

**CONFIDENTIAL ATTORNEY WORK PRODUCT**  
**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF MICHIGAN**  
**SOUTHERN DIVISION**

IN RE: CARDIZEM CD  
ANTITRUST LITIGATION

MASTER FILE NO. 99-MD-1278

This document relates to:

ALL ACTIONS

**AFFIDAVIT OF DAVID P. SMITH IN SUPPORT OF  
JOINT PETITION FOR ATTORNEYS' FEES AND DISBURSEMENTS  
FILED ON BEHALF OF PERCY, SMITH, FOOTE & GADEL, LLP**

STATE OF LOUISIANA

PARISH OF RAPIDES

I, DAVID P. SMITH, being first duly sworn, deposes and says:

1. My professional law corporation is a partner in the law firm of Percy, Smith, Foote & Gadel, LLP. I submit this affidavit in support of our firm's application for an award of attorneys' fees in connection with services rendered in this litigation, as well as for the reimbursement of expenses incurred by my firm in connection with this case.

2. Louisiana Wholesale Drug Co., Inc., a Class Plaintiff Representative in the litigation, is my client. Our firm has acted as liason for Louisiana Wholesale Drug Co., Inc. and has been involved in this litigation, from inception to present day.

For purposes of this affidavit, our contributions can be summarized as follows. My firm, *inter alia*: was retained by Louisiana Wholesale Drug Co., Inc. concerning this matter; initially conducted discussions with Louisiana

Wholesale Drug Co., Inc. about matters that led to the initiation of this litigation; conducted research and investigation into the facts and circumstances that gave rise to this lawsuit; entered the engagement agreement between Louisiana Wholesale Drug Co., Inc. for the commencement of this action; compiled information in support of the initial complaint for class representative Louisiana Wholesale Drug Co., Inc.; participated in the preparation of Gayle White of Louisiana Wholesale Drug Co., Inc. for his deposition on behalf of Louisiana Wholesale Drug Co., Inc.; reviewed and analyzed discovery requests; gathered and reviewed documents and information for discovery requests and discovery responses; compiled information about drug prices and prepared memoranda about Louisiana Wholesale Drug Co., Inc.'s pricing of drugs; assisted in the identification and location of experts to retain as witnesses for class plaintiffs; reviewed and indexed documents; analyzed documents, pleadings and depositions in this litigation; summarized documents, depositions and pleadings; gathered and reviewed information relating to brand name and generic drug pricing and marketing, including the impact of generic penetration of brand name drug markets for expert witness use; conducted conferences with Louisiana Wholesale Drug Co., Inc. regarding settlement; attended and participated in the mediation proceedings that resulted in the settlement of this litigation and kept the client fully informed of all developments in this litigation.

3. The total number of hours on this litigation by our firm is 1116.05. The total lodestar for our firm is \$276,305.00, consisting of \$263,037.50 for attorneys' time and \$13,267.50 for paralegals' and Law Clerk's time.

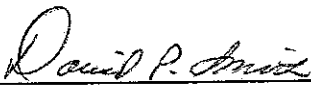
4. The schedule, attached as Exhibit 1, a summary of the amount of time spent, from inception through present, by each attorney, paralegal and Law Clerk who were involved in this litigation, and the lodestar calculation based on current billing rates for commercial litigation for which I am responsible. For attorneys, paralegals and Law Clerks who are no longer employed by our firm, the lodestar calculation is based upon the billing rates for such attorneys, paralegals and Law Clerk in his or her final year of employment by our firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by our firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

5. Our firm's lodestar figures are based upon billing rates, which do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.


6. Our firm also has incurred a total of \$12,698.71 in unreimbursed expenses in connection with the prosecution of this litigation. These expenses are categorized and attached as Exhibit 2.

7. The expenses incurred in this action are also reflected on the books and records of our firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate recordation of the expenses incurred.

8. With respect to the standing of counsel in this case, attached as Exhibit 3 is a brief biography of our firm and the members of our firm who were principally involved in this litigation.

  
\_\_\_\_\_  
DAVID P. SMITH

SWORN TO before me, Notary Public, this 29<sup>th</sup> day of October, 2002.

  
\_\_\_\_\_  
NOTARY PUBLIC  
RAPIDES PARISH, LA

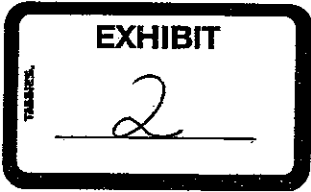
**PERCY, SMITH, FOOTE & GADEL, L.L.P.**  
**CARDIZEM LITIGATION**

**Attorney Time Report From Inception Through Present**

Categories:

- 1 - Case Management      4 - Discovery/PreCompliant Invest  
 2 - Court Appearance    5 - Prep Pldgs/Briefs & Class Cert  
 3 - Working with Experts 6 - Mediation/Settlement

Name (Status)	1	2	3	4	5	6	Total Hours	Hourly Rate	Cumulative Lodestar
David P. Smith	410.1	0	0	211.4	23.45	127.9	772.85	\$300.00	\$231,855.00
Margaret Long	27.1	0	0	57.2	0	6.6	90.9	\$75.00	\$6,817.50
Pamela P. Davis	0	0	0	47.6	0	0	47.6	\$75.00	\$3,570.00
Amy Holt Brown	20.8	0	0	0	0	0	20.8	\$200.00	\$4,160.00
Nancy Blackwell	0	0	0	12	0	0	12	\$75.00	\$900.00
Christine Evans	0	0	0	18.1	0	0	18.1	\$75.00	\$1,357.50
Kerry Cockrell	9.5	0	0	67.4	2.4	2	81.3	\$200.00	\$16,260.00
Lucy Sikes	1.7	0	0	34.8	0	0	36.5	\$200.00	\$7,300.00
Suzanne Williams	0	0	0	27.7	0	0	27.7	\$125.00	\$3,462.50
Law Clerk	0	0	0	5.3	0	0	5.3	\$75.00	\$397.50
Lori Cordovia	0	0	0	3	0	0	3	\$75.00	\$225.00
	469.2	0	0	484.5	25.85	136.5	1116.05		\$276,305.00



**Percy, Smith, Foote & Gadel, L.L.P.**

Cardizem Antitrust Litigation  
Expenses Chart through 10/29/02

Copies	\$1,528.79
Telephone & Facsimile	\$1,096.02
Postage & Overnight Mail Service	\$292.74
Legal/Computer Research (Summation Software)	\$655.52
Travel Expense	\$8,950.64
Court Costs/Filing Fees	\$175.00
	<b>\$12,698.71</b>

LAW OFFICES OF  
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**September, 2002**

David P. Smith, A Professional Law Corporation ("APLC"), a partner of Percy, Smith, Foote and Gadel, LLP, engages in complex multi-party civil litigation. Mr. Smith has experience in healthcare litigation, financial transactions litigation, antitrust litigation, business tort litigation and frequently represents parties in significant class action and Multi-District Litigation matters.

Percy, Smith, Foote & Gadel, LLP, maintains an office in Alexandria, Louisiana, including a support staff consisting of sixteen individuals, including associate attorneys, legal assistants and administrative staff. The clients of the firm include local businesses, national and international companies, and private individuals.

**PARTNERS OF THE FIRM**

**J. MICHAEL PERCY**, born Baton Rouge, Louisiana, December 15, 1942; admitted to bar, 1969, Louisiana. Education: Louisiana State University; Louisiana College (B.A., 1965); Louisiana State University (J.D., 1969). Phi Alpha Delta. Member: Governor's Commission on the Atchafalaya Basin, 1973-1975. Member: Alexandria, Louisiana State and American Bar Associations, Fifth Circuit Bar Association; Defense Research Institute; Louisiana Association of Defense Counsel; Board of Directors 1994-1995, Crossroads Inns of Court; Executive Committee. Areas of Practice: commercial law and litigation, contracts, real estate, insurance defense, litigation and products liability. E-mail: mpercy@psfg-law.com.

**DAVID P. SMITH, PLC**, born Lecompte, Louisiana, January 28, 1942; admitted to bar, 1968, Tennessee; 1971, Louisiana; U.S. Court of Military Appeals and U.S. Tax Court; 1974, U.S. Supreme Court. Education: Louisiana State University and A. and M. College (B.A., 1964); University of Tennessee at Knoxville (J.D., 1967). Capt., JAGC, USMCR, 1968-1971. Tax Attorney, Office of the Chief Counsel, Internal Revenue Service, 1971-1976. Member: Louisiana State, Tennessee and American Bar Associations. Committees: Louisiana Bar Association Committees, including past and current service on the Multi-Jurisdictional Practice Committee. Areas of Practice: diverse State and Federal litigation, including complex multi-party litigation such as *In Re: Brand*

*Name Prescription Drugs Antitrust Litigation*, MDL 996 (N.D. Ill.); complex and diverse class actions such as *In Re: Northwest Airlines, Inc., et al., Antitrust Litigation* (E.D. MI); the *Cardizem Antitrust Litigation*, MDL 1278 (S.D. MI); the *Hytrin Antitrust Litigation*, MDL 1317 (S.D. FL); the *Cipro Antitrust Litigation*, MDL 1382 (E.D. NY); the *Buspirone Antitrust Litigation*, MDL 1413 (D.D.C), *In Re: K-Dur Antitrust Litigation*, MDL 1419 (Dist. of N.J.); and, the *Magazine Subscription Antitrust Litigation* (S.D. NY); as well as commercial and business torts. E-mail: [dpsmith@psfg-law.com](mailto:dpsmith@psfg-law.com).

**ELIZABETH ERNY FOOTE**, born Lafayette, Louisiana, January 21, 1953; admitted to bar, 1978, Louisiana. Education: Louisiana State University (B.A., with honors, 1974; J.D., 1978); Duke University (M.A., 1975). Omicron Delta Kappa. President, Mortar Board, 1973-1974. Treasurer 1994-1996, Louisiana State Bar Association. Recipient of 1994 President's Award, Louisiana State Bar Association. Member: Alexandria Bar Association; Louisiana State Bar Association; Louisiana Trial Lawyers Association; Louisiana Association of Defense Counsel; Association of Women Attorneys; Louisiana State Bar Association Committees: Continuing Legal Education Committee, 1985 to Present, People's Law School Subcommittee, 1985-1988; Multi-Topics Subcommittee, 1988-1993, Chair, 1991- 1992 and 1992-1993, Vice Chair, 1990-1991; Crossroads Inns of Court. Publications: Louisiana Bar Journal, Vol. 39, No. 1, June 1991, "A Woman's View of Law Practice in the Next Century"; Frequent CLE Lecturer. Areas of Practice: Insurance defense, medical malpractice defense, commercial law, collections, real estate and general business. E-mail: [efoote@psfg-law.com](mailto:efoote@psfg-law.com)

**BRADLEY J. GADEL**, born Baton Rouge, Louisiana, May 15, 1959; admitted to bar, 1984, Louisiana; also admitted to practice before the U.S. Eastern District Court; U.S. Western District Court; U.S. Court of Appeals; Fifth Circuit; and Supreme Court of the State of Louisiana. Education: Louisiana State University (B.C.J., 1981, J.D., 1984). Member: Moot Court Board 1983-1984; Alexandria, Louisiana State and American Bar Associations; Louisiana Association of Defense Counsel; and American Inns of Court. Areas of Practice: Insurance defense, litigation, workers' compensation and products liability. E-mail: [bgadel@psfg-law.com](mailto:bgadel@psfg-law.com).

