Chu v. Unum Life Insurance Company of America, Case No. SACV 24-445 JVS (JDEx)

Tentative Minute Order re Motions *in Limine* and Related Motions

Plaintiff Cecilia Chu, M.D. ("Chu") and Defendant Unum Life Insurance Company of America ("Unum") move for relief by way of motions *in limine* and other pretrial motions. The Court now enters its rulings.

I. Chu's Motions *in Limine.*[1]

A. Motion *in Limine* No. 1: Plaintiff's Personal Travel.

Chu seeks an order to exclude of her personal travel and like activities. (Docket No. 79.) Unum has filed an opposition (Docket No. 99), and Chu has repled (Docket No. 128).

Chu contends that such evidence is not relevant under Federal Rule of Evidence 401 and excludable under Federal Rule of Evidence 403 as more prejudicial than probative.

The Court finds that her activities are relevant to her funcionality and mental ability as well as her motivations to seek a determination of total disability. While there is substantial evidence to support Unum's position (Opposition, pp. 1-3), the Court will not allow Unum to dwell excessively on these aspects of her life. The Court agrees that engaging in such activities "does not automatically undermine a disability claim," but the cited cases do not insulate Chu from this evidence. Such evidence is not unduly prejudicial. It is certainly not inherently prejudicial; the jury is entitled to a whole view of her activities, particularly where they conflict with her characterization of her condition. The jury is entitled to determine whether her travels were "occasional or sporadic activities." (See Reply, p. 3)

[1]For *in limine* Motions 3 and 4, Chu failed to comply with Local Rule 7-3, the meet-and-confer requirement. (Cowan Decl., ¶ 5; Docket No 101-1; Cowan Decl., ¶ 7; Docket No. 103-1.) This is sufficient ground to deny these motions.

Unum's objection to citation of non-existent cases for highly relevant propositions is well-taken.[2] (Opposition, pp. 6-7; Cowan Decl., ¶ 5; Docket No. 99-1.) Indeed, Hughes and Rosa were the only two cases cited to the Court. The Reply is silent in the face of very clear inferences of misconduct. The Court expects counsel to cite accurate authority to the Court.

The Motion is denied.

B. Motion *in Limine* No. 2: Financial Worth.

Chu seeks an order to exclude evidence of her net worth or financial status. (Docket No. 80.) Unum has filed an opposition (Docket No. 100), and Chu has replied (Docket No. 130).

The Court finds that such evidence is substantially more prejudicial than probative. (Fed. R. Evid. 403.) Whatever inferences might be drawn with regard to her motivation are distractions from the central issue of disability and potentially likely draw an unwarranted visceral response from the jury. The Court is reminded of the oath office it took to "do equal right to the poor and to the rich."

Now for a second pleading Chu cites a "phantom" case. See Opposition, p. 8-9; Cowan Decl., ¶ 5; Docket Nol 100-1.) Again, this is not addressed in the Reply.

The Motions is granted. However, should Chu assert that her financial condition caused her anxiety or any adverse consequences, the Court will revisit this motion promptly.

C. Motion *in Limine* No. 3: Malingering or Exaggeration.

Chu seeks an order to exclude evidence of malingering or exaggeration of her symptoms. (Docket No. 81.) Unum has filed an opposition (Docket No. 101), and Chu has replied (Docket No. 132).

Chi relies on the so-called "no hindsight" rule to exclude evidence of

[2]The Court had the same problem when it went to Westlaw.

malingering and exaggeration known only after Unum's decision to deny coverage. (Motion, p. 2, citing Austero v. Nation Casualty Co. of Detroit, Mich. 84 Cal. App. 3d 1, 32- 33 1978, *overruled on other grounds*). That theory does not control here. First, there is no longer a claim for bad faith breach of the covenant of good faith and fair dealing.[3] (Docket No. 150, p. 18.) Second, and more important, such evidence is relevant to the remaining breach of contract claim. Walter v. Truck Ins. Exchange, Inc., 11 al. 4th 1, 33 (1995). Moreover, Unum did present evidence of inconsistencies during the claims process. (Opposition, p. 6.)

