

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

WALTER HAMILTON and DIANNA)
HAMILTON, Individually and as Legal)
Guardians of the Person and Estate of)
KAITLIN HAMILTON, an Incapacitated)
Person,)

Plaintiffs,)

vs.)

No. CIV-18-1240-C

BAYER HEALTHCARE)
PHARMACEUTICALS, INC., BAYER)
PHARMA AG, BAYER)
CORPORATION, BAYER)
HEALTHCARE LLC, BAYER)
HEALTHCARE AG and BAYER AG,)

Defendants.)

MEMORANDUM OPINION AND ORDER

Plaintiffs have filed a Motion in Limine seeking to limit certain evidence from being presented to the jury at the trial of this matter (Dkt. No. 38). Plaintiffs argue that the FDA-approved warning labels for YAZ and Yasmin are identical. Plaintiffs note the labels were developed based on studies, most of which studied Yasmin but not YAZ. Plaintiffs argue that based on these studies, Defendants cannot argue there is a distinction in venous thromboembolism (“VTE”) risk when comparing YAZ to Yasmin. Plaintiffs also note that studies relied on by Defendants clearly noted an increased risk of VTE when comparing YAZ/Yasmin with COCs containing levonorgestrel or other progestins. Thus, Plaintiffs assert, Defendants should not be permitted to offer evidence to the contrary at trial.

Plaintiffs' Motion fails to provide a reason for excluding the challenged evidence. While Plaintiffs view the evidence differently than Defendants, that is not a basis on which to exclude the evidence. Indeed, Plaintiffs offer no evidence that the matters challenged lack relevance, are not based on sufficient methodology, or lack the reliability required by Fed. R. Evid. 702. Rather, each of the issues challenged by Plaintiffs are items that can be challenged through "[v]igorous cross-examination, presentation of contrary evidence and careful instruction on the burden of proof" Daubert, 509 U.S. at 596. Accordingly, Plaintiffs' Motion will be denied.

As set forth more fully herein, Plaintiffs' Motion in Limine to Exclude Evidence and/or Argument that: (1) the Risk of Venous Thromboembolism Is Different as Between YAZ and Yasmin; and/or (2) the Increased Warning Relating to Venous Thromboembolism Risk with Respect to Drospirenone-Containing Combined Hormonal Oral Contraceptives Relates Only to the Differential Risk as Compared to Levonorgestrel (Dkt. No. 38) is DENIED.

IT IS SO ORDERED this 11th day of June 2019.


ROBIN J. CAUTHRON
United States District Judge