Garcia v. C. R. Bard, Inc. Doc. 68

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: C. R. BARD, INC.,

PELVIC REPAIR SYSTEM

PRODUCTS LIABILITY LITIGATION

MDL NO. 2187

THIS DOCUMENT RELATES TO:

Garcia v. C. R. Bard, Inc.

Civil Action No. 2:13-cv-28067

ORDER

Pending before the court are the following motions: Defendant C. R. Bard, Inc.'s Motion

to Exclude or Limit Certain Opinions and Testimony by Plaintiffs' Treating Physicians ("Bard's

Motion to Exclude") [Docket #62]; and, Defendant C. R. Bard, Inc.'s Omnibus Motion to

Exclude Testimony and Evidence Pursuant to Daubert and the Federal Rules of Evidence

("Bard's Omnibus Motion") [Docket #65].

These two "omnibus" motions seek to exclude broad categories of expert testimony.

However, Rule 702, by its plain terms, contemplates *Daubert* challenges directed at the opinions

of specific experts, not the opinions of a collection of experts. While these experts may have

come to similar conclusions, it is not the conclusions that the court must assess, but the reliability

of the methods and procedures underpinning those conclusions. Daubert v. Merrell Dow Pharm.,

Inc., 509 U.S. 579, 595 (1993) ("The focus, of course, must be solely on principles and

methodology, not on the conclusions that they generate."). Two experts may come to a similar

conclusion, but one or both experts' methodology in reaching that conclusion may be unreliable.

Rule 702 directs the court to determine whether an expert is qualified, whether his or her

opinions are the product of reliable methodology, and whether the opinions will be helpful to the

jury. See Fed. R. Evid. 702. I can only conduct the required Daubert analysis on an

individualized basis.

For example, Bard's Omnibus Motion makes no mention of any specific expert in this

case or his/her opinions. Instead, Bard merely recites the law governing expert testimony and a

history of this court's prior *Daubert* rulings. Clearly, at this point in the MDLs, where there are

wave cases from multiple jurisdictions, involving a variety of products, and requiring testimony

from many different treating physicians, such a blanket exclusion of opinions and testimony

would be inappropriate.

Accordingly, Bard's Motion to Exclude [Docket #62]; and, Bard's Omnibus Motion

[Docket #65] are **DENIED**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any

unrepresented party.

ENTER: January 29, 2015

JOSEPH R. GOODWIN

UNITED STATES DISTRICT JUDGE

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