

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 CHAD T. CARLSON

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. Chad T. Carlson. Defendants have identified and disclosed an expert report from Dr. Carlson and have requested that Dr. Carlson provide the following expert opinions: males exhibit large average advantages in size, weight, and physical capacity over females and that the failure to preserve protected female-only categories in

contact sports will ultimately increase both the frequency and severity of injury suffered by female athletes.

In support of her Motion, Plaintiff states as follows:

- i. Dr. Carlson’s opinions regarding prepubertal children and transgender girls who receive puberty delaying medication merely parrot the opinions of Dr. Brown and are unreliable for the reasons discussed in B.P.J.’s motion to exclude Dr. Brown’s testimony; and
- ii. Dr. Carlson is—by his own admission—not qualified to offer expert recommendations to policymakers, and Dr. Carlson’s recommendations are based on unreliable speculation and guesswork.

For these reasons, Plaintiff respectfully requests that the Court enter an order excluding Dr. Carlson’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. Chad T. Carlson* with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark

Loree Stark

West Virginia Bar No. 12936