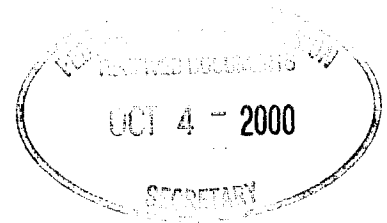


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION



In the Matter of

HOECHST MARION ROUSSEL, INC.,
a corporation,

CARDERM CAPITAL L.P.,
a limited partnership,

and

ANDRX CORPORATION,
a corporation.

Docket No. 9293

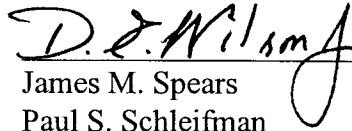
TO: The Honorable D. Michael Chappell
Administrative Law Judge

**AVENTIS PHARMACEUTICALS, INC.'S
MOTION TO ENFORCE COMPLIANCE WITH THE
SUBPOENA SERVED ON SITRICK & COMPANY.**

Pursuant to Rule 3.38(c) of the Federal Trade Commission's Rules of Practice,
16 C.F.R. § 3.38(c), Respondent Aventis Pharmaceuticals, Inc. ("Aventis") respectfully moves for

certification to the Commission of a request to enforce the subpoena *duces tecum* served on Sitrick & Company ("Sitrick"). for the reasons set forth in the accompanying Memorandum in Support of this Motion.

Respectfully submitted,



James M. Spears
Paul S. Schleifman
D. Edward Wilson, Jr.
Peter D. Bernstein
SHOOK HARDY & BACON, LLP
600 Fourteenth Street, N.W., Suite 800
Washington, D.C. 20005-2004
(202) 783-8400

Dated: October 4, 2000

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of

HOECHST MARION ROUSSEL, INC.,
a corporation,

CARDERM CAPITAL L.P.,
a limited partnership,

and

ANDRX CORPORATION,
a corporation.

Docket No. 9293

TO: The Honorable D. Michael Chappell
Administrative Law Judge

**AVENTIS PHARMACEUTICALS, INC.'S MEMORANDUM IN SUPPORT OF
MOTION TO ENFORCE COMPLIANCE WITH THE
SUBPOENA SERVED ON SITRICK & COMPANY.**

Pursuant to Rule 3.38(c) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.38(c), Respondent Aventis Pharmaceuticals, Inc. ("Aventis") respectfully moves for certification to the Commission of a request to enforce the subpoena *duces tecum* served on Sitrick & Company ("Sitrick").

I. BACKGROUND

The primary thrust of the FTC's Complaint is that Respondents' alleged actions unreasonably restrained trade causing injury to competition and consumers in the relevant product

market. (*Id.* ¶¶ 29-39). According to Complaint Counsel, the relevant product market is the market for once-a-day diltiazem products and even narrower markets which “may be contained within” that market. (Complaint ¶ 12). Aventis disputes Complaint Counsel’s arbitrarily narrow definition of the relevant product market. Aventis maintains and the evidence will clearly show that the relevant product market is, at a minimum, the market for a class of anti-hypertension products known as calcium channel blockers.

Accordingly, what constitutes the relevant product market is one of the primary issues that must be decided in this case. Information in the hands of Sitrick, a public relations firm for Biovail, a company that “applies its proprietary drug delivery technologies to successful drug compounds that are free of patent protection to develop both branded and generic oral controlled-release products,” <http://www.biovail.com>, provides unique insight into the ways in which markets are defined and structured.

The subpoena *duces tecum* issued to Sitrick was one of approximately 30 issued by the Commission on behalf of Aventis and the only one served on a company or federal agency not directly involved in either the manufacturing or healthcare provider aspects of the pharmaceutical industry. In summary, the subpoena seeks documents relating to Sitrick’s communications with Biovail, news organizations, selected other pharmaceutical manufacturers, and, generally, documents reflecting Sitrick’s involvement in the development of an advertizing and marketing strategy for certain cardiovascular pharmaceutical products.

