

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01840-REB-MJW

TAYNA YOUNG, on her own behalf and on behalf of others similarly situated,

Plaintiff(s),

v.

DOLLAR TREE STORES, INC.,

Defendant(s).

**ORDER REGARDING
DEFENDANT DOLLAR TREE STORES, INC.'S MOTION TO STAY AND EXTEND
TIME TO ANSWER PLAINTIFF'S AMENDED COMPLAINT (DOCKET NO. 76)**

Entered by Magistrate Judge Michael J. Watanabe

This matter is before the court on Defendant Dollar Tree Stores, Inc.'s Motion to Stay and Extend Time to Answer Plaintiff's Amended Complaint (docket no. 76). The court has reviewed the subject motion (docket no. 76) and the response (docket no. 93). In addition, the court has taken judicial notice of the court file and has considered applicable Federal Rules of Civil Procedure and case law. The court now being fully informed makes the following findings of fact, conclusions of law, and Order.

In the subject motion (docket no. 76), Defendant Dollar Tree Stores, Inc., seeks an Order from this court extending the time for Defendant Dollar Tree Stores, Inc., to file an Answer to Plaintiff's Amended Complaint until fourteen (14) days after Judge Blackburn rules on Defendant Dollar Tree Stores, Inc.'s Motion to Dismiss Counts III, IV, and V (docket no. 75).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The court finds:

1. That I have jurisdiction over the subject matter and over the parties to this lawsuit;
2. That venue is proper in the state and District of Colorado;
3. That each party has been given a fair and adequate opportunity to be heard;
4. That a Rule 16 Scheduling Order was entered in this case on October 20, 2011. See docket no. 48. Discovery has progressed forward consistent with this Scheduling Order to the present date. The current deadline to complete discovery is April 20, 2012. The current deadline to file dispositive motions is June 20, 2012. Judge Blackburn has set a trial preparation conference on September 14, 2012, and a jury trial on October 1, 2012. See docket nos. 46 and 47;
5. That Defendant Dollar Tree Stores, Inc.'s Motion to Dismiss Counts III, IV, and V (docket no. 75) is pending before Judge Blackburn. These counts [i.e., III, IV, and V] are all state law claims, whereas counts I and II are federal law claims. See Amended Complaint docket no. 28;
6. That the procedural posture of this case is much different now than when this court initially addressed Defendant Dollar Tree Stores Inc.'s first Motion to Stay [i.e., from filing an Answer], noting that the

parties have been conducting discovery consistent with the Rule 16 Scheduling Order that was entered on October 20, 2011. See docket nos. 21 and 48;

7. That the case law cited by Defendant Dollar Tree Stores, Inc., in the subject motion (docket no. 76) can be distinguished from the procedural posture of the instant case; and
8. That to allow Defendant to delay filing an Answer as to Counts I and II [i.e., the federal law claims] in the Amended Complaint would place this case in limbo until Judge Blackburn rules on Defendant Dollar Tree Stores, Inc.'s Motion to Dismiss Counts III, IV, and V (docket no. 75), noting that deadlines have been set for completing discovery per the Scheduling Order. Moreover, not requiring Defendant Dollar Tree Stores, Inc., to answer counts I and II in the Amended Complaint would prejudice Plaintiff since she would be guessing as to what defenses Defendant Dollar Tree Stores, Inc., intends to raise as to Counts I and II in the Amended Complaint, and therefore Plaintiff would potentially have to engage in unnecessary discovery and incur unnecessary expense.

ORDER

WHEREFORE, based upon these findings of fact and conclusions of law this court **ORDERS**:

1. That Defendant Dollar Tree Stores, Inc.'s Motion to Stay and

Extend Time to Answer Plaintiff's Amended Complaint (docket no. 76) is **GRANTED IN PART AND DENIED IN PART**. The motion is **GRANTED** insofar as that Defendant Dollar Tree Stores, Inc., is not required to file an Answer to Counts III, IV and V until fourteen (14) days after the date that Judge Blackburn enters an Order on Defendant Dollar Tree Stores, Inc.'s Motion to Dismiss Counts III, IV, and V (docket no. 75). This motion is DENIED insofar as Defendant Dollar Tree Stores, Inc., shall file its Answer to Counts I and II in the Complaint on or before February 3, 2012; and

2. That each party shall pay their own attorney fees and costs for this motion.

Done this 13th day of January, 2012.

BY THE COURT

s/Michael J. Watanabe
MICHAEL J. WATANABE
U.S. MAGISTRATE JUDGE