## ASSOCIATES OF THE FIRM

**SUSAN C. SEGURA**, born Loreauville, Louisiana, March 5, 1965; admitted to bar, 1993, Louisiana; also admitted to practice before U.S. Court of Appeals Fifth Circuit, U.S. District Court, Western District of Louisiana. Education: University of Southwestern Louisiana (B.S., Summa Cum laude, 1987), Louisiana State University (J.D., 1993). Member: Appellate Advocacy Board; Chancellor's List, Spring and Fall, 1992; Recipient, American Jurisprudence Award; Administrative Law, 1992, Federal Courts 1992, Criminal Procedure, 1993; Alexandria, Louisiana State and American Bar Associations. E-mail: [ssegura@psfg-law.com](mailto:ssegura@psfg-law.com).

**LUCY GRIFFIN SIKES**, born New York City, New York, February 20, 1968; admitted to bar, 1994, Louisiana; also admitted to practice before United States District Court, Western District of Louisiana, 1996, Middle District of Louisiana, 1996. Education: Louisiana State University (B.A. 1990); Loyola Law School, New Orleans, Louisiana (J.D. 1993). Chapter 7 Panel Bankruptcy Trustee, Western District of Louisiana, Monroe Division. Member, Alexandria, Louisiana State and American Bar Associations; Louisiana Association of Defense Counsel; Crossroads Chapter, American Inns of Court. E-mail: [lsikes@psfg-law.com](mailto:lsikes@psfg-law.com).

**MAYME HOLT BROWN**, born Alexandria, Louisiana, October 18, 1976; admitted to bar, 2001, Louisiana; also admitted to practice before the United States District Court, Western District of Louisiana 2001, Middle District of Louisiana 2001. Education: Louisiana State University (B.A., 1998); Louisiana State University (J.D., 2001). Phi Alpha Delta. Member: Alexandria, Louisiana State and American Bar Associations;. E-mail: [aholt@psfg-law.com](mailto:aholt@psfg-law.com).

**BRIAN D. BROOKS**, born Leesville, Louisiana, October 25, 1974, not yet admitted. Education: Northwestern State University (B.A., 1998); Washington & Lee University (J.D. 2002). Member: American Bar Association.

## LEGAL ASSISTANTS

**MARGARET (PEGGY) LONG**, born Cottonport, Louisiana; Education: attended Northwestern State University, Louisiana State University at Alexandria; Notary Public for the State of Louisiana; 21 years extensive experience in the legal field with an emphasis in civil litigation. E-mail: [peggylong@psfg-law.com](mailto:peggylong@psfg-law.com).

**PAMELA P. DAVIS**, born San Diego, California; Education: Louisiana College, Warner Southern College; Published: Legal Secretaries Handbook (Louisiana) - Workers Compensation Chapter; Awards: Legal Secretary of the Year 1989-1990, Rapides Parish Louisiana Legal Secretaries Association; Memberships: Louisiana State Paralegal Association and Mid-State Paralegal Association. E-mail: [pdavis@psfg-law.com](mailto:pdavis@psfg-law.com).

**CHRISTINE R. EVANS**, born Shreveport, Louisiana; Education: Louisiana Tech University (B.A. 1992); Northwestern State University (Paralegal Certificate, 1994). Memberships: Louisiana State Paralegal Association and National Association of Legal Assistants. E-mail: [cevans@psfg-law.com](mailto:cevans@psfg-law.com).

**VICKI L. CEDARS**, born Alexandria, Louisiana; Education: Northeastern State University and Northwestern State University (Paralegal Certificate, 2000). Notary Public for the State of Louisiana; 10 years extensive experience in the legal field with an emphasis on bankruptcy creditor work. E-mail: [vcedars@psfg-law.com](mailto:vcedars@psfg-law.com).