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By Michelle Massey

Lawsuit filed over manufacturer's alleged 'over-promotion' of Fosamax



Richard J. Arsenault

A Lafourche Parish resident has filed a personal injury lawsuit against the manufacturers of the drug Fosamax regarding over-promotion of the drug for alleged non-approved or "off-label" uses.

Josephine P. Naccio filed suit against Merck Sharp & Dohme Corp. f/k/a Merck & Co. Inc., Watson Pharmaceuticals Inc. and Barr Laboratories Inc. on April 18 in federal court in New Orleans.

According to the lawsuit, Naccio was prescribed Fosamax for long-term use for the treatment of osteoporosis and as a result, she states she suffered an unexplained femur fracture. Naccio states she would not have taken the drug had she known of the risks associated with long-term use.

The drug manufacturers are accused of concealing the "unreasonably dangerous risks" of femur fractures. They are also accused of failing to conduct post-marketing surveillance.

Causes of action filed against the defendants include composition defect, design defect, inadequate warning, breach of express warranty, redhibition and breach of express and implied warranty of fitness for ordinary use.

The plaintiff is asking for an award of actual damages, treble and punitive damages, interest, court costs and attorney's fees.

Naccio is represented by Richard J. Arsenault, J.R. Whaley and Mary Nell Bennett of Neblett, Beard & Arsenault in Alexandria. A jury trial is requested.

U.S. District Judge Carl J. Barbier is assigned to the case. *Case No. 2:11-cv-00883*