Aventis’ counsel had several discussions with Sitrick’s counsel in order to cause Sitrick to comply voluntarily with the subpoena. (Wilson Declaration, ¶ 3). As documents produced

by Sitrick in the related, New Jersey litigation, had been made available to Aventis, the discussions focused on Sitrick's obligation to update its production made in that case. Discussions on this issue were not productive and the parties agreed to disagree on August 25, 2000. (See Wilson Declaration at ¶ 3, attached).

II. ARGUMENT

A. **Sitrick has Failed to Comply with its Basic Discovery Obligations**

The Commission's Rules of Practice provide that "in instances where a nonparty fails to comply with a subpoena," this tribunal "shall certify to the Commission a request that court enforcement of the subpoena . . . be sought." 16 C.F.R. § 3.38(c) (emphases added). Sitrick has clearly failed to comply with the subpoena *duces tecum* served upon it by Aventis.

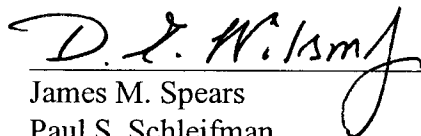
Sitrick has neither updated the documents it produced in a related case, nor certified that no other documents are responsive. Moreover, it has not met any time requirements for objecting to the subpoena. Rule 3.34(c) requires Aetna to set forth all factual and legal objections to the subpoena in a motion to quash or limit the subpoena, filed within 10 days of service of the subpoena. See 16 C.F.R. § 3.34(c). The subpoena was served on June 23, 2000.

B. **The Materials Sought are Essential to Aventis' Defense of the Case**

There can be no doubt that the materials sought from Sitrick are relevant to key issues in this case. Sitrick is the only company from which documents are sought that is in the business of advising a pharmaceutical manufacturer on the positioning and marketing of cardiovascular pharmaceutical products. As market definition is key to this case, Sitrick's unique perspective will provide important evidence.

WHEREFORE, pursuant to Commission Rule of Practice 3.38(c),
16 C.F.R. § 3.38(c), Aventis Pharmaceuticals, Inc. respectfully requests that this tribunal certify to
the Commission a request that court enforcement of the subpoena be sought.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "D. E. Wilson, Jr.", is written over a horizontal line.

James M. Spears
Paul S. Schleifman
D. Edward Wilson, Jr.
Peter D. Bernstein
SHOOK HARDY & BACON, LLP
600 Fourteenth Street, N.W., Suite 800
Washington, D.C. 20005-2004
(202) 783-8400

Dated: October 4, 2000

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

HOECHST MARION ROUSSEL, INC.,
a corporation,

CARDERM CAPITAL L.P.,
a limited partnership,

and

ANDRX CORPORATION,
a corporation.

Docket No. 9293

**DECLARATION OF D. E. WILSON, JR., IN SUPPORT OF AVENTIS
PHARMACEUTICAL, INC.'S MOTION FOR ENFORCEMENT OF SUBPOENA
SERVED ON SITRICK & COMPANY**

I, D. E. WILSON, JR., hereby state the following pursuant to Rule 3.22(f) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.22(f):

1. I am a member in good standing of the Bar of the District of Columbia Court of Appeals and am presently associated with the firm of Shook Hardy & Bacon LLP, counsel for respondent Aventis Pharmaceuticals, Inc. ("Aventis").

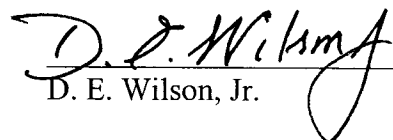
2. I caused a subpoena *duces tecum* (copy attached at Tab A) to be delivered to Sitrick & Company by mailing it, registered mail, return receipt requested, to the company's address for service of process, Sitrick & Company, 1840 Century Park East, Suite 800, Los Angeles, CA 90067. The return receipt, dated June 23, 2000, was subsequently delivered to our offices. (Copy at Tab B).

