

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

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**PLAINTIFF'S MOTION TO  
EXCLUDE THE EXPERT TESTIMONY OF GREGORY A. BROWN**

Plaintiff, pursuant to Federal Rules of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), moves the Court to exclude, or to limit in the Court's discretion, the testimony proffered by Defendants' expert, Dr. Gregory A. Brown. Defendants have identified and disclosed an expert report from Dr. Brown and have requested that Dr. Brown provide the following expert opinion: girls and women who are transgender have an inherent athletic advantage over cisgender girls even when they receive puberty-delaying medication and gender-affirming hormones.

In support of her Motion, Plaintiff states as follows:

- i. Dr. Brown is not qualified to offer an expert opinion about the definition of “biological sex.”
- ii. Dr. Brown’s opinions regarding the alleged athletic advantages of prepubertal cisgender boys and transgender girls who receive puberty-delaying medication are not based on sufficient facts or data and are not the product of reliable principles and methods.
- iii. Dr. Brown’s sweeping opinions regarding the exclusion of transgender women who suppress circulating testosterone after puberty are not based on sufficient facts or data and are not the product of reliable principles and methods.

For these reasons, Plaintiff respectfully requests that the Court enter an order excluding Dr. Brown’s testimony in its entirety or limiting his opinions in accordance with *Daubert* and its progeny.

Dated: May 12, 2022

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Respectfully submitted,  
/s/ Loree Stark

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**CERTIFICATE OF SERVICE**

I, Loree Stark, do hereby certify that on this 12th day of May, 2022, I electronically filed a true and exact copy of *Plaintiff's Motion to Exclude the Expert Testimony of Gregory A. Brown* with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark

Loree Stark

West Virginia Bar No. 12936