



Product Liability Law Alert

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Terrance M. Miller

614.227.2142

tmiller@porterwright.com

C. Darcy Jalandoni

614.227.2024

djalandoni@porterwright.com

Sixth Circuit decision emphasizes the importance of expert testimony

The Sixth Circuit recently reinforced the importance of reliability in expert testimony by upholding the exclusion of such testimony in a products liability case. In *Rodrigues v. Baxter Healthcare Corp.*, Case No. 13-3908, the Court affirmed the district court's grant of summary judgment in favor of a drug manufacturer because the plaintiff could not establish that the drug at issue caused his complications.

Rodrigues arose out of a case in multidistrict litigation (“MDL”) concerning heparin, a drug commonly used to reduce the risk of blood clots. In the MDL case, the district court ruled that the admissible expert testimony supported only claims in which symptoms became apparent within the sixty minute period after receiving allegedly contaminated heparin. The available evidence did not support a causal link between allegedly contaminated heparin and complications arising at a later time.

The U.S. Supreme Court held in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) that, for an expert's testimony to be admissible, the expert must be qualified, must offer an opinion that will help the fact finder decide a disputed fact, and must offer opinions that are reliable. The district court found *Rodrigues'* proposed expert witness to be qualified and found that her opinions would assist the fact finder. However, the expert based her opinions on one study, which had not observed any effects of contaminated heparin after sixty minutes. The expert could “not explain the process by which the onset of symptoms would be delayed,” leading the district court to conclude that her proposed testimony that contaminated heparin could cause an onset of symptoms more than sixty minutes after administration was speculative and unreliable, and therefore inadmissible.

The Sixth Circuit agreed and found that the district court had properly performed its “gatekeeping role” by excluding unreliable testimony from the proceedings: “[The expert's] unexplained conclusion failed to connect the dots – to provide a satisfactory reason why contaminated heparin might first cause symptoms more than sixty minutes after doctors administered it.” Because *Rodrigues* could not establish a causal link between contaminated heparin and his symptoms, the district court had properly granted summary judgment.

The *Rodrigues* decision is consistent with the Sixth Circuit's 2010 holding in *Tamraz v. Lincoln Electric*, 620 F.3d 665 (6th Cir. 2010), which found that “what science treats as a useful but untested hypothesis the law should generally treat



as inadmissible speculation.” Although there are many decisions from courts around the country applying the *Daubert* decision to expert testimony, the Sixth Circuit has issued several decisions supporting the gatekeeper function of the trial court. These decisions emphasize the weight placed by the Sixth Circuit on the reliability of expert testimony, particularly in product liability cases.

*For more information, please contact Terrance M. Miller, C. Darcy Jalandoni or any member of Porter Wright's **Product Liability practice group.***

Porter Wright Morris & Arthur LLP
www.porterwright.com

Cincinnati, Ohio
800-582-5813
Cleveland, Ohio
800-824-1980

Columbus, Ohio
800-533-2794
Dayton, Ohio
800-533-4434

Naples, Florida
800-876-7962
Washington, DC
800-456-7962