

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 JAMES M. CANTOR**

Plaintiff, pursuant to Federal Rules of Evidence 403 and 702, as well as *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. James M. Cantor. This motion is based upon the attached Memorandum of Law, Declaration of Sruti Swaminathan ("Swaminathan Decl."), and the pleadings, records, and papers on file with this Court. Defendants have identified and disclosed an expert report from Dr. Cantor and have requested that Dr. Cantor provide the following expert opinion: providing gender-affirming care to transgender youth,

including permitting social transition for children and puberty-delaying medication and hormone therapy when indicated for adolescents, does not produce better mental health outcomes and is not the accepted standard of care.

In support of her Motion, Plaintiff states as follows:

- i. Dr. Cantor's opinions about the standards of care and treatment of pre-pubertal transgender children or transgender adolescents are not admissible for the reasons discussed in B.P.J.'s motion to exclude Dr. Cantor's testimony;
- ii. Dr. Cantor – by his own admission – is not qualified to offer opinions about the proper medical treatment for transgender youth, and his opinions are unreliable and do not meet the requisite *Daubert* standard for admission; and
- iii. To the extent Dr. Cantor's opinions satisfy *Daubert*, his opinions should be excluded under Federal Rule of Evidence 403 because any probative value they may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, waste of time and undue delay.

For these reasons, Plaintiff respectfully requests that the Court enter an order excluding Dr. Cantor'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 Dr. James M. Cantor* with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark  
Loree Stark  
West Virginia Bar No. 12936