with the transition and to cooperate in sharing information with Castrol just as Quaker assisted CCI when CCI took over chemical management services at the Ford Batavia Plant. (Tr. 81:6-9.) As a result, Quaker turned over a lot of information to Castrol. (Tr. 81:2-11.) According to Colgate, Quaker provided Castrol with everything Castrol requested except certain pricing information, which was sometimes redacted from certain documents. (Tr. 81:23-82:6.) Among the documents and other information turned over to Castrol was an electronic version of the spreadsheet Randall developed to organize data collected by CCI technicians and track chemical usage. (Tr. 82:10-22.)

As indicated above, Randall had already been looking for other positions at Quaker by the time Quaker lost the contract at the Ford Sharonville Plant. There were job openings within Quaker around that time, though they would have required Randall to move again. (Tr. 141:10-11.) O'Connor claims she notified Randall of five job opportunities in March and April 2008, including two openings in Michigan and one in Wisconsin.[13] (Tr. 143:23-144:12.) Though he was willing to relocate his family again if presented with the right opportunity, Randall's

[13] Randall visited a GM facility in Flint, Michigan where Quaker had a temporary position open, but ultimately decided not to pursue the opportunity because he was informed that one of the plants at the facility would be closing in the future. (Tr. 360:2-362:3.) Accordingly, Randall was concerned that if he accepted the temporary position, he would quickly find himself having to move again for a different position. Randall did not pursue the other out-of-state opportunities.

preference, which he expressed to O'Connor and Colgate, was to stay in Cincinnati. (Tr. 80:2-7, 168:7-9; Randall Tr. 21:22-25.) O'Connor told Randall that she would look for a position for him near Cincinnati, Ohio and encouraged him to be patient. (Tr. 170:2-19.) However, doubting that such a position would be available, Randall also searched for jobs outside of Quaker. (Randall Tr. 14-17.) In fact, since losing his permanent position at the Batavia Plant, Randall had felt uncertain about his future with Quaker and was concerned about being able to provide for his family. (Randall Tr. 17:19-23.) Accordingly, Randall had been looking for positions in different industries as early as the summer of 2007. (Randall Tr. 14:22-15:9.) He applied to a number of different companies, pursuing jobs in mechanical engineering and finance, but had no luck securing a position. (Randall Tr. 15:10- 19:20.)

On March 11, 2008, Randall had a meeting with Colgate and the operations manager, Russ Waters, to discuss his 2007 performance review. (Tr. 313:3-10.) Randall was unhappy about Colgate's appraisal of his performance and did not understand why, if his performance was so poor, the issues were not brought up earlier in his mid-year review. (Tr. 78:10-24, 312:10-313:2.) At the meeting, Waters concluded that Colgate's review was accurate and expressed that he believed Randall was operating at the level of Site Engineer I rather than Site Engineer II. (Tr. 313:12-17.) The meeting made Randall further doubt his future at Quaker. (Tr. 313:18-22.) Randall therefore continued to pursue other positions outside of Quaker. (Tr. 300:15-24.) In the spring of 2008, Randall applied and interviewed for a business analyst position at Farm Credit Services of Mid-America. (Randall Tr. 18:15-19:19.) However, on May 23, 2008, Randall learned that he had been rejected for that position. (Randall Tr. 19:20-20:3.) Randall also worked with recruiters who sent him notifications of job openings from time to time. Randall

did not pursue all of those openings, in part because he felt that he was not qualified for a number of the open positions. (Randall Tr. 21:2-21, 43:9-44:14.)

Meanwhile, Castrol representatives, including Linda Schmidt and Derek Ozbun, the on-site Castrol launch manager, continued to actively recruit members of the Quaker team. (See Tr. 52:2-54:4; Randall Tr. 24:7-19.) According to Colgate, Schmidt and Ozbun told him they were having a difficult time putting together a permanent site team for the Sharonville Plant and wanted to recruit Colgate and the other members of the Quaker team because of their familiarity with the plant and knowledge of Ford's systems. (Tr. 54:5-23.) Sometime after February 2009, Ozbun asked Randall to continue working at the Sharonville Plant as a Castrol employee. (Randall Tr. 24:7-25:18.) At that time, Randall told Ozbun that he had signed a noncompete agreement with Quaker and that Ozbun should contact Quaker's human resources department. (Randall Tr. 34:22-35:2.) On April 10, 2008, at Randall's request, Randall's wife faxed a copy of Randall's employment agreement with Quaker to Castrol. (Randall Tr. 30:3-32:2.) Thereafter, Randall engaged in discussions with Castrol about employment opportunities. (Randall Tr. 35:11-38:16.)

Between April and mid-May 2008, Colgate, King, and Vander Maas left the Sharonville Plant for other jobs within Quaker. (Tr. 103:1-103:17.) After Quaker failed to identify any job possibilities for Randall in the Cincinnati, Dayton, or Middletown area, Randall notified Quaker in a letter received May 6, 2008 that he would be resigning effective May 16, 2008. (Tr. 148:9-149:3, 170:5-13.) O'Connor met with Randall for his exit interview on May 14, 2008. (Tr. 149:22-24.) Quaker offered Randall a severance package, but he declined the offer. (Randall Tr. 49:11-51:14.) Two days later, on May 16, 2008, Randall received a formal job offer from

Castrol. (Randall Tr. 41:10-12.) Randall accepted that offer and officially began working for Castrol at the Sharonville Plant as of June 2, 2008. (Randall Tr. 43:5-8.)

Randall's current title at Castrol is Program Engineer. (Tr. 351:14-22.) Three other Castrol employees work on-site – another program engineer, an administrative assistant, and a manager. (Tr. 351:23-352:20.) Randall's main responsibilities are to standardize Castrol's oils and coolants and place the fluids in Ford's systems. (Tr. 303.) He also tests fluids and works to resolve any problems with the operation of Ford's equipment, similar to what he did while working for Quaker. (Tr. 348:16-350:9.) Randall still attends the weekly case line meetings and also attends internal Castrol meetings and monthly fluid management meetings. (353:1-354:13.) In his employment with Castrol, Randall has never used the QWIS or J.D. Edwards program. (Tr. 301:25-302:7.)

On June 30, 2008, Quaker Chemical Corp. (hereinafter "Quaker") sued Castrol Industrial North America, Inc. (hereinafter "Castrol") and Jason W. Randall alleging breach of contract and tortious interference with contract. Shortly thereafter, Quaker moved for a preliminary injunction against Defendants Castrol and Jason Randall as follows:

(1) Enjoining and restraining Randall, for a period of one year, from violating the covenant not to compete contained in paragraph 5 of his employment agreement with Quaker;

(2) Enjoining and restraining Randall from being employed in any capacity by Castrol for a period of one year after final disposition of this matter, including exhaustion of any and all appeals; and

(3) Enjoining and restraining Castrol, for a period of one year, from employing Randall in any capacity.

II. LEGAL STANDARD

Quaker's motion is governed by Fed. R. Civ. P. 65. The decision whether or not to grant

a request for interim injunctive relief falls within the sound discretion of the district court. Friendship Materials, Inc. v. Michigan Brick, Inc., 679 F.2d 100, 102 (6th Cir. 1982). A preliminary injunction is an extraordinary remedy that should be granted only after consideration of the following four factors: (1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would otherwise suffer irreparable injury; (3) whether issuance of preliminary injunctive relief would cause substantial harm to others; and (4) whether the public interest would be served by issuance of preliminary injunctive relief. See Leary v. Daeschner, 228 F.3d 729, 736 (6th Cir. 2000); see also Mason County Med. Ass'n v. Knebel, 563 F.2d 256, 261 (6th Cir. 1977).

