

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

PATSY ANN KINSTLEY

PLAINTIFF

VS.

CIVIL ACTION NO: 5:14-cv-5-DCB-MTP

DOLLAR TREE STORES, INC.

DEFENDANT

ORDER DENYING MOTION FOR SUMMARY JUDGMENT  
AND DENYING MOTION TO STRIKE

This matter is before the Court on Defendant's, Dollar Tree Stores, Inc., Motion for Summary Judgment [**docket entry no. 32**] and Motion to Strike [**docket entry no. 34**]. Defendant Dollar Tree Stores, Inc.'s, ("Dollar Tree") motion to strike requests the Court to strike all expert testimony because Plaintiff Patsy Ann Kinstley had not designated any experts, including her treating physician, before the expert designation deadline had passed. Mem. Supp. 1, ECF No. 35. Dollar Tree's motion for summary judgment argues that, if the motion to strike is granted, Kinstley will be unable to show causation without expert testimony. Mem. Supp. 2-3, ECF No. 33.

On February 11, 2015, Magistrate Judge Michael T. Parker granted Kinstley's motion to amend the scheduling order, resetting the expert designation deadline to April 15, 2016. Order 4, ECF No. 44. Because the deadline is no longer expired, the Court finds that the motion to strike is moot. Further, the motion for summary judgment, so premised on the success of the motion to strike, will

be denied.

Therefore,

IT IS HEREBY ORDERED that Defendant's Motion to Strike is DENIED as MOOT.

FURTHER ORDERED that Defendant's Motion for Summary Judgment is DENIED.

SO ORDERED this the 25th day of February 2015.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE