

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CAROLYN M. KIEFFABER,)	
)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	No. 20-1177-KHV
)	
ETHICON, INC. and)	
JOHNSON & JOHNSON,)	
)	
)	
Defendants.)	
_____)	

MEMORANDUM AND ORDER

This matter comes before the Court on Defendants’ Motion In Limine No. 6 To Preclude Improper “Reptile Theory” Arguments, Questioning, And Tactics At Trial (Exhibit F, Attachment 6 to Defendants’ Omnibus Motions In Limine (Doc. #206)) filed March 8, 2021.¹

Defendants ask the Court to prohibit plaintiff from trying to persuade the jury that it has the opportunity to improve the “safety” of the community by rendering a verdict that will eliminate Ethicon’s “dangerous” or “unsafe” conduct, and referring to generalized “safety principles” that have no reliable connection to the legal principles which govern her claims.

The Court has not read Reptile: The 2009 Manual of the Plaintiffs Revolution, by attorney Don Keenan and jury consultant David Ball, and it has no interest in patrolling the boundaries between reptilian and non-reptilian trial strategy. The Court has a lengthy code of evidentiary

¹ To expedite a ruling on this motion, the Court is communicating the reasons for its decision without attempting to draft a legal treatise or cite relevant case law. The law in this area is clear and the Court has taken into account the authorities which are cited in the parties’ briefs, along with other authorities. If necessary for future proceedings, the Court may supplement this order with additional findings of fact or legal citations.

rules, civil procedure rules and ethical codes of conduct for counsel. If plaintiff's counsel fail to comply with those rules, defendants will make contemporaneous objections and the Court will sustain them—not because counsel's conduct is reptilian but because it violates the foregoing rules and codes of conduct. The authors of the so-called Reptile Manual have probably made a lot of money selling their book to the plaintiffs' bar but their work has resulted in tremendous waste of judicial time and resources on pointless motions like this.

IT IS THEREFORE ORDERED that Defendants' Motion In Limine No. 6 To Preclude Improper "Reptile Theory" Arguments, Questioning, And Tactics At Trial (Exhibit F, Attachment 6 to Defendants' Omnibus Motions In Limine (Doc. #206)) filed March 8, 2021, be and hereby is **OVERRULED**.

Dated this 25th day of March, 2021 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge