

DOCKET NO. FST-CV-20-6045701-S

KIRIAKI YORANIDIS, FIDUCIARY
OF ESTATE OF NICHOLAS
YORANIDIS, ET AL.

V.

SUPERIOR COURT
JUDICIAL DISTRICT
OF STAMFORD/NORWALK
COMPLEX LITIGATION
DOCKET

EXXON MOBIL CORPORATION, ET AL.

April 26, 2024

MEMORANDUM OF DECISION
MOTION FOR SANCTIONS (Docket No. 323.00)

This memorandum of decision is issued in connection with the plaintiffs', Kiriaki Yoranidis, in her representative capacity as the fiduciary of the Estate of Nicholas Yoranidis and in her personal capacity as the widow of Nicholas Yoranidis ("plaintiffs"), Motion for Sanctions dated January 30, 2024. A Hearing was held on this motion for sanctions on April 16, 2024.

This motion for sanctions is based on the testimony given by Dr. Allison Stock ("Dr. Stock") on November 3, 2023, at trial in this action, in which she testified that ambient benzene levels in Los Angeles, California could be 1 part per million. (November 3, 2023 Dr. Stock Trial Tr. 58.) The plaintiffs argue that Dr. Stock's testimony that ambient levels of benzene in urban environments, such as Los Angeles, can routinely be seen around 1 part per million was patently false and the real value was a

much lower level of 1 part per billion. (See November 3, 2023 Dr. Stock Trial Tr. 58, 89, 91, 92.) Plaintiffs had requested that for purposes of the hearing on this motion for sanctions, Dr. Stock produce the documents she testified to at trial that support her testimony that 1 part per million benzene levels occur commonly in urban areas in the United States. In support of this request, the plaintiffs cite to Dr. Stock's testimony that "we can pull up some of the EPA documents and I'm happy to do that offline." (November 3, 2023 Dr. Stock Trial Tr. 92.) Plaintiffs point this Court to their own trial exhibit, Exhibit 187 (Report to the Scientific Review Panel on Benzene, California Air Resources Board and the Department of Health Services, November 1984, pp. 32-33, 240-24), which reported actual ambient benzene levels in 1983-1984 in downtown Los Angeles, at 12 parts per billion as evidence which refutes Dr. Stock's testimony as well as other exhibits.

The defendants argue that Dr. Stock did not testify falsely at trial and she did not repeatedly testify that ambient levels of benzene in urban environments routinely are around 1 part per million. Defendants contend that instead Dr. Stock opined that "[y]ou can have up to that in an urban environment. So if you go stand outside, you can actually have that level depending if you are like in downtown Los Angeles on a bad air pollution day." (November 3, 2023 Trial Tr. 58.) Defendants also argue that in her expert disclosure, Dr. Stock was identified as an expert that would testify as to "[t]he threshold limit values and permissible exposure levels as promulgated by private organizations and

government agencies,” and “Dr. Stock’s expert conclusion that, based on the alleged occupational exposures to gasoline, there was insufficient potential benzene exposure to create a threshold of exposure, as expressed in PPM–years, to put Mr. Yoranidis at an increased risk of developing Acute Myeloid Leukemia (“AML”). (Docket No. 173.00.) Defendants contend that the plaintiffs’ disagreement with Dr. Stock’s opinions is not a basis for sanctions and that plaintiffs’ claim is really an unraised challenge to the admission of Dr. Stock’s testimony on this point.

“False testimony in a formal proceeding is intolerable. We must neither reward nor condone such a flagrant affront to the truth-seeking function of adversary proceedings.” (Internal quotation marks omitted.) *ABF Freight System, Inc. v. N.L.R.B.*, 510 U.S. 317, 323, 114 S.Ct. 835, 127 L.Ed. 2d 152 (1994). As this Court clearly set forth at the start of and at the end of the sanctions hearing, it will not condone nor tolerate willful false testimony designed to perpetrate some fraud on this Court.

The Court finds the following with respect to Dr. Stock’s trial testimony. Dr. Stock testified at trial that “[t]he atmospheric benzene level that you have just living in an urban environment is about one part per million. In terms of exposure, it’s in bananas, its in - - every time you burn something, it’s in cigarette smoke, it’s in car exhaust, it’s in wildfire smoke it’s everywhere,” and further testified “[y]ou can have up to that in an urban environment. So if you go stand outside, you can actually have that level depending if you’re like, in downtown Los Angeles on a bad pollution day.” (November

3, 2023 Dr. Stock Trial Tr. 58.) Plaintiffs' counsel then had the following colloquy with Dr. Stock at trial:

Q: And you're really telling this jury that that's routine, something that happens in urban areas.

A: It does.

Q: Do you have any documents that you brought with you that would document that fact?

A: We can pull some of the EPA documents and I'm happy to do that offline."

(November 3, 2023 Dr. Stock Testimony Tr. 92.)

At the hearing on this motion for sanctions, Dr. Stock testified that her 1 part per million ambient benzene level figure for urban Los Angeles that she testified about at trial was not from actual data taken in Los Angeles, but from extrapolated data. (April 16, 2024 Dr. Stock Sanctions Testimony Tr. 46-48.) She also testified at the sanctions hearing that her testimony for purposes of the sanctions hearing was extrapolated from a location in Harris County, Texas. Dr. Stock cited to a 2009 Journal Article, titled "Detecting improvement in ambient air toxics: An application to ambient benzene measurements in Houston Texas", ("2009 Journal Article") to support her opinions and she did not rely on this article for her opinions rendered at trial. (See Sanctions Hearing Ex. C.) (April 16, 2024 Dr. Stock Sanctions Testimony Tr. 25-30; 50). Dr. Stock testified that she used no actual readings of benzene level data from the Los Angeles area

to come up with her opinion at trial. (April 16, 2024 Dr. Stock Sanctions Testimony Tr. 47-48.) While she pointed this Court at the sanctions hearing to the 2009 Journal Article to support her opinion, she also testified that she did not rely on nor review the 2009 Journal Article prior to her testimony at trial. Dr. Stock also testified at the sanctions hearing that the 1 part per million figure in urban Los Angeles that she testified to at trial came from off the top of her head and that she only used urban Los Angeles, and not Houston, Texas as an example urban area because Los Angeles was a worst case scenario due to its topography and lack of air flow. (April 16, 2024 Dr. Stock Sanctions Testimony Tr. 47-48.)

In response to a question at trial as to whether 1 part per million of ambient benzene routinely occurs in urban areas, Dr. Stock clearly and unequivocally testified that “[i]t does.” (November 3, 2023 Dr. Stock Testimony Tr. 92.) She further testified at trial in response to the question “[d]o you have any documents that you brought with you that would document that fact” that “[w]e can pull up some of the EPA documents and I’m happy to do that offline.” Id. When asked at the hearing on this motion for sanctions regarding this response at trial as to what EPA documents she was referring to, she could not recall the actual EPA documents she was referring to nor could she specifically point this Court to specific EPA data other than the 2009 Journal Article. (April 16, 2024 Dr. Stock Sanctions Hearing Tr. 37-40, 54-56.) Dr. Stock also testified at the hearing that one of the data sources she used to formulate her opinion on ambient benzene levels in

urban areas was newspaper articles she read with her father that reported on the number of cars in the Houston area. (April 16, 2024 Dr. Stock Sanctions Hearing Tr. 51-53.)

The issue before this Court is whether Dr. Allison Stock willfully testified falsely before this Court on November 3, 2023. Courts commonly look to the “commonly approved usage” of a phrase as found in dictionaries. See, e.g., General Statutes § 1-1 (a); *State v. Menditto*, 315 Conn. 861, 866, 110 A.3d 410 (2015). Black’s Law Dictionary defines “false statement” as “[a]n untrue statement knowingly made with the intent to mislead.” Black's Law Dictionary (11th Ed. 2019) p. 1699. Black’s Law Dictionary further defines “untrue” as “not correct; inaccurate.” *Id.* at p. 1851. See *Cohen v. Statewide Grievance Committee*, 339 Conn. 503, 521, 261 A.3d 711 (2021). To be false “testimony [must be] more than simply wrong, or which can be challenged factually by some other evidence or testimony . . . In law, [false] means something more than untrue; it means something designedly untrue and deceitful, and implies an intention to perpetrate some treachery or fraud.” (Internal quotation marks omitted.) *Ayuso v. Commissioner of Corrections*, Superior Court, judicial district of Tolland, Docket No. CV-14-4006329-S (January 10, 2020, *Newson, J.*)

At the hearing, defendants repeatedly cited to the fact that this expert witness holds two PhD degrees as if that fact was a reasonable basis for the Court to find that she testified truthfully. It is not. Whether this witness had one PhD, two PhDs or no PhDs, the simple question that this Court must answer is not resolved by the degree held by the

witness. Nor is the question answered by the fact that this expert witness has been retained to testify repeatedly on this issue.

It is clear to this Court that Dr. Stock is intelligent and was well aware of how her testimony on ambient benzene levels in urban areas would be interpreted by a jury. She purposefully chose the worst case scenario for an urban area with ambient benzene levels, Los Angeles, to make her point to the jury when she easily could have picked New York City, an urban area near the work site of plaintiff Nicholas Yoranidis or even Houston, Texas, the urban area closest to the benzene level readings in the 2009 Journal Article. The fact that Dr. Stock extrapolated data from the Houston area to support her figures for ambient levels of benzene for the Los Angeles area is questionable on many levels. Dr. Stock's trial opinion testimony on ambient levels of benzene in an urban area, and her methodology and mathematical calculations to support such opinions could certainly be challenged at a trial. However, this fact alone does not necessarily equate to willful false testimony at trial. Without specific evidence of intent to willfully deceive the Court, this Court lacks evidence to find that Dr. Stock willfully testified falsely at trial.

Based on the foregoing, the plaintiffs' motion for sanctions is denied.

BY THE COURT:


OZALIS, J.

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*Decision entered in
accordance with the foregoing. 4/26/2024*
J. Nicholas
COURT OFFICER
All counsel notified.