III. ANALYSIS

A. Likelihood of Success on the Merits

1. Breach of Contract Claim

Quaker argues that it has demonstrated a likelihood of success on the merits, focusing largely on its breach of contract claim and the enforceability of Randall's 2003 Employment Agreement, which the parties agree is governed by Pennsylvania law. The Supreme Court of Pennsylvania has made its position clear that "restrictive covenants are not favored in Pennsylvania and have been historically viewed as a trade restraint that prevents a former employee from earning a living." Hess v. Gebhard & Co., 570 Pa. 148, 808 A.2d 912, 917 (Pa. 2002). The Supreme Court of Pennsylvania continues to reaffirm that "general covenants not to compete which are ancillary to employment will be subjected to a more stringent test of reasonableness than that which is applied to such restrictive covenants ancillary to the sale of a business." Morgan's Home Equip. Corp. v. Martucci, 390 Pa. 618, 136 A.2d 838, 846 (Pa.

1957), quoted in Hayes v. Altman, 438 Pa. 451, 266 A.2d 269, 271 (Pa. 1970) and Hess, 570 Pa. at 163, 808 A.2d at 920.

Under Pennsylvania law, for a noncompete covenant to be enforceable: (1) it must be "incident to an employment relation between the parties to the covenant;" (2) the restrictions must be "reasonably necessary for the protection of the employer;" and (3) the restrictions must be "reasonably limited in duration and geographic extent." Quaker Chemical Corp. v. Varga, 509 F. Supp. 2d 469, 476 (E.D. Pa. 2007) (citing Sidco Paper Co. v. Aaron, 465 Pa. 586, 351 A.2d 250, 252 (Pa. 1976)). "In other words, a determination of whether a non-compete agreement should be enforced 'requires the application of a balancing test whereby the court balances the employer's protectible business interests against the interest of the employee in earning a living in his or her chosen profession, trade or occupation, and then balances the result against the interest of the public.'" J.C. Ehrlich Co., Inc. v. Martin, No. 1013 MDA 2008, 2009 WL 1962140, 2 (Pa. Super. Ct. July 9, 2009) (quoting Hess, 570 Pa. at 162, 808 A.2d at 920). The burden is on the employee to demonstrate that the noncompete covenant is unreasonable. John G. Bryant Co. v. Sling Testing & Repair, Inc., 471 Pa. 1, 369 A.2d 1164, 1169 (Pa. 1977). "There is no precise mathematical formula for what makes an agreement reasonable; rather, the Court must evaluate the specific circumstances of the case at hand." Darius Intern., Inc. v. Young, No. 05-6184, 2008 WL 1820945, at *37 (E.D. Pa. Apr. 23, 2008). Defendants in this case argue that the noncompete agreement is not reasonably limited in geographic scope and that it is not reasonably necessary to protect a legitimate employment interest.

(a) Geographic Scope

Castrol argues that the lack of any geographic limitation in Randall's covenant not to

compete renders the agreement unreasonable. Quaker responds that the broad scope is reasonable because Quaker provides chemical management services to customers located throughout the United States. The Pennsylvania Supreme Court has held that even where a noncompete agreement is found to contain an overly broad territorial restriction, the Court may reduce the geographical scope while still enforcing the agreement. See Sidco Paper Co., 465 Pa. at 596-98, 351 A.2d at 255-56. In light of the fact that Quaker provides chemical management services throughout the United States, the Court does not find the lack of geographical limitation so egregious that the Court would decline to narrow the scope in the event the agreement is found to be otherwise reasonable. Furthermore, to the extent the lack of geographical limitation would prove unreasonable, the Court could simply excise subparagraph (a) from the covenant not to compete and enforce subparagraph (b), which applies specifically to the sites at which Randall was stationed while working for Quaker.

(b) Legitimate Business Interest

The more important question in this case is whether the covenant not to compete is reasonably necessary to protect any of Quaker's legitimate business interests. Under Pennsylvania law, the types of protectable business interests " that have been recognized in the context of a non-competition covenant include trade secrets or confidential information, unique or extraordinary skills, customer good will, and investments in an employee specialized training program." WellSpan Health v. Bayliss, 2005 Pa. Super. 76, 869 A.2d 990, 996 (Pa. Super. Ct. 2005) (citing Hess, 570 Pa. at 163, 808 A.2d at 920). In contrast, the per se elimination of competition is not a legitimate employment interest. See Hess, 570 Pa. at 160, 808 A.2d at 918 ("An employer may not enforce a post-employment restriction on a former employee simply to

eliminate competition per se."). "The presence of a legitimate, protectable business interest of the employer is a threshold requirement for an enforceable non-competition covenant." WellSpan Health, 2005 Pa. Super. at 76, 869 A.2d at 997. The interests Quaker alleges require protection include Quaker's confidential information and goodwill and Randall's unique skills and knowledge.

(i) Confidential Information

Beginning with Quaker's confidential information, there is little to no evidence that any of the information to which Randall was privy was actually confidential. Quaker identifies three categories of information alleged to be confidential: (1) profit and loss information concerning operations at the Ford Sharonville Plant; (2) confidential pricing information; and (3) information contained on full disclosure material safety data sheets ("MSDS forms"). In support of that claim, Quaker relies on two pages of testimony from the three-day hearing wherein Randall testified on cross examination that while working for Quaker he was exposed to pricing information, profit and loss information, and information contained in Material Safety Data Sheets,[14] that he believed Quaker would not want disclosed to a competitor. (Randall Tr. 57:14-58:20.) However, the remainder of the evidence adduced at the hearing indicates that most if not all of the information Randall was exposed to was shared with and was readily available to employees of Ford. In other words, the information was not actually confidential.

With regard to the MSDS forms, O'Connor testified that there are two types of MSDS forms, a full disclosure form that contained specific formulas for chemical mixtures and a shorter form that did not include those formulas and that was posted conspicuously in the plant for

[14] MSDS forms contain information regarding the amounts of chemicals used in different formulas. (Tr. 184:23-185:20.)

employee safety purposes. (Tr. 185:2-16.) O'Connor further testified that employees of Ford had access to the same MSDS forms to which Randall had access.[15] (Tr. 186:11-17.)

Additionally, what little testimony was elicited regarding the alleged confidential pricing and profit and loss information Randall was exposed to was vague and nonspecific. There was, however, testimony showing that Randall had nothing to do with purchasing for Quaker at the Sharonville Plant and that Ford had knowledge of Quaker's pricing. In fact, during the last six months that Quaker provided services at the Ford Sharonville Plant, they operated under a cost-plus basis, whereby Ford paid the actual cost of all products purchased by Quaker from suppliers plus a markup of three percent. (Tr. 101:15-102:25, 247:4-16.) Ford had agreed to and was aware of the three-percent markup, meaning Ford also was aware of the actual cost at which Quaker was purchasing products used in the plant. (Tr. 248:18-25.) To the extent that Quaker is concerned about the pricing of its own products, the evidence showed that Randall knew of only

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[15] O'Connor's specific testimony was as follows:

Q. Do site engineers write the detailed MSDS forms?

A. They write training proforma or outlines so there is a – or do train employees on how to handle it, and they often work on committees with the scientists or the people from the customer site on approval of products coming in and understanding what those chemicals are and also how they're going to be trained or given to the employees that are working with them.

Q. And the committees that you're referring to are comprised of personnel from the customer as well as Quaker; correct?
A. That's correct.
Q. So access by a member of the committee from, let's say, the Ford Motor Company in Sharonville would be as detailed as what the site engineer for Quaker received, wouldn't it?
A. I would believe so.

(Tr. 186:3-17.)

one Quaker product that was actually used at the Sharonville Plant and there is no evidence that Randall had knowledge of how the price of that product was set. (Tr. 247:17-19.) Out of the 120 total chemical products currently used by Castrol at the Sharonville Plant, only one of the products is made by Quaker. (Tr. 404:6-18.)

Without further evidence as to the nature of the pricing information and the extent to which Randall had access to that information, the Court cannot find that Randall was in the possession of confidential information. The mere fact that Randall acknowledged that he had access to certain information that Quaker would not want disclosed to a competitor is dwarfed by the overwhelming evidence that most if not all of that information was available to Ford, who was under no apparent duty to keep the information confidential.

