

EXHIBIT 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

In re K-Dur Antitrust Litigation

This document relates to:

All Direct Purchaser Class Actions

Civil Action No. 01-cv-1652(SRC)(CLW)
MDL Docket No. 1419

**AFFIDAVIT OF STUART E. DES ROCHES OF ODOM & DES ROCHES, LLC,
IN SUPPORT OF CLASS COUNSEL’S MOTION FOR AN AWARD OF ATTORNEY’S
FEES, REIMBURSEMENT OF EXPENSES,
AND INCENTIVE AWARDS TO CLASS REPRESENTATIVES**

STATE OF LOUISIANA)
) ss.: 433-23-6752
PARISH OF ORLEANS)

STUART E. DES ROCHES, being first duly sworn, deposes and says:

1. I am a partner in the law firm of Odom & Des Roches, LLC (hereinafter “the firm” or “ODR”). I submit this affidavit in support of the Motion for an Award of Attorney’s Fees, Reimbursement of Expenses, and Incentive Awards to Class Representatives, filed in connection with services rendered and expenses incurred in the above-captioned consolidated cases.

Involvement in the Case

2. The firm has participated in this case as co-counsel for Louisiana Wholesale Drug Company, Inc. (“Louisiana Wholesale”), the named plaintiff representatives for the Direct Purchaser Class Plaintiffs.
3. ODR has been actively involved in this matter from initiation of the pre-filing investigation, to filing of the complaint, throughout fact and expert discovery, in opposing various dispositive motions filed by defendants, in preparing for trial, in making live presentations at the various mediation sessions, and in reaching settlement with defendants Merck & Co., Inc. (“Merck”) and Upsher-Smith Laboratories, Inc. (“Upsher”) (collectively, “Defendants”) on behalf of the Direct Purchaser Class Plaintiffs.
4. Specifically, ODR was involved in conducting a pre-filing investigation relating to (a) the various agreements between Merck, Upsher and American Home Products, Corp. (“AHP”); (b) the applicable regulatory background underlying and pertaining to branded K-Dur and generic versions thereof; (c) the ability and willingness of Upsher and AHP to enter the market earlier with less-expensive AB-rated generic versions of K-Dur “but for” the existence of the agreements at issue; and (d) the proper market definition for this antitrust case.
5. Louisiana Wholesale filed its complaint with this Court on June 15, 2001. Not long thereafter, the Court appointed Garwin Gerstein & Fisher, LLP, and Berger Montague, P.C., as co-lead counsel for the Direct Purchaser Class Plaintiffs. Co-Lead Counsel then created an internal structure among their co-counsel to ensure the efficient and effective prosecution of this antitrust case on behalf of the Direct

Purchaser Class Plaintiffs. Within this structure and organization, ODR was actively involved with devising and implementing an overall litigation plan, with particular concentration on causation and liability issues.

6. More specifically, the firm participated in the following detailed litigation tasks once the complaint was filed: (a) drafting discovery requests, ensuring the production of necessary documents and information by Defendants, and reviewing the resulting voluminous document production; (b) coordinating the depositions of Defendant Upsher and taking many of those depositions; (c) retaining and working with experts in the fields of Food and Drug Administration (“FDA”) regulatory affairs, pharmaceutical manufacturing, and the legal and ethical obligations of patent lawyers; (d) preparing for all aspects of trial; and (e) preparing for, attending, and actively participating in multiple mediation sessions over the course of many years.
7. Regarding fact depositions, ODR took the lead in the following depositions on behalf of the Direct Purchaser Class Plaintiffs: (a) Diane Gibbs -- Upsher Regulatory Affairs; (b) Scott Gould -- Upsher Supply Chain Management; (c) Todd Christensen -- Upsher Technical Operations; (d) Paul Kralovec -- Upsher Chief Financial Officer; (e) Mark Robbins -- Upsher Director of Regulatory Affairs and General Counsel; (f) Paul Woodruff -- Upsher Director of Manufacturing; and (g) Bruce Haas -- Upsher’s outside patent counsel. The firm also actively assisted in outlining issues to be covered, and identifying documents to be used in, various other depositions.
8. ODR was also involved in working with experts and preparing those experts for

their deposition and trial. Specifically, ODR worked closely with Thaddeus Hubert, III, Esq., regarding the contours and obligations under Fed.R.Civ.P. 11 and the ethical/professional rules applicable in New Jersey to patent lawyers litigating in the United States District Court for the District of New Jersey; Martha Bennett regarding the Hatch-Waxman Act, FDA regulations regarding drug product approvals, and regulatory exclusivities for drug products; and Cheryl Blume, Ph.D., regarding manufacturing capacity and commercial launch preparations of Upsher prior to settling with Merck. ODR also substantively participated with other experts, such as Jeffrey Leitzinger, Ph.D., regarding the “but for” world causation inputs into the calculations of overcharge damages.

9. ODR has also been a core member of the Direct Purchaser Class Plaintiffs’ settlement and mediation team. This work involved, among other things, drafting portions of various mediation statements; preparing for and delivering live presentations to the mediators and Defendants; and thereafter participating in the active negotiation sessions.

Attorneys’ Fees and Costs/Expenses

10. Prosecution of this case has been a daunting task in terms of the complex antitrust theories involved; the complexity of the pharmaceutical, regulatory, patent, economic, scientific, and manufacturing issues underlying the antitrust claims, which required detailed analysis by lawyers and experts in these various fields; the volume of information and documents obtained, reviewed and analyzed; the number of fact and expert depositions; the number of parties involved; trial preparation; outstanding defense counsel; the sixteen year tenure of this matter;

and the outlay of significant resources to ensure recovery for the Direct Purchaser Class Plaintiffs.

11. Based on my experience litigating reverse payment Hatch-Waxman antitrust cases on behalf of direct purchaser classes, I can attest to the risk of non-recovery. Some of these cases have been lost at the motion to dismiss, motion for summary judgment or jury trial stages, after the expenditure of enormous resources. The risk of non-recovery here was particularly high given the hotly contested nature of the legal standard surrounding reverse payment antitrust analysis, which continues to evolve even to this day, and the factual defenses mounted by Defendants.

12. Contained below is a chart demonstrating the significant time spent on this case by each ODR attorney and paralegal, and the lodestar calculation based on the firm's current billing rates for complex antitrust cases. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by the firm, which are available for the Court's inspection if necessary. Time expended in preparing the application for fees and reimbursement of expenses has not been included.

Name & Position	Hourly Rate	Total Hours	Lodestar
John G. Odom (Senior Partner)	\$875	230.75	\$201,906.25
Stuart E. Des Roches (Partner)	\$800	2,346.25	\$1,877,000.00
Andrew W. Kelly (Partner)	\$725	1,217.50	\$882,687.50
Chris Letter (Partner)	\$600	1,284.25	\$770,550.00
Charles F. Zimmer (Partner)	\$575	460.50	\$264,787.50

Craig Glantz (Of Counsel)	\$650	19.75	\$12,837.50
Adelaide Ferchmin (Associate)	\$350	69.25	\$24,237.50
John Alden Meade (Associate)	\$500	685.25	\$342,625.00
David C. Pellegrin (Associate)	\$300	122.75	\$36,825.00
John E. Fitzpatrick (Associate)	\$400	13.50	\$5,400.00
Annie M. Schmidt (Associate)	\$350	17.00	\$5,950.00
Dan C. Chiorean (Associate)	\$425	14.00	\$5,950.00
Christopher Stow- Serge (Associate)	\$400	273.00	\$109,200.00
Megan Jordan (Law Clerk)	\$120	5.00	\$600.00
Kim Fontenot (Paralegal)	\$200	582.75	\$116,550.00
Amy Kennelly (Paralegal)	\$175	139.50	\$24,412.50
		Total Hours: 7,481	Total Lodestar: \$4,681,518.75

13. The total number of hours expended on this litigation by the firm is 7,481.00. The total lodestar for the firm is \$4,681,518.75.
14. In addition to the above, ODR has incurred a total of \$422,132.12 in unreimbursed costs and expenses in connection with the prosecution of this case. The expenses and costs incurred in this action are reflected in the firm's detailed Work-In-Progress ("WIP") Report, which is available to the Court upon request. The WIP Report is prepared from expense vouchers, check records and other source materials and are an accurate recordation of the actual expenses and costs incurred. No "premium" or other additional up-charge has been added to these

figures. The categorical breakdown of the un-reimbursed costs and expenses is as follows:

Advances to litigation fund	\$293,120.00
Copy costs	\$32,414.12
Postage/Courier Services	\$7,588.28
Travel expenses	\$62,352.72
Long distance/fax	\$9,879.08
Service of subpoenas	\$184.85
Computer research	\$389.27
Document Production Storage	\$16,203.80
Total	\$422,132.12

Experience of ODR

15. With respect to the standing of counsel in this case, attached hereto as Exhibit "A" is a brief biography of the firm and attorneys who were involved in this case. Also, the firm has engaged in antitrust litigation for many years, including over nineteen years of litigating Hatch-Waxman antitrust cases on behalf of direct purchaser class plaintiffs.
16. ODR has also engaged in non-class contingency fee litigation, including non-class antitrust litigation in the pharmaceutical industry. The firm's typical contingency

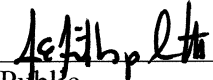
fee arrangement, including in prior non-class antitrust cases involving the pharmaceutical industry, is to be compensated at least one-third of any recovery.

