UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRODERICK COOPER, ET AL	CIVIL ACTION
VERSUS	NO. 10-2054
WAL-MART STORES, INC., ET AL	SECTION "C" (4)

ORDER AND REASONS

This matter comes before the Court on motion to strike report and testimony of Alan Shear filed by defendants Wal-Mart Stores, Inc. and Wal-Mart Louisiana, L.L.C. Having considered the record, the memoranda of counsel and the law, the Court rules as follows.

The defendants seek to exclude the expert testimony of Alan Shear ("Shear") as an expert in the field of refrigeration equipment because his opinion "consists of nothing more than speculative guesswork" due to a lack of evidence that the subject refrigeration unit was the source of the water involved in the plaintiff's accident. They also argue that Shear is not qualified "in the field of accident causation," while admitting that he has extensive experience in refrigeration repair. The defendants also

argue that his opinion is speculative because it presents a number of possible reasons why the refrigeration unit could have been the source of the water and because Shear did not test his theories on the subject unit. Finally, they argue the opinion would not be helpful to the jury.

The Court disagrees with the defendants' arguments. The defendants' arguments may go more to the weight to be given the opinion, not its admissibility.

Accordingly,

IT IS ORDERED that the motion to strike report and testimony of Alan Shear filed by defendants Wal-Mart Stores, Inc. and Wal-Mart Louisiana, L.L.C. is DENIED. Rec. Doc. 42.

New Orleans, Louisiana, this 1st day of September, 2011.

HELEN G. BERRIGAN
UNITED STATES DISTRICT COURT