(ii) Unique Skills and Knowledge

Quaker next argues that the noncompete agreement is necessary to protect the unique skills and knowledge that Randall developed while working at the Sharonville Plant on behalf of Quaker. Under Pennsylvania law, legitimate business interests include the protection of an employee's "unique or extraordinary skills" or any "investments in an employee specialized training program." WellSpan Health, 2005 Pa. Super. at 76, 869 A.2d at 996 (citing Hess, 570 Pa. at 163, 808 A.2d at 920). Quaker alleges that it provided Randall with "formal and on the job training" but there is no evidence that Randall was ever provided any training of a specialized nature. (See Doc. 54 at 9.) Colgate testified that training programs covering "everything from how to make a better presentation to business case writings to nuts and bolts of washer preventive maintenance and evaluation of process washer performance" are available to Quaker employees through an on-line computer program known as "Quaker university." (Tr.

44:19-25.) However, Colgate never testified that Randall actually completed any of those training programs. See Ride the Ducks, L.L.C. v. Duck Boat Tours, Inc., No. Civ.A. 04-CV-5595, 2005 WL 670302, at *12 (E.D. Pa. Mar. 21, 2005) (In evaluating whether an employee who had signed a noncompete agreement had received any specialized training, the court refused to presume from the fact that an employer routinely provided a certain amount of training that an employee had actually completed that training.). Randall, on the other hand, testified that he requested specialized training in certain areas but never received the requested training. (Tr. 310:1-311:16.)

Colgate testified that Randall received some training in Quaker's Warehouse Information System ("QWIS"), an electronic system used to manage various aspects of Quaker's services, such as vendor and supplier pricing and minimum and maximum inventory levels. (Tr. 45:8-25.) However, Randall testified that he never actually used the QWIS program while at the Sharonville Plant. (Tr. 301:19-24.) Furthermore, because QWIS was a Quaker program, there is no risk that Randall would use that program while working for Castrol. Randall also received training in the use of J.D. Edwards computer software, but only used that software for a short period of time while working at the Ford Batavia Plant and did not use it at all while working at the Sharonville Plant. (Tr. 291:5-20, 301:17-18.) Like the QWIS program, Castrol does not use J.D. Edwards software. (Tr. 301:25-302:7, 403:23-404:5.) There is no risk, therefore, that Castrol would benefit from that training in any way.

The Court further finds that the general day to day on the job training that Randall received does not amount to the kind of specialized training that warrants protection via a noncompete agreement. The functions performed by site engineers at Quaker appear to be

uniform throughout the industry. Nor does there appear to be anything extraordinary or unique about the skills that Randall learned while on the job. In fact, Randall testified that most of his job responsibilities involved the use of skills he learned from farming as a child and through training he received in high school and college. (Tr. 282:4-283:7.) Furthermore, he believed that a high school graduate could perform the functions that he performed as a site engineer. (Tr. 334:22-335:7.) Finally, Quaker's assertion that Randall received invaluable on the job training is contradicted by Waters' belief that by 2007, Randall had not advanced in skill level and was operating at the level of Site Engineer I rather than Site Engineer II. (Tr. 313:12-17.)

Quaker further alleges that Randall developed specialized knowledge about the Sharonville Plant while working for Quaker, citing the fact that Randall attended meetings with Ford employees on behalf of Quaker, worked on a number of projects aimed at improving and increasing the efficiency of Ford's manufacturing equipment, developed spreadsheets to track the volume and cost of Ford's chemical usage, and regularly prepared and presented internal reports for Quaker regarding the status of the cost-saving projects and Quaker's general performance as a manager of chemical services. In doing so, Quaker conflates the concept of knowledge with the concept of specialized skills. As discussed above, there is no evidence that Randall's job required any specialized skills. To the contrary, Randall believed anyone with a high school education could perform his job. At most the evidence showed that some type of college degree may be necessary.