SO SWORN, this 17TH day of July, 2017, at New Orleans, Louisiana.


Stuart E. Des Roches, Esq.

Sworn to before me, this 17TH
day of July, 2017.

JOHN E. FITZPATRICK, III
NOTARY PUBLIC
BAR#31155
STATE OF LOUISIANA
MY COMMISSION IS FOR LIFE



Notary Public

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Firm Resume

Odom & Des Roches, LLC, engages in multi-party litigation of complex civil matters throughout the United States. The firm's clients include local businesses, national and international companies, and private individuals.

The lawyers of Odom & Des Roches, LLC, have particular depth of experience in antitrust litigation, corporate litigation, and pharmaceutical industry litigation. The firm routinely handles complex class action cases and other matters both inside and outside the Multi-District Litigation context. The firm's partners have served as lead trial counsel in several national antitrust class cases that have gone to trial in various federal courts around the country.

The firm has been intimately involved in, among others, the following national antitrust class action and non-class action cases:

- *In re AndroGel Antitrust Litig.*, Civil Action No. 09-md-2084, N.D. Ga. (district court appointment to executive committee for Sherman Act Class Plaintiffs) (case pending).
- *In re Brand Name Prescription Drugs Antitrust Litig.*, Civil Action No. 94-C-897, E.D.N.Y. (representation of 3,800 non-class independent retail pharmacy operations) (private settlements reached with many defendants).
- *In re Buspirone Antitrust Litig.*, MDL Docket No. 1410, S.D.N.Y. (district court appointment to steering committee representing Sherman Act Class Plaintiffs) (district court-approved settlement of \$220,000,000).

- *In re Cardizem CD Antitrust Litig.*, MDL Docket No. 1278, E.D. Mich. (district court appointment to discovery committee representing Sherman Act Class Plaintiffs) (district court-approved settlement of \$110,000,000).
- *In re Hypodermic Direct Purchaser Antitrust Litig.*, Civil Action No. 05-1602, D.N.J. (district court appointment to executive committee representing Sherman Act Class Plaintiffs) (district court-approved settlement of \$45,000,000).
- *In re K-Dur Antitrust Litig.*, MDL Docket No. 1419, D.N.J. (district court appointment to executive committee representing Sherman Act Class Plaintiffs) (case pending).
- *In re Lamictal Direct Purchaser Antitrust Litig.*, Civil Action No. 2:12-cv-00995 D.N.J. (counsel for Sherman Act Class Plaintiffs) (case pending).
- *In re Neurontin Antitrust Litig.*, MDL Docket No. 1479, D.N.J. (counsel for Sherman Act Class Plaintiffs) (district court-approved settlement of \$190,000,000).
- *In re Nexium (Esomeprazole) Antitrust Litig.*, Civil Action No.1:12-md-02409, D. Mass. (counsel for Sherman Act Class Plaintiffs) (settlement with 1 defendant for \$24,000,000).
- *In re Relafen Antitrust Litig.*, Master File No. 01-12239, D. Mass. (counsel for Sherman Act Class Plaintiffs) (district court-approved settlement of \$175,000,000).
- *In re Remeron Antitrust Litig.*, Civil Action No. 03-CV-0085, D.N.J. (counsel for Sherman Act Class Plaintiffs) (district court-approved settlement of \$75,000,000).
- *In re: Suboxone (Buprenorphine Hydrochloride and Nalaxone) Antitrust Litig.*, MDL No. 2445, E.D. Pa. (counsel for Sherman Act Class Plaintiffs) (case pending).
- *In re Terazosin Hydrochloride Antitrust Litig.*, MDL Docket No. 1317, S.D. Fla. (counsel for Sherman Act Class Plaintiffs) (district court-approved settlement of \$72,500,000).
- *In re TriCor Direct Purchaser Antitrust Litig.*, Civil Action No. 05-340, D. Del. (district court appointment to plaintiffs' executive committee representing Sherman Act Class Plaintiffs; served as lead trial counsel) (district court-approved settlement of \$250,000,000).
- *King Drug of Florence, Inc., et al. v. Cephalon, Inc., et al.*, Civil Action No. 2:06-cv-01797, E.D. Pa. (district court appointment to executive committee for Sherman Act Class Plaintiffs) (district court- approved settlement of \$512,000,000; case pending

against remaining defendants).

- *Meijer, Inc. et al. v. Abbott Laboratories*, Civil Action No. 4:07-cv-05985, N.D. Cal. (counsel for Sherman Act Class Plaintiffs) (district court-approved settlement of \$52,000,000).
- *Natchitoches Parish Hospital Service District, et al. v. Tyco International (US), et al.*, Civil Action No. 05-12024, D. Mass. (counsel for Sherman Act Class Plaintiffs; served as lead trial counsel) (district court-approved settlement of \$32,500,000).

The core of the firm's philosophy and practice is its commitment and ability to try jury cases, and its lawyers structure their strategy from the outset of an engagement with an eye towards eventual appearances in the courtroom for motion practice and jury trials. It is the firm's philosophy and experience that being prepared for the rigors of motion practice and trial maximizes the opportunities for the client to obtain favorable results. In addition to its active jury trial practice, the firm has extensive appellate experience, and its senior partner argued and won the unanimous reversal of a federal circuit court of appeals before the United States Supreme Court. Odom & Des Roches, LLC, which is rated "AV" by Martindale-Hubbell, maintains offices in New Orleans, Louisiana and Hahira, Georgia. The firm is listed in Martindale-Hubbell's "Bar Register of Preeminent Lawyers".

PARTNERS

John Gregory Odom, PLC. Mr. Odom was born in Hahira, Lowndes County, Georgia on November 29, 1951, and was admitted to the bar of the State of Georgia in 1978, the District of Columbia in 1982, and the State of Louisiana in 1983. He is also admitted to the bars of numerous United States District Courts and Courts of Appeals throughout the country, as well as the United States Supreme Court. He practiced with a leading Savannah firm for several years, and was a business litigation partner in the second-largest firm in Louisiana for seven years before leaving to form his own firm in 1990.

Mr. Odom was educated at Yale University (B.A., cum laude, 1973); The Queen's College, Oxford University (B.A. (hons.), 1975; M.A., 1981); and the University of Virginia School of Law (J.D., 1978). He is the author of "Recent Developments in Litigation Under the Racketeer Influenced and Corrupt Organizations Act and Federal Securities Law," Manual of Recent Developments in the Law, Louisiana State Bar Association, 1987-1990, and "Creative Applications of Civil RICO," 11 Am. J. Trial Adv. 245, Fall, 1987. His regular areas of practice include corporate litigation; healthcare industry litigation; securities litigation; RICO litigation; professional liability litigation; class action litigation; and antitrust litigation.

Stuart E. Des Roches, LLC. Mr. Des Roches was born in New Orleans, Louisiana on August 12, 1966, and was admitted to the bar for the State of Louisiana in 1992. He has

practiced continuously with Mr. Odom since 1992 and was made a partner in the firm in 1998. He is admitted to practice in numerous United States District Courts and Courts of Appeals throughout the country, as well as the United States Supreme Court. Mr. Des Roches was educated at the University of New Orleans (B.A., 1989), and Tulane University School of Law (J.D., 1992), and is a member of the New Orleans, Louisiana, and American Bar Associations, and the United States Supreme Court Historical Society.

Mr. Des Roches has routinely practiced antitrust law for the more than twenty years, and has particular experience in antitrust litigation relating to the Hatch-Waxman Act, the pharmaceutical industry, and medical devices. Mr. Des Roches served as the lead trial lawyer for the class of direct purchasers in *In re Tricor Direct Purchaser Antitrust Litigation* (D. Del.), which resulted in the largest settlement at that time of a Hatch-Waxman antitrust case (\$250,000,000) after commencement of trial. He also served as co-lead trial counsel with the firm's partner Mr. Kelly in *Natchitoches Parish Hospital Service District, et al. v. Tyco Healthcare, et al.* (D. Mass.), which settled for \$32,500,000 after three weeks of trial and on the eve of closing arguments. He has also been involved in various other litigation matters, including numerous trials, in the areas of general business and accountant's liability defense.

Andrew W. Kelly. Mr. Kelly was born in Bellefonte, Pennsylvania on December 6, 1966, and was admitted to the bar for the States of California and Louisiana in 1994. He is admitted to practice in the United States District Courts for the Eastern, Middle, and Western Districts of Louisiana, and the Southern District of California; and the United States Court of Appeals for the Fifth Circuit. Mr. Kelly was educated at the University of California at Berkeley (B.A., 1988), and the University of San Diego School of Law (J.D., 1994). He served as law clerk to the Honorable John Minor Wisdom, of the United States Court of Appeals for the Fifth Circuit. His regular areas of practice include business litigation; class action litigation; and antitrust litigation. Along with Mr. Des Roches, Mr. Kelly served as co-lead trial counsel for the class of direct purchasers in *Natchitoches Parish Hospital Service District, et al. v. Tyco Healthcare, et al.* (\$32,500,000 settlement three weeks into trial). He is also available for counseling on criminal defense matters.

Chris Letter. Mr. Letter was born in Philadelphia, Pennsylvania on August 30, 1974. He earned a J.D. from Loyola University of New Orleans School of Law in 2007 and received a Bachelor of Arts degree in history from the University of New Orleans in 1998. Mr. Letter is admitted to practice in the Louisiana Supreme Court and the several courts of the State of Louisiana. He is also admitted to practice in the United States District Courts in Louisiana, and the Fifth Circuit Court of Appeals. He actively participates in the firm's antitrust litigation practice.

ASSOCIATES

John E. Fitzpatrick, III. Mr. Fitzpatrick was born in New Orleans, Louisiana on May 9, 1968. He earned a J.D. from Loyola University School of Law in 2006, and received a Bachelor of Arts degree from Loyola University in 2001. Mr. Fitzpatrick is admitted to practice before the

Louisiana Supreme Court and the several courts of the State of Louisiana. He is also admitted to practice in all United States District Courts in Louisiana, and the Fifth Circuit Court of Appeals. He actively participates in the firm's antitrust litigation practice.

Annie M. Schmidt. Ms. Schmidt was born in New Orleans, Louisiana on May 11, 1985. She earned a J.D. from Loyola University School of Law in 2010, and received a Bachelor of Arts degree from Spring Hill College in 2007. Ms. Schmidt is admitted to practice before the Louisiana Supreme Court and the several courts of the State of Louisiana. She actively participates in the firm's antitrust litigation practice.

Dan Chiorean. Mr. Chiorean was born in Oradea, Romania in April 1980, and emigrated to the United States at the age of 11. He holds a Bachelor of Science in Industrial and Operations Engineering from The University of Michigan, where he was recognized on the Dean's List and University Honors List. Mr. Chiorean earned his *Juris Doctor* in May, 2012 from Tulane Law School, where he served on Moot Court Board. He joined Odom & Des Roches as an Associate in March, 2014 and is admitted to practice before the Louisiana Supreme Court and the several courts of the State of Louisiana, the United States District Court for the Eastern District of Louisiana, and the United States District Court for the Northern District of Georgia. Mr. Chiorean is a member of the Louisiana State Bar Association, the New Orleans Bar Association, and the Federal Bar Association.

Christopher Stow-Serge. Mr. Stow-Serge was born in Fort Lauderdale, Florida in February of 1985. He earned a Bachelor of Arts degree from Tulane University in 2007 and a J.D. from Tulane Law School in 2012, where he graduated *magna cum laude*. Mr. Stow-Serge is admitted to practice law in the state courts of Louisiana as well as the U.S. District Court for the Eastern District of Louisiana, the U.S. District Court for the Western District of Louisiana, and the U.S. Fifth Circuit Court of Appeals. He actively participates in the firm's antitrust litigation practice.

OF COUNSEL

Craig M. Glantz. Mr. Glantz was born in New York, New York on March 15, 1971. He was admitted to the bar of the State of California in 1999 and the States of New York and Massachusetts in 2000. He received a B.A. in History from Tufts University in 1993, where he graduated *magna cum laude* and earned membership in *Phi Beta Kappa*. He received a J.D. from Northwestern University School of Law in 1998, where he graduated *cum laude* and received the Arlyn Miner Book Award for excellence in Legal Writing. Following law school, Mr. Glantz served as a judicial law clerk to the Honorable John Minor Wisdom of the United States Court of Appeals for the Fifth Circuit and then practiced with a prominent international law firm. Mr. Glantz has a range of experience in a variety of areas, including business litigation, antitrust litigation, real estate and corporate transactions.