Sixth Circuit Excludes Expert Testimony in $20 Million Tort Case

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Recently, in Tamraz v. Lincoln Electric Co., the Sixth Circuit overturned a district court verdict awarding $20 million to a plaintiff who claimed that his manganese exposure in the workplace led to his Parkinson's disease. Judge Sutton wrote the opinion for the majority while Judge Martin dissented. The majority opinion helps define the often-elusive line between admissible opinion and inadmissible speculation under Rule 702 of the Federal Rules of Evidence.

While both the majority and dissent agreed that the connection between toxin exposure and Parkinson's disease is the subject of great debate in the scientific community, they parted ways on the proper interpretation of Rule 702 vis-à-vis Daubert v. Merrell Dow Pharmaceuticals. Plaintiff's expert's line of reasoning that manganese exposure had caused the plaintiff's illness was as follows: (1) Plaintiff was exposed to manganese fumes while welding; (2) he then developed the symptoms of Parkinson's, but not manganism, a disease with some similarities to Parkinson's; (3) scientists have identified some genetic factors linked to forms of otherwise "idiopathic" Parkinson's disease (In the words of the television doctor Gregory House: "'Idiopathic,' from the latin meaning we're idiots because we can't figure out what's causing it."); (4) some scientific literature has put forth the hypothesis that that toxins combined with genetics may cause Parksinon's disease; (5) manganese is a toxin and possible candidate for triggering Parkinson's; (6) plaintiff may have the genes for Parkinson's disease and (7) manganese may have triggered plaintiff's Parkinson's.

Evaluating the expert's hypothesis under the auspices of Rule 702, the majority said: "That is a plausible hypothesis. It may even be right. But it is no more than a hypothesis, and it thus is not 'knowledge,' nor is it 'based upon sufficient facts or data" or the 'product of reliable principles and methods . . . applied . . . reliably to the facts of the case.'"

The dissent, relying strictly on the more permissive language of Daubert and its progeny, argued that the plaintiff's expert may rely on his "general experience and knowledge, and theoretical medical writing that explored the connection between manganese exposure and Parkinson's Disease." The dissent was unconcerned that the expert's etiology was extrapolated principally from the diagnosis and was loosely based on scientific writings hypothesizing that toxins can trigger Parkinson's in persons genetically predisposed to the disease.

A critical difference between the opinions is that the majority opinion relied on the plain language of Rule 702 and the dissent did not. The dissent, though able to find supporting language from various precedents and law review articles, never grapples with the clear text of Rule 702. Indeed, the dissenting opinion doesn't cite, quote, or discuss the language of Rule 702 at all.

This case is a reminder that the rather stark and plain language of Rule 702, as enacted in 2000, should be the starting point for any analysis concerning expert testimony and not the more ambiguous and permissive Daubert, General Elec. Co. v. Joiner , or Kumho Tire Co. v. Carmichael opinions, decided in 1993, 1997, and 1999 respectively. Any interpretation of these cases that conflicts with the subsequently enacted statute, Rule 702, is legally incorrect.

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