The protection of Randall's knowledge is only a legitimate business interest to the extent that knowledge is confidential or amounts to a trade secret. See Ride the Ducks, L.L.C., No. Civ.A. 04-CV-5595, 2005 WL 670302, at *13 (noting that "Pennsylvania courts have held that

where a competitor can obtain the allegedly confidential information by legitimate means, it will not be given injunctive protection"); Select Medical Corp. v. Hardaway, No. Civ.A. 05-3341, 2006 WL 859741, at *8 (E.D. Pa. Mar. 24, 2006) ("[G]eneralized knowledge and know-how gained by an employee cannot be a trade secret in Pennsylvania." (internal quotation omitted)). The Court has already determined that Randall did not possess any such information. In fact all of the information that Randall used in performing the tasks described by Quaker was shared with people outside of Quaker, including employees of Ford and various subcontractors. Ford representatives were present at all of the meetings discussed by Quaker. With regard to the projects Randall developed to improve Ford's equipment performance, Randall worked closely with Campbell, a Ford employee. Furthermore, the evidence shows that Quaker previously divulged similar information when CCI took over chemical management services at the Ford Batavia Plant in 2007. At Quaker's direction, Randall aided CCI with that transition by familiarizing CCI's employees with the plant equipment and the problems Ford was experiencing with the equipment, and helping them understand the lab testing that he had been working on in relation to the equipment problems. Quaker apparently did not consider that information to be confidential in 2007, but now argues that it should be allowed to protect Randall's knowledge of similar issues at the Sharonville Plant.

Neither was the data that Randall collected confidential. The fluid systems data and the forms used to organize that data were given to Ford on a weekly basis. (Tr. 219, 265-69.) Subcontractors such as CCI also had access to that data and were responsible for collecting some of the data Randall used in generating reports. Castrol ultimately hired one of the CCI technicians who worked at the Sharonville Plant while Quaker's contract was in effect to work

on its team at the Sharonville Plant, and there is no evidence that that employee owed any duty of confidentiality to Quaker. Finally, during the transition period preceding Castrol's takeover, Quaker turned over a wealth of documents, data, and other information to Castrol, including the spreadsheets used to track Ford's chemical usage. Waters could not recall denying any of Castrol's request for information on the basis that the information amounted to trade secrets or was otherwise confidential. (Tr. 224:5-16.)

(iii) Goodwill

The last remaining interest Quaker claims the noncompete agreement protects is Quaker's goodwill – specifically, the goodwill that Randall helped develop between Quaker and Ford by acting as a vital link between Quaker and the Ford employees at the Sharonville Plant. "Goodwill is a business's positive reputation arising from a company's investment in developing customer relationships expected to continue into the foreseeable future." Plate Fabrication & Machining, Inc. v. Beiler, No. Civ.A.05-2276, 2006 WL 14515, at *7 (E.D. Pa. Jan. 23, 2006). The Court recognizes that Randall built relationships with Ford employees while working for Quaker. However, to the extent that Quaker had developed any goodwill at the Sharonville Plant, that goodwill was lost the moment that Ford decided to award a three-year chemical management services contract to Castrol rather than renew Quaker's contract. Randall had nothing to do with Quaker losing that contract. Nor is Randall currently in a position to affect any of Quaker's future contracts. Randall is not a salesman. He is not tasked with soliciting Quaker's customers to purchase Castrol's services. Instead, he monitors fluid usage and troubleshoots mechanical problems. This case therefore differs significantly from the typical "goodwill" case, wherein there a departing employee takes a job wherein he is in the position to

solicit his former employer's customers based on his relationship with those customers. Quaker has not shown how Randall's continued employment with Castrol will cause it to lose more business.

As a final matter, the Court finds that this case is easily distinguishable from Varga, 509 F. Supp. 2d 469 (E.D. Pa. 2007), a recent case relied upon by Quaker wherein the Court found that a Quaker noncompete agreement was reasonable. In that case, the former employee, Varga, was not a site engineer, but rather had served as Quaker's senior market development manager and global technical manager of steel and fluid power for North and South America. In enforcing the noncompete agreement Varga had signed while working for Quaker, the Court found that:

> Varga possess[ed] extensive knowledge of Quaker's trade secrets and other confidential information, including specific information regarding existing customers and potential customers. As part of Quaker's senior management, Varga also carries with him Quaker's goodwill.

