

**THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

**TOSHIKO OKUDA,**

Plaintiff,

vs.

**PFIZER INC., et al.,**

Defendants.

**MEMORANDUM DECISION AND  
ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO EXCLUDE OPINIONS  
OF PLAINTIFF'S EXPERT  
DR. BRUCE PATSNER**

Case No. 1:04-cv-00080

Judge David Nuffer

On June 18 and 19, 2012, pursuant to notice, the Court heard oral argument on Defendants' Motion to Exclude Opinions of Plaintiff's Expert Dr. Bruce Patsner (Docket No. 99). Plaintiff was represented by James Esparza, Russell T. Abney and James Lampkin. Defendants were represented by Heidi K. Hubbard, Kelly A. Evans and Tracy H. Fowler.

Having considered all of the moving papers and the arguments of counsel, the Court rules as follows:

IT IS HEREBY ORDERED that Defendants' Motion (Docket No. 99) is GRANTED IN PART AND DENIED IN PART:

1. Dr. Patsner may testify generally as to Food and Drug Administration processes for drug approval, the regulatory history of hormone replacement therapy, and the adequacy of warnings provided by defendants concerning breast cancer risks in light of information then available. Dr. Patsner also may testify regarding tests that could have been done to further investigate the potential link between the E&P therapy and breast cancer.

2. Dr. Patsner may not testify regarding tests defendants should have undertaken, for the same reasons set forth in the Court's Order on Defendants' Daubert motion concerning Drs. Parisian, Blume, and Austin. Nor may Dr. Patsner testify that any logo utilized by defendants created a duty to conduct additional tests or studies.

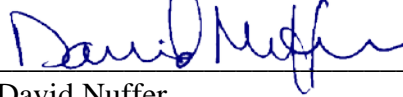
3. Nor may Dr. Patsner testify as to the intent or motives of defendants.

4. Dr. Patsner may not testify that defendants committed fraud on the FDA or withheld information from the FDA.

5. Nor may Dr. Patsner testify about “ghostwriting” activities. Plaintiff has presented no evidence that Plaintiff’s prescribing physicians relied on “ghostwritten” articles. There are some very general statements, but not enough to justify his testimony. It does not fit.

Dated July 6, 2012.

BY THE COURT:



David Nuffer  
United States District Judge

Submitted by:

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