Chu failed to addres Cohen's opinion other than in passing in the moving papers (see Motion, p. 3), and the Court declines to exclude him on the basis of the fuller discussion in the Reply. (Reply, pp. 3-4.) Moreover, his opinion is relevant to the breach of contract claim.

The Motion is denied.

C. Motion *in Limine* No. 4: Exclusion of Non-Retained Expert.

Chu seeks an order to exclude the testimony of non-retained Unum expert Dr. Alex Ursprung and Dr. Peter Brown. (Docket No. 82.) Unum has filed an oppositon (Docket No. 101), and Chu has replied (Docket No. 130).

Drs. Ursprung and Brown were vocational consultant and medical reviewer. The Court finds that Unum adequately disclosed them as non-retained experts. Cowan Decl., Ex. I; Fed. R. Civ. P. 26(a)(2)(C). There is no failure under Federal Rule of Civil Procedure 37(c)(1) or otherwise. These experts are entitled to describe their work, including any expert opinions developed during the course of their work. They are not entitled to express other opinions outside that scope.

Whether they ever talked to Chu or the treating physicians is a matter for cross examination, not exclusion. (See Motion, pp. 2-3.)

Chu seems to ask for exclusion of other unnamed reviewers. (Id.) The objection is not properly presented, and the Court declines to consider it.

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[3]Given that the summary judgment ruling was entered after this motion was filed, Chu could not have anticipated that the argument has become moot.

Significantly, Chu makes no attack on the qualification of the experts.

Here, again, Chu cites to non-existent case law. (Opposition, p. 6.) The troubling nature of such argument compounds the problem noted above. However, Chu acknowledges the error, asserting "conflation" with another case with the same name. (Reply, p. 4.) There is no contention that cite checking could not have cured the "conflation."

The Motion is denied.

II. Unum's Motions *in Limine* and *Daubert* Motions.

A. Motion *in Limine* No. 1: Regulatory Settlements and Other Matters.

Unum seeks an order to exclude evidence of regulatory settlements in 2004 and 2005, that Unum incentivized its employees to deny claims, and that Unum denied claims to improve its balance sheet. (Docket No. 83.) Chu has filed an opposition (Docket No. 102), and Unum has replied (Docket No. 124).

The Court addresses each subject.

1. Regulatory Settlements.

In 2003, various states initiated an investigation of Unum and its subsidiaries which subsequently became a fifty-state undertaking. In the 2004, the investigators issued a report. "Improprieties" were found. The California Department of Insurance also pursued its own investigation of claims from 2000 to 2003, and issued report.

Dr. Susan Kaufman ("Kaufman') relies on the reports as part of her assessment of Unum's claims handling practices. As noted below, the Court has excluded Kaufman on relevance grounds. (See Section II.E, *infra.*) Chu's own characterization of this evidence makes plain that it goes to the bad faith claim:

THE RSA AND CSA ARE HIGHLY PROBATIVE OF UNUM'S CLAIMS HANDLING PRACTICES AND BAD FAITH MOTIVE

(Opposition, p. 2; bolding, all caps, and underscoring per original.) The bad faith claim is no longer in the case.

Such evidence is also proffered in support of the punitive damages claim:

> **INSTITUTIONAL BAD FAITH EVIDENCE IS ADMISSIBLE TO SHOW PUNITIVE DAMAGES AND UNUM'S CLAIMS CULTURE**

(Opposition, p. 6; bolding, all caps, and underscoring per original.) Punitive damages are no longer in the case with the elimination of the bad faith claim.

Putting aside all other challenges to the reports, the Court finds that historical practices going back as far as 20 years are not probative of current practices. (See case collected at Motion, pp. 5-6.) To the extent that consent decrees flow out of the investigations, they are not evidence of liability where none is admitted, and are not admissible. Kramas v. Security Gas & Oil Inc., 672 F.2d 766, 772 (9th Cir 1982).[4]

The Court separately finds that the regulatory documents should be excluded under Federal Rule of Evidence 403. Their age, lack of legal force, and lack of direct relationship to the breach of contract claim support this conclusion. Moreover, they constitute a potentially time-consuming and diversionary inquiry. This prejudice is not outweighed by the little potential probative value.

For like reasons, the Court excludes references to cases prior the regulatory investigations.

This portion of the Motion is granted. The documents are excluded and if Kaufman were allowed to testify, she would be barred from discussing them.

2. Financial Considerations.

Chu advances two theories that either the corporation and its employees had financial motives to deny claims.

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[4] As, See also cases collected at Motion, p. 9 & n.3.

Unum has a profit sharing plan in which employees participate. Like any firm seeking to preserve its fiscal integrity, Unum carries reserves on its balance sheet. There is simply no evidence that any employee in the claims process for Chu's case acted to improve his financial position through a bonus, profit sharing or otherwise. There is no evidence that employee compensation was tied to the number of denied claims or closed files. This is somewhat akin to assuming that the butcher at Ralph's is putting his finger on the scales to increase the price of of a prime New York steak which he has just cut in order to increase his share in the profit sharing program. There is no evidence that any official or employee made coverage determinations here with the intent to affect Unum's reserves position. Nor is there any evidence about Unum's "knowledge or expectation about a claim," whether directed to the present claim or any other. (See Opposition, p. 8.) Any conclusions to the contrary are pure speculation.

Perhaps an expert could offer such testimony. But Kaufman is not that person: she is not a human relations expert or an expert in structuring employee incentive compensation programs. She is not qualified to render such opinions. (Fed. R. Evid. 702(a).) Nor is she an expert in corporate finance, actuarial practices or any other area of expertise relevant to corporate reserves. (Id.)

Chu's pattern of citing non-existent cases and non-existence quotes from cases continues here. (Miller Decl., ¶ 5; Docket No 124-1.)

The Motion is granted in full.

B. Motion *in Limine* No. 2: Weight Due Treating Physicians' Opinions.

Unum seeks an order to exclude evidence and argument that treating physicians' opinions are due great weight. (Docket No. 84.) Chu has filed an opposition (Docket No. 104), and Unum has replied (Docket No.125).

To the extent this issue relates to the now-dismissed bad faith claim, it is irrelevant. Indeed, the bulk of Chu's opposition focuses on the relevance of such a theory to her bad faith claim. However Chu does not argue for a blanket rule, but rather argues that a failure to give "appropriate weight" to treating physicians' opinions amounts to bad faith. (Opposition, p. 4.) No matter how phrased, the

issue is irrelevant.

The Court precludes questions which pose a legal question or are predicated on the assumption of how much weight a provider's opinion is due. There is no bar in asking as a factual matter what weight a particular Unum employer or expert gave a particular provider's opinion. There is no bar to arguing as a factual matter how much a particular provider's opinion should be given.

Once again, Chu cites to non-existent case law. (Opposition, pp. 2-3.) See above.

The Court grants the Motion.

C. Motion *in Limine* No. 3: Exclusion of Impermissible Damages.

Unum seeks an order to exclude evidence of what it characterizes as impermissible damages. (Docket No. 85.) Chu has filed an opposition (Docket No. 104), and Unum has replied (Docket No. 126).

To a major extent, the motion amounts to an improper (or stealth) motion for summary judgment; "Motions in limine should be used to raise legitimate evidentiary issues, and not as veiled motions for summary adjudication." (Order for Jury Trial, p. 4 , Docket No. 23.)

Grant of certain portions of the Motion follow as a matter of law given the dismissal of the bad faith claim:

Unum's Financial Condition. The only basis for such evidence is in support of a claim for punitive damages on the now-dismissed bad faith claim. This portion of the Motion is granted.

Future Damages. Future damages are not available on a contract claim; they may be in tort. California Insurance Code § 10111 provides:

> In life or disability insurance, the only measure of liability and damage is the sum or sums payable in the manner and at the times as provided in the policy to the person entitled thereto.

(Emphasis supplied.) McDowell v. Union Mut . Life Ins., Co., 404 F. Supp. 136, 142-43 (C.D. Cal. 1975). If and/or when Unum engages in a future breach, Chu will have a claim.

The questions of whether Chu sustained emotional distress or financial harm are factual issues which the Court declines to resolve on an *in limine* motion. Similarly, the Court declines to address the question whether she is entitled to relief under California Civil Code 3345.

Once again, Chu resorts to fictional authority. (See Reply, pp, 4-5, citing Opposition, pp. 2-3.) See above.

The Motion is granted in part and otherwise denied without prejudice.

D. Motion *in Limine* No. 4: Exclusion of Dr. Lisa M. Drago.

Unum seeks an order to exclude Chu's rebuttal expert Dr. Lisa M. Drago, Ph.D. ("Drago"). (Docket No. 109.) Chu has filed an opposition (Docket No. 107), and Unum has replied (Docket No. 127).

Unum disputes the timeliness of Chu's disclosure of Drago and the admissibility of her testimony.

1. Legal Standards.

a. Timely Disclosures.

The Federal Rules of Civil Procedure require timely disclosures of experts and their reports. (Fed. R. Civ. 26(a)(2).). This Court set the date for opening and rebuttal reports. (Docket No. 21.)

Rule 37(c)(1) of the Federal Rules of Civil Procedure establishes a self-executing sanction for failing to make required disclosures: "If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless." Fed. R. Civ. P. 37(c)(1); Yetti by Molly, Ltd. v. Deckers Outdoor Corp., 259 F.3d

1101, 1105-06 (9th Cir. 2001). The Rule also provides for alternate sanctions:

> In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:
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> > (A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure;
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> > (B) may inform the jury of the party's failure; and
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> > (C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(I)-(vi).

b. *Dubert* and Rule 702.

Federal Rule of Evidence 702 permits expert testimony from "[a] witness who is qualified as an expert by knowledge, skill, experience, training, or education," if:

> (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.

(Fed. R. Evid. 702.)

On this challenge, the Court is called to exercise its "gatekeeper" function to "ensur[e] that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand." Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 597 (1993). A trial court's "gatekeeping" obligation to admit only expert testimony that is both reliable and relevant is especially important "considering the aura of authority experts often exude." Mukhtar v. Cal. State Univ., 299 F.3d 1053, 1063-64 (9th Cir. 2002). Nevertheless, "[s]haky but admissible evidence is to be attacked by cross examination, contrary evidence, and attention to the burden of proof, not exclusion." Primiano v. Cook, 598 F.3d 558,

564 (9th Cir. 2010). Importantly, the Court's gatekeeper role under Daubert is "not intended to supplant the adversary system or the role of the [trier of fact]." Quiet Tech. DC-8, Inc. v. Hurel-Dubois UK Ltd., 326 F.3d 1333, 1341 (11th Cir. 2003) (internal quotation marks and citation omitted). In other words, at this stage, the Court is not supposed "to make ultimate conclusions as to the persuasiveness of the proffered evidence." (Id.) As the Ninth Circuit summed up in Alaska Rent-A-Car, Inc. v. Avis, 738 F.3d 960, 969-70 (9th Cir. 2013):

> Basically, the judge is supposed to screen the jury from unreliable nonsense opinions, but not exclude opinions merely because they are impeachable. The district court is not tasked with deciding whether the expert is right or wrong, just whether his testimony has substance such that it would be helpful to a jury.

The requirement that expert testimony "help the trier of fact to understand the evidence or to determine a fact in issue" goes primarily to relevance. Primiano, 598 F.3d at 564.

The Rule 702(c) and (d) reliability indicators are subject to a more flexible analysis. According to the Ninth Circuit,

> [I]n Daubert, the Supreme Court gave a non-exhaustive list of factors for determining whether scientific testimony is sufficiently reliable to be admitted into evidence, including: (1) whether the scientific theory or technique can be (and has been) tested; (2) whether the theory or technique has been subjected to peer review and publication; (3) whether there is a known or potential error rate; and (4) whether the theory or technique is generally accepted in the relevant scientific community.

Domingo ex rel. Domingo v. T.K., 289 F.3d 600, 605 (9th Cir. 2002).

The trial court has "broad latitude" in deciding how to determine the reliability of an expert's testimony and whether the testimony is in fact reliable. Mukhtar, 299 F.3d at 1064; see also Kumho Tire Co. v. Carmichael, 526 U.S. 137, 152 (1999). The "test of reliability is 'flexible,' and Daubert's list of specific

factors neither necessarily nor exclusively applies to all experts or in every case." Kumho Tire, 526 U.S. at 141.

B. Discussion.

1. *Timely Disclosure.* The dispute over whether Drago's report was timely-disclosed turns on whether she is a proper rebuttal witness or her report should have been revealed with initial expert disclosures.

The date for initial expert disclosures was March 7, 2025. She did not file a report. She did file a report on March 21, 2025 which was designated as a rebuttal. A rebutal report is limited as its name suggests to rebutting an initial expert. She makes four main points in her report all prefaced by the statement "I disagree with Cohen's opinion." (Drago Report, pp.7-15.) That she may have done other work in developing those opinions does not detract from the rebuttal nature of those opinions.

The Court declines to exclude Drago on the basis of untimely disclosure. Moreover, Unum has had an opportunity to depose her. Even if one characterizes her report as an opening report, a two-week delay in producing the report does not warrant avoid.

2. *Daubert.*

With respect to the Daubert challenge, the Court makes the following findings.

First, she is well qualified, and Unum does not contest her credentials. (Drago Report, pp. 1-2, 14-15.)

Second, her application of DSM-5-TR, a universally recognized treatise, can be tested on cross-examination.

Third, her characterization of anxiety and depression, which differs Cohen's, can be tested similarly.

Fourth, Drago opines that Chu is unable to work. Whether right or

wrong, the opinion lacks sufficient factual support, and the Court excludes it. (Fed. R. Evid. 702(b).)

Fifth, the Court finds that her opinion with regard taking appropriate medication may be received.

Sixth, given her training, the Court finds that Drago is qualified to express an opinion regarding malingering.

Finally, there is no basis to exclude Drago under Federal Rule of Evidence 403. The fact that her views differ from Cohen's does not constitute the type of confusion that the rule is designed to avoid.

Unum points to her retention very late in the litigation and the limited time she had to prepare her report. This is a diversion from the merits, and in any event, can be addressed on cross examination. (See Reply, p. 3-4.)

Except as noted, the Motion is denied.

E. *Daubert* Motion to Exclude Susan Kaufman.

Unum seeks an order to exclude Chu's bad faith expert Kaufman. (Docket No 91.) Chu has filed an opposition (Docket No. 112), and Unum has replied (Docket No. 134).

In view of the dismissal of the bad faith claim, Kaufman's opinions are no longer relevant. The Motion is granted on that basis.

The practice of citing non-existent cases continues here. (See Miller Decl., ¶ 5; Docket No. 134-1.)

F. Motion to Exclude Frank Lowe, M.D. and for Sanctions.

Unum seeks an order to exclude Dr. Frank Lowe, M.D. ("Lowe") and for sanctions. (Docket No 90.) Chu has filed an opposition (Docket No. 108), and Unum has replied (Docket No. 131).

Chu seeks to call Lowe as a percipient witness and as an expert witness. The issue here is whether Chu made required disclosures to call him in either capacity.

1. Legal Standards.

Percipient Witnesses. As part of initial disclosures under Rule 26, a party is required to disclose "the name and, if known, the address and telephone number of each individual likely to have discoverable information--along with the subjects of that information--that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment." (Fed. R. Civ. P. 26(a)(1)(ii).) There is an ongoing obligation to supplement "in a timely manner" any disclosure made under Rule 26(a)(1).

Expert Witnesses. Rule 26(a)(2) imposes a detailed set of disclosures: for retained experts:

> this disclosure must be accompanied by a written report--prepared and signed by the witness--if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:
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> (I) a complete statement of all opinions the witness will express and the basis and reasons for them;
> (ii) the facts or data considered by the witness in forming them;
> (iii) any exhibits that will be used to summarize or support them;
> (iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;
> (v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
> (vi) a statement of the compensation to be paid for the study and testimony in the case.

Sanctions. Available sanction for failure to make required disclosures are discussed above. See Section II.B.

2. Discussion.

Lowe as Percipient Witness. There is no dispute that Lowe was never disclosed in any initial disclosure or supplement. Chu bases her disclosure obligation on an interrogatory response and in text messages. Chu puts before the Court neither the interrogatory response nor the text messages. The Court accepts Unum's characterization of the interrogatory response as "one of many people who knew of Chu's work difficulties." (Reply, p. 5.) Chu's failure to comply with the Magistrate Judge's discovery orders and Chu's under oath denial of any documents only compounds the grounds for exclusion. (Motion, pp. 2-3.)

There is no lesser remedy sufficient to cure the misconduct in which Chu has engaged. (See Opposition, p. 5.) The suggestion of continuance of the trial in not a practical solution at this point; cross examination without the discovery to conduct it is no remedy; a pretrial declaration comes too late in the litigation, and that itself would provoke a request for deposition.

Lowe as Expert Witness. There is no dispute that Lowe never made the required expert disclosures. Chu does not even acknowledge the failure to comply with Rule 26(a)(2) in her opposition. To the extent Lowe might be offered as a non-retained expert, Chu offered but withdrew him as a non-retained expert. Moreover, there was no basis to offer him on that basis, and in any event, Chu did not comply with the disclosure requirements for a non-retained expert. (Fed. R. Civ. P. 26(a)(2)(C).

3. *Non-Existent Cases.* What began as a trickle nonexistent citations in Chu's Motion *in Limine* No. 1 now expands. (See Milller Decl., ¶ 5; Docket No. 131-1.)

4. Conclusion.

The Court grants the Motion in full. Lowe is barred from testifying in any capacity.

G. *Daubert* Motion to Exclude Elmo Agatep, M.D.

Unum seeks an order to exclude Chu expert Dr. Elmo Agatep, M.D. ("Agatep"). (Docket No, 80.) Chu has filed an opposition (Docket No. 106), and Unum has replied (Docket No. 129).

The focus of this Motion is Agatep's opinion that stress which Chu suffers in performing her duties will lead to cardiovascular problems, or as Chu puts its "stress kills." (Opposition, p. 2.)

First, the Court finds that Agatep's opinion is irrelevant. The question is whether Chu is presently disabled from performing her duties. That he does not address. Chu summarizes his expected testimony:

> Dr. Agatep's testimony regarding the potential health risks of stress—including his statement that "stress kills" and his belief that continued exposure to extreme stress could adversely impact Plaintiff's health—is entirely consistent with his role as a treating physician.

(Opposition, pp. 2-3; emphasis supplied.) Regardless of whether one characterizes this as speculation, it does not speak to her current condition.

The distinction between her current condition and future possibilities is acute here. Chu does not base her claim for disability on her current cardiac condition. She has no restrictions or limitations based on her cardiac condition. (Chu Depo., p. 141.)

The Court accepts the proposition that a treating physician is competent to testify to diagnosis, prognosis, and causation based on clinical care and his personal knowledge. (Opposition p. 2, *citing*, Goodman v. Staples The Office Superstore, LLC, 644 F.3d 817, 826 (9th Cir. 2011).) But that assumes that prognosis is relevant–here it is not.

Moreover, he cites no scientific principles to support his opinion which thus falls short under Federal Rule of Evidence 702(c), (d).

The Court would not disquality Agatep based on a lack of qualifications. Agatep is a general practitioner, not a cardiologist, and he has no skills or training his cardiology. The Court finds that this goes to the weight of his opinion. As a general practitioner, he is no stranger to the heart or heart conditions. However, it is troublesome that he has not seen her in person or via video in three years.

The Court finds that on the facts of his case that phrase "stress kills" is more prejudicial than probative. (Fed. R. Evid. 403.) Where the issue is Chu's current condition, the phrase is inflammatory and a distraction from the central issue. His testimony would not be helpful to the jury, but rather would produce the just the opposite result. (Fed. R. Evid. 702(a).)

Once again fictional citation lurks in this pleading. (Miller Decl., ¶ 5; Docket No. 129-1.))

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Counsel are ordered to advise the parties and all witnesses of the Court's rulings so that there are no inadvertent violations of this Order.