Id. at 479. There was also evidence that prior to leaving Quaker to work for one of its competitors, Varga copied thousands of files containing Quaker's confidential information and provided the competitor with a list of the clients he had worked with while at Quaker. Id. at 474. As discussed thoroughly above, there is no evidence in this case that Randall had knowledge of confidential information or trade secrets or that Randall is in any position to threaten Quaker's goodwill.

The Court recognizes that Defendants ultimately have the burden of proving the contract unreasonable and unenforceable. Based on the facts presented thus far, the Court finds Defendants are likely to succeed in meeting that burden. Conversely, Plaintiff has not shown a likelihood of success on the merits on its breach of contract claim.

2. Tortious Interference Claim

Quaker alleges that Castrol tortiously interfered with Randall's 2003 Employment Agreement with Quaker by actively soliciting and hiring Randall despite knowledge of the covenant not to compete contained in the agreement. To survive a claim of tortious interference with contract under Ohio law, Plaintiff must demonstrate: (1) the existence of a contract; (2) the alleged wrongdoer's knowledge of the contract; (3) the alleged wrongdoer's intentional procurement of the contract's breach; (4) lack of justification; and (5) resulting damages. Power Marketing Direct Co. v. Ball, No. 05-4149, 2006 WL 3390373, at *2 (6th Cir. Nov.22, 2006) (citing Fred Siegel Co. v. Arter & Hadden, 85 Ohio St. 3d 171, 176, 707 N.E.2d 853 (Ohio 1999)). The Court has determined that Defendants will likely be able to show that Plaintiff's covenant not to compete is unreasonable and therefore unenforceable. Accordingly, the Court finds that Plaintiff cannot show a likelihood of success on its tortious interference with contract claim.[16] See Bridge v. Park Natl. Bank,179 Ohio App.3d 761, 903 N.E.2d 702, 708 (Ohio App. 2008) (requiring the existence of a valid, enforceable contract to succeed on a tortious interference with contract claim); Arrich v. Moody, No. 2004-T-0100, 2005 WL 3097503, at *3 (Ohio App. Nov. 18, 2005) (same); Griffin v. Griffin, Nos. CA2003-03-076, CA2003-04-081, 2004 WL 292087, at *2 (Ohio App. Feb. 17, 2004) ("A valid and enforceable contract must exist in order to maintain a tortious interference claim."); Beaverpark Associates v. Larry Stein Realty Co., 1995 WL 516469, at *6 (Ohio App. Aug. 30, 1995) ("Causes of action for both breach of contract and tortious interference with a contract require the existence of an enforceable contract

[16] Central to the Court's decision is the fact that Quaker brought a tortious interference with contract claim rather than a tortious interference with business relationship claim against Defendants. The existence of a valid, enforceable contract is not a requirement of a tortious interference with business relationship claim.

as an essential element."); General Power Products, LLC v. MTD Products, Inc., No. 1:06CV00143, 2006 WL 3692953, at *3 (S.D. Ohio Dec. 13, 2006) (finding that the plaintiff failed to demonstrate a likelihood of success on the merits of its claim of tortious interference with contract where there was doubt as to the existence of an enforceable contract); 715 Spencer Corp. v. City Environmental Services, Inc., 80 F. Supp. 2d 755, 763 (N.D. Ohio 1999) (finding that the plaintiff could not succeed on a tortious interference with contract claim where no enforceable contract existed).

B. Irreparable Injury

The second factor under the preliminary injunction test is whether Plaintiff will suffer immediate and irreparable harm absent injunctive relief. Federal law requires a showing of irreparable harm before a court may issue a preliminary injunction. See Friendship Materials, Inc., 679 F.2d at102-03 ("[T]his court has never held that a preliminary injunction may be granted without any showing that the plaintiff would suffer irreparable injury without such relief."); Varga, 509 F. Supp. 2d at 478 n. 8. To demonstrate irreparable harm, Quaker must show that it will suffer "'actual and imminent' harm rather than harm that is speculative or unsubstantiated." Abney v. Amgen, Inc., 443 F.3d 540, 552 (6th Cir. 2006).

Quaker first asserts that absent injunctive relief prohibiting Randall from working for Castrol, it will suffer irreparable harm because Castrol will learn Quaker's confidential information and trade secrets. The Court has already determined that there is little to no evidence showing that Randall has knowledge of any actual trade secrets or confidential information. Accordingly, there is little risk that Castrol will gain access to such information through Randall.

Quaker next argues that Defendants' actions, if allowed to continue, will allow Castrol to benefit from Randall's knowledge of the Ford Sharonville Plant and cause Quaker to lose customer business, business advantage, and goodwill. The Court might find risk of irreparable injury in this case if there was any risk of Randall actually helping Castrol to solicit business away from Quaker. That risk, however, is not present in this case. As discussed above in addressing Quaker's goodwill, Ford had already awarded Castrol a three-year contract prior to Castrol hiring Randall. There is no evidence that Randall played any role in Ford deciding not to renew Quaker's contract. Any suggestion that Randall's employment with Castrol will help Castrol secure future contracts with Ford is speculative at best.

Finally, Quaker asserts that if the Court does not grant injunctive relief, Castrol will be able to solicit all of Quaker's employees for hire regardless of any noncompete agreements the employees may have signed, resulting in a "mad dash" and causing Quaker employees to defect to Castrol if Quaker does not increase their salary. (See Doc. 54 at 16.) Again, the potential harm Quaker describes is entirely speculative. The Court's decision that Quaker failed to show a likelihood of success as to the enforceability of Randall's covenant not to compete is based on a factually intensive analysis and does not render all Quaker noncompete agreements unenforceable as a matter of law. There is absolutely no evidence that the denial of a preliminary injunction in this case will result in a mad dash in which Castrol will steal all of Quaker's employees. Plaintiff therefore demonstrates no risk of actual or imminent harm in this case.[17]

[17] The Court recognizes that the covenant not to compete contained in Randall's 2003 Employment agreement states that "You agree that in the event of a breach of threatened breach by you of the provisions of the restrictive covenants contained in Paragraph 4 or in this Paragraph 5, Quaker will suffer irreparable harm, and monetary damages may not be an adequate

C. Substantial Harm to Others

In contrast, in considering the third factor, the Court finds that granting injunctive relief may cause substantial harm to others – specifically, to Randall, who is the sole provider for a family of seven. At the preliminary injunction hearing, Waters testified that there are only five or six companies that are in direct competition with Quaker. (Tr. 214.) On that basis, Plaintiff suggests that pursuant to the covenant not to compete governing Randall's employment, Randall would have been permitted to seek a job with any other company outside that group of competitors. Contrary to Plaintiff's assertion, the covenant more broadly restricts both direct and indirect competition. The Court is therefore unconvinced that the pool of jobs from which Randall would be restricted from performing is as small as Plaintiff suggests. The evidence presented demonstrates that Randall attempted in 2007 and 2008 to secure employment in areas outside the chemical management field, but was unable to find a position. The Court has little doubt that were Randall to suddenly be prohibited from working for Castrol at this time, he would face similar if not greater difficulty securing alternate employment, particularly in light of the current economic climate.

D. Public Interest

The Court finally finds that the final factor to be considered – whether the public interest would be served by granting Plaintiff's motion for a preliminary injunction – neither weighs in

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remedy." (Pl. Ex. 5 at 2-3, ¶ 5.) However, that language does not control this Court's ultimate legal conclusion and in light of the paucity of evidence showing risk of irreparable injury and the fact that Quaker requires all of its employees, including secretaries, unskilled laborers, and janitorial staff, to sign similar noncompete agreements, the Court declines to accord that language much weight.

favor of nor against granting Plaintiff's motion.

Because the first three factors weigh in favor of denying injunctive relief, the Court denies Plaintiff's Motion for Preliminary Injunction.

V. CONCLUSION

For the reasons stated above, the Court **DENIES** Plaintiff's Motion for a Preliminary injunction.

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court