3. Beginning approximately June 27, 2000, I began a series of conversations with Helen B. Kim, Esquire, of the firm of Freid, Frank Harris, Shriver & Jacobson, Los Angeles, CA. Those conversations ended on or about August 25, 2000, without agreement as to Sitrick's obligation to

update materials provided by Sitrick in related litigation and made available to Aventis in this proceeding in response to the subpoena served on Sitrick.

Executed in Washington, D.C., on October 4, 2000.

Respectfully Submitted,


D. E. Wilson, Jr.

TAB A



SUBPOENA DUCES TECUM

Issued Pursuant to Rule 3.34(b), 16 C.F.R. § 3.34(b)(1997)

1. TO Custodian of Records for: Sitrick & Company. 1840 Century Park East, Suite 800 Los Angeles, CA 90067	2. FROM <p style="text-align: center;">UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
--	--

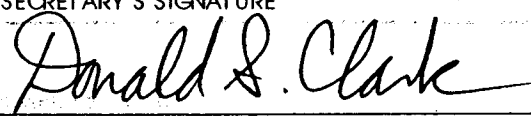
This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION OR INSPECTION Shook, Hardy & Bacon L.L.P. 600 14th Street, N.W., Suite 800 Washington, DC 20005-2004	4. MATERIAL WILL BE PRODUCED TO Shook, Hardy & Bacon L.L.P. Attn: D. Edward Wilson, Counsel for Hoechst Marion Roussel, Inc. 5. DATE AND TIME OF PRODUCTION OR INSPECTION July 10, 2000 at 10:00 a.m.
--	---

6. SUBJECT OF PROCEEDING In the matter of Hoechst Marion Roussel, Inc., et al.

7. MATERIAL TO BE PRODUCED See Exhibit "A" attached hereto

8. ADMINISTRATIVE LAW JUDGE The Honorable D. Michael Chappell Federal Trade Commission Washington, D.C. 20580	9. COUNSEL REQUESTING SUBPOENA Shook, Hardy & Bacon L.L.P. James M. Spears D. Edward Wilson Peter D. Bernstein Counsel for Hoechst Marion Roussel
--	--

DATE ISSUED MAY 11 2000	SECRETARY'S SIGNATURE 
--------------------------------	---

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

Exhibit A to Subpoena Duces Tecum

_____)	
In the Matter of)	
)	Docket No. 9293
Hoechst Marion Roussel, Inc., et al.,)	
)	
Respondents)	
_____)	

**HMRI'S FIRST DOCUMENT PRODUCTION REQUEST
TO SITRICK & COMPANY**

Respondent Hoechst Marion Roussel, Inc. ("HMRI"), pursuant to the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings, 16 C.F.R. § 3.34(b), requests that Sitrick & Company (hereinafter referred to as "Sitrick") produce documents and other things for inspection and copying, within 20 days, in response to the Document Requests set forth below, and in accordance with the Definitions and Instructions following thereafter, at the offices of Shook, Hardy & Bacon, L.L.P., 600 14th Street, N.W., Washington, D.C. 20005, or such location as may be mutually agreed upon.

DOCUMENT REQUESTS

REQUEST NO. 1: All documents that were produced to any party in the action captioned *Biovail Corporation International v. Hoechst A.G. et al.*, Civil Action No. 98-1434 (MTB)(SRC)(D.N.J.).

REQUEST NO. 2: All documents that were produced to any party in the action captioned *In re Cardizem CD Antitrust Litigation*, MDL No. 1278 (NGE)(E.D. Mich.).

REQUEST NO. 3: All documents which relate to any agreements, including but not limited to proposed agreements, between or among Sitrick and Biovail concerning Probucol or diltiazem products existing, entered into or negotiated on or after January 1, 1993.

REQUEST NO. 4: All documents which relate to payments or other consideration, directly or indirectly, provided, or to be provided to Sitrick by Biovail which relate to Probucol or diltiazem products on or after January 1, 1993.

REQUEST NO. 5: All communications, and all documents concerning communications, between Sitrick and Biovail which relate to Probucol or diltiazem products.

REQUEST NO. 6: All documents which relate to any contact with any news organization, including but not limited to the Miami Herald, ABC News or CBS News, concerning Biovail, Probucol, diltiazem products, Andrx, Faulding, HMR, or Cardizem® CD.

REQUEST NO. 7: All documents exchanged between Sitrick and any news organization, including but not limited to the Miami Herald, ABC News or CBS News, concerning Biovail, Probucol, diltiazem products, Andrx, Faulding, HMR, or Cardizem® CD.

REQUEST NO. 8: All documents which relate to Sitrick's participation in the development and pursuit of a story with any news organization, including but not limited to the Miami Herald, ABC News or CBS News, concerning Biovail, Probucol, diltiazem products, Andrx, HMR, or Cardizem® CD.

REQUEST NO. 9: All documents exchanged between Sitrick and Biovail which relate to the Miami Herald, ABC News, CBS News, Probucol or diltiazem products.

REQUEST NO. 10: All documents which relate to Andrx, Biovail, Faulding, HMR, or Cardizem® CD.

REQUEST NO. 11: All documents which relate to Sitrick's participation in the development and pursuit of a strategy for advertising and marketing Probucol or Biovail Hypertension Products.

REQUEST NO. 12: All documents dated on or after January 1, 1995 reflecting, concerning, mentioning, or relating to Biovail, Biovail Hypertension Products, or Probucol, including but not limited to press releases, new clippings, correspondence, internal documents, internal memoranda, drafts, outlines, e-mails, projections, technical analyses, studies, forecasts, strategic plans or business plans.

REQUEST NO. 13: All press releases or similar documents issued by or on behalf of Biovail between January 1, 1993 and the present.

REQUEST NO. 14: All documents relied on in the issuance of press releases by or on behalf of Biovail between January 1, 1993 and the present.

REQUEST NO. 15: All draft press releases or similar documents issued by or on behalf of Biovail between January 1, 1993 and the present.

REQUEST NO. 16: All documents which relate to Biovail, Biovail Hypertension Products or ProbucoL.

REQUEST NO. 17: All documents which relate to any contact with any governmental organization, including but not limited to the FTC or the FDA, concerning Biovail, ProbucoL, diltiazem products, Andrx, Faulding, HMR, or Cardizem® CD.

REQUEST NO. 18: All documents which relate to communications between Sitrick and the class action attorneys related to Biovail, ProbucoL, diltiazem products, Andrx, Faulding, HMR, or Cardizem® CD.

REQUEST NO. 19: All documents exchanged between Sitrick and the class action attorneys related to Biovail, ProbucoL, diltiazem products, Andrx, Faulding, HMR, or Cardizem® CD.

REQUEST NO. 20: All documents which relate to communications between Sitrick and any manufacturer known to be seeking or who has sought approval for a generic version of Cardizem® CD, including but not limited to Andrx, Faulding and Biovail.

REQUEST NO. 21: All documents exchanged between Sitrick and any manufacturer known to be seeking or who has sought approval for a generic version of Cardizem® CD, including but not limited to Andrx, Faulding and Biovail.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, “agreement” means any oral or written contract, arrangement or understanding, whether formal or informal, between two or more persons, together with modifications or amendments thereto.

2. As used herein, “ABC News” means ABC News and its news program “20/20,” and its predecessors, successors, assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys or any person acting or purporting to act on its behalf.

3. As used herein, “Andrx” means Andrx Pharmaceuticals, Inc., and its predecessors, successors, assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys or any person acting or purporting to act on its behalf.

4. As used herein, “Biovail” shall refer to Biovail Corporation with its principal place of business in Mississauga, Ontario, Canada, and its predecessors, successors, assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys, representatives, economic consultants, lobbyists, public relations consultants or any person acting or purporting to act on its behalf.

5. As used herein, “Biovail Hypertension Products” shall refer to all drug products containing diltiazem as an active ingredient, whether or not approved by the FDA, that are or were, developed, licensed, manufactured or owned, in whole or in part, by Biovail and include without limitation, Tiazac and all drug products that are described by Biovail as generic versions of Cardizem® CD.

6. As used herein, “Cardizem® CD” means the sustained release diltiazem formulation sold under that trademark.

7. As used herein, “CBS News” means CBS News and its news programs “60 Minutes” and “60 Minutes II” and its predecessors, successors, assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys or any person acting or purporting to act on its behalf.

8. As used herein, “class action attorneys” shall refer to Lowey Dannenberg Bemporad & Sellinger, P.C.; Berman, DeValerio, Pease & Tabacco, P.C.; Beasley, Wilson, Allen, Crow & Methvin; Zwerling, Schachter & Zwerling, L.L.P.; Miller Faucher Cafferty & Wexler, L.L.P.; Goodkind, Labaton, Rudolf & Sucharow, L.L.P.; Law Offices of Gordon Ball, Esq.; Millberg Weiss Bershad Hynes & Lerach; Cohen, Milstein, Hausfield & Toll, P.L.L.C.; Boies & Schiller, LLP; Berger & Montague, P.C.; Garwin, Bronzaft, Gerstein & Fisher, L.L.P.; Elwood S. Simon & Associates, P.C.; Lockridge, Grindal, Nauen & Holstein, P.L.L.P.; Calvin, Richardson & Verner, and any other attorney representing plaintiffs in *In re Cardizem CD Antitrust Litigation*, MDL No. 1278 (NGE)(E.D. Mich.) individually or collectively, and any of their predecessors, successors,

assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys or any person acting or purporting to act on its behalf.

9. As used herein, "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise), whether or not in written form.

10. As used herein, "concerns" means relates to, refers to, describes, forms the basis for, evidences or constitutes, and the term "concerning" means relating to, referring to, describing, evidencing or constituting.

11. As used herein, "diltiazem" means diltiazem and its salts including diltiazem hydrochloride.

12. As used herein, "diltiazem product" means any pharmaceutical product containing diltiazem and/or its salts including diltiazem hydrochloride as an active pharmaceutical ingredients.

13. As used herein, "document" or "documents" shall include, without limitation, originals, masters and every copy of writings and printed, typed and other graphic or photographic matter, including microfilm of any kind or nature, recordings (tape, diskette or other) of oral communications, other data compilations and every other tangible thing from which information can be obtained, including, without limitation, magnetic or electronic media, in the possession, custody or control of Sitrick or any present or former officer, employees or agents thereof, or known by Sitrick to exist. The term "document" or "documents" shall include, without limiting the generality of the foregoing, all computer files, electronic mail, letters, telegrams, teletypes, correspondence,

contracts, agreements, notes to the files, notebooks, reports, memoranda, mechanical and electronic sound recordings or transcripts thereof, blueprints, flow sheets, formal or information drawings or diagrams, calendar or diary entries, memoranda of telephone or personal conversations of meetings or conferences, studies, reports, interoffice communications, price lists, bulletins, circulars, statements, manuals, summaries of compilations, minutes of meetings, maps, charts, graphs, order papers, articles, announcements, books, catalogs, records, tables, books of account, ledgers, vouchers, canceled checks, invoices or bills. A draft or nonidentical copy is a separate document within the meaning of this term.

14. As used herein, "Faulding" means Faulding Inc. and its predecessors, successors, assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys or any person acting or purporting to act on its behalf.

15. As used herein, "FDA" means the United States Food and Drug Administration, including without limitation its employees, scientists, technicians, agents, examiners, laboratories, consultants and special governmental employees.

16. As used herein, "FTC" means the United States Federal Trade Commission, including without limitations its employees, investigators, agents, consultants and special governmental employees.

17. As used herein, “HMR” means Hoechst Marion Roussel, Inc., its successors, predecessors, and the officers, directors, employees, partners, subsidiaries, corporate parents, affiliates and divisions of each of the foregoing.

18. As used herein, “Miami Herald” means The Miami Herald and its predecessors, successors, assigns and present and/or former affiliates and subsidiaries and any of its respective officers, directors, employees, agents, attorneys or any person acting or purporting to act on its behalf.

