

Civil No. 13-1051 (GAG)

1 or in the drug's package insert, this issue requires resolution of factual issues beyond the court's
2 current grasp.

3 This issue may not require extensive discovery. "A prescription drug manufacturer has a
4 duty to adequately warn prescribing physicians of the hazards posed by the use of its drugs."
5 Guevara, 845 F.2d at 366. Furthermore, "The warning is directed not to the ultimate user but to the
6 doctor prescribing the drug, who must then 'take into account the propensities of the drug and the
7 susceptibilities of the patient and make an informed decision.'" Id. (citation omitted). The First
8 Circuit has determined that, as a matter of law, when the Physician's Desk Reference and package
9 insert that comes with a drug warn physicians not to give the drug to persons with certain
10 sensitivities, then a warning is adequate. See id. Resolving this issue turns on the contents of the
11 warning, which the court does not presently have. For now, Plaintiff's statement that Defendant
12 failed to properly warn the label to tip off a doctor that a calcium-deficient might suffer potential
13 dangers of Reclast's side-effects. Therefore, Defendant's motion to dismiss at Docket No. 17 is

14 **DENIED.**

15
16 **SO ORDERED.**

17 In San Juan, Puerto Rico this 27th day of June, 2013.

18 /S/ Gustavo A. Gelpí
19 GUSTAVO A. GELPI
20 United States District Judge
21
22
23
24
25
26
27