

This goes to the issue of the duty of the manufacturer as of September, 1965, and the question you posed goes to that point, and that objection is sustained, and the question will not be answered.

(The following is an offer of proof outside the hearing of the Jury :)

Mr. MAY. The plaintiff makes an offer to prove that if the witness was permitted to answer the question, he would answer that in their current booklets they are informing the patients as to the symptoms of thromboembolism and pulmonary embolisms and instructing the patients to report to the doctors any swellings or pains in the legs or chest pains and these things that should be reported promptly.

The plaintiff feels that this is a proper question and that that is proper evidence, because the doctor in a prior answer to a prior question said that he still believes that the symptoms—these symptoms should not be given to the patient for their information and still presently is of that belief.

(Whereupon, the following proceedings were had within the presence and hearing of the Jury :)

The COURT. The ruling of the Court stands.

Mr. MAY. This next question, Your Honor, I'm going to ask is going to the question of causation.

The COURT. All right. In that area we are not limited by the September, 1965 date.

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By Mr. MAY (continuing) :

Q. (Continuing)—four hundred-plus incidents of clotting and the users of Enovid, were you?

A. In the sense that we couldn't prove a negative, that is correct.

On the other hand, we could find—well,——

Q. You couldn't find one way or the other, could you?

A. Well, we couldn't find any evidence to indicate that Enovid was the cause, and we were not able to prove a negative. That is correct.

Q. And at that time, as a result of these committees and these experts that you called in, the Wright Committee advised a controlled prospective study, didn't they?

A. Yes, sir.

Q. At this meeting up in Chicago, the experts called for a controlled prospective study to give you more additional information, didn't it?

A. That's right.

Q. The World Health Report called for a controlled prospective study, did it not?

A. Yes, sir.

Q. And Searle and Company never made a controlled prospective study, did they?

A. That's correct.

Q. And this information was never reported to the physicians in the "Dear Doctor" letter, was it?

A. No, sir.

Mr. PANKOW. What information? (Pause in the proceedings.)

Mr. MAY. Mr. Pankow asked what information. I'm speaking about the information that these studies have been requested by these three committees of experts, and that you had never made such a study.

The WITNESS. That's right.

By Mr. MAY (continuing) :

Q. That was not reported?

A. That's correct.

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