19. As used herein, “Probuco1” shall refer to the drug formulation or product known as Probuco1.

20. As used herein, “person” includes any natural person, corporate entity, sole proprietorship, partnership, association, governmental entity, or trust.

21. As used herein, “relate” means concerns, refers to, describes, forms the basis for, evidences or constitutes, and the term “relating” means concerning, referring to, describing, evidencing or constituting.

22. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. The term "all" shall be construed as all and each, and the term "each" shall be construed as all and each.

24. The use of the singular form of any word includes the plural, and vice versa.

25. Except for privileged materials, Sitrick will produce each responsive document in its entirety by including all attachments and all pages, regardless of whether they directly relate to the specified subject matter. Sitrick should submit any appendix, table, or other attachment by either physically attaching it to the responsive document or clearly marking it to indicate the responsive document to which it corresponds. Except for privileged material, Sitrick will not mask, cut expunge, edit, or delete any responsive document or portion thereof in any manner.

26. Unless otherwise stated, the scope of this request is from January 1, 1993 through the present and is continuing in. If, after producing documents, Sitrick obtains or becomes aware of any further documents, or information responsive to this request for production of documents, Sitrick is required to produce to HMR such additional documents and/or to provide HMR with such additional information.

27. Compliance with this subpoena requires a search of all documents in the possession, custody, or control of Sitrick's officers, directors, employees, agents, or representatives, whether or not such documents are on the premises of Sitrick. If any person is unwilling to have his or her files searched, or is unwilling to produce responsive documents, Sitrick must provide counsel

serving this request with the following information as to each such person: his or her name, address, telephone number, and relationship to Sitrick.

28. If any requested documents cannot be produced in full, produce the remainder and state whatever information, knowledge, or belief Sitrick has concerning the unproduced portion.

29. In addition to hard-copy documents, the search will include all Sitrick's electronically stored data. Sources of such data include, but are not limited to, the following:

- (a) Desktop personal computers ("PCs") and workstations; PCs, workstations, minicomputers and mainframes used as file servers, application servers, or mail servers; laptops, notebooks, hand-held devices and other portable computers available for shared use; and home computers used for work related purposes;
- (b) Backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and
- (c) Computers and related offline storage used by agents, consultants, and other persons as defined herein, which may include persons who are not employees of Sitrick or who do not work on company premises.

30. Sitrick will submit all documents, including electronically-stored documents, in hard copy. In addition to the hard copies, Sitrick will submit the electronically-stored documents.

31. The source and location of each responsive document shall be designated, including the corporate entity and/or person from which it was obtained. Responsive documents from each entity and or person's files shall be produced together, in file folders or with other enclosures that segregate the files by request number. If a document is responsive to more than one request, it shall be produced in response to the request to which it is primarily responsive. An index

of responsive documents is requested in hard copy and machine-readable form identifying for each document produced: (1) the corporate identification and consecutive control number; (2) the numbered requested to which it is responsive; (3) the person from whom the document was obtained; and (4) for documents generated by the recipient, the person and/or file name or number from which it was obtained.

32. In the event that Sitrick withholds any document on the basis that it is privileged, subject to work-product immunity, or is otherwise excludable from discovery, Sitrick is requested to list such documents by request number and to provide the following information:

- (a) the identity of the authors;
- (b) the identity of all recipients;
- (c) the date of the document;
- (d) the subject matter or purpose of the document or report;
- (e) the nature of the relationship between the authors and counsel with sufficient particularity to sustain the asserted privilege;
- (f) whether direct quotes or paraphrases of advice from counsel were identified;
- (g) whether such quotes could be redacted, leaving non-privileged information; and,
- (h) any other information necessary to reveal the basis upon which the document is withheld to provide HMR with sufficient information to determine whether the stated basis for withholding the document is proper.

33. If any document responsive to these requests once existed but has been destroyed, lost, discarded or is otherwise not available for production, the recipient shall identify in

writing each such document, including the date of the document's creation, a description of the document's subject matter, the name and address of each person who prepared, received, viewed, or had possession, custody or control of the document or otherwise had knowledge of its subject matter, and a statement of the circumstances under which the document was destroyed, lost, discarded or why such document is otherwise not available for production.

SHOOK, HARDY & BACON L.L.P.

By: _____

James M. Spears
D. Edward Wilson, Jr.
Peter D. Bernstein
60014th Street, N.W.
Washington, D.C. 20005-2004
202-783-8400

Attorneys for Respondent Hoechst Marion Roussel, Inc.

Dated: June __, 2000

TAB B

LAW OFFICES

SHOOK, HARDY & BACON LLP

HAMILTON SQUARE
600 14TH STREET NW SUITE 800
WASHINGTON DC 20005-2004

D.E.W., JR. - x47044

TO:

SITRICK & COMPANY
1840 CENTURY PARK EAST SUITE 800
LOS ANGELES CA 90067

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:
SITRICK & COMPANY
1840 CENTURY PARK EAST, SUITE 800
LOS ANGELES, CA 90067

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

4a. Article Number
R 865 168549

4b. Service Type
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

7. Date of Delivery
6/23/02

8. Addressee's Address (Only if requested and fee is paid)

5. Signature (Addressee)
[Signature]

6. Signature (Agent)
[Signature]

Thank you for using Return Receipt Service.

Registered No.

Date Stamp

To Be Completed By Post Office	Reg. Fee \$	Special Delivery
	Handling Charge \$	Return Receipt \$
	Postage \$	Restricted Delivery
Received by		

Customer Must Declare Full Value \$

With Postal Insurance
 Without Postal Insurance

FROM	SHOOK, HARDY & BACON L.L.P. 600 14th STREET, N.W., SUITE 800 WASHINGTON, D.C. 20005-2004
TO	SITRICK & COMPANY 1840 CENTURY PARK EAST, SUITE 800 LOS ANGELES, CA 90067

Domestic Insurance is Limited To \$25,000; International Indemnity is Limited (See Reverse)

PS Form 3806, February 1995
 Receipt for Registered Mail (Customer Copy)
 (See Information on Reverse)

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of

HOECHST MARION ROUSSEL, INC.,
a corporation,

CARDERM CAPITAL L.P.,
a limited partnership,

and

ANDRX CORPORATION,
a corporation.

Docket No. 9293

**CERTIFICATION TO COMMISSION OF REQUEST FOR
ENFORCEMENT OF SUBPOENA DUCES TECUM SERVED ON
NON-PARTY SITRICK & COMPANY.**

Non-Party Sitrick & Company (“Sitrick”), has refused to comply with an FTC subpoena served by Aventis Pharmaceuticals, Inc. (“Aventis”). Accordingly, the Commission should direct the General Counsel’s office to enforce this subpoena in court. *See* 16 C.F.R. § 3.38(c) (“in instances where a nonparty fails to comply with a subpoena or order, [the ALJ] shall certify to the Commission a request that court enforcement of the subpoena or order be sought.”)

On May 17, 2000, the Commission issued a subpoena *duces tecum* to Aventis, which Aventis served on Sitrick. The subpoena sought the production of documents relevant to Aventis’ defense against Complaint Counsel’s claim that Aventis engaged in monopoly and anti-competitive practices.

Sitrick has refused to produce responsive documents to Aventis. The Commission should therefore direct the Office of the General Counsel to seek court enforcement of the subpoena *duces tecum* issued May 17, 2000, to Aventis.

D. Michael Chappell
Administrative Law Judge

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

Hoechst Marion Roussel, Inc., et al.,

Respondents.

Docket No. 9293

CERTIFICATE OF SERVICE

I, D. E. Wilson, Jr., hereby certify that on October 4, 2000, a copy of Aventis Pharmaceuticals, Inc.'s Motion to Enforce Compliance With Subpoena *Duces Tecum* Issued to Sitrick & Company was served upon the following persons by hand delivery and/or Federal Express as follows:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room 172
Washington, D.C. 20580

Richard Feinstein
Federal Trade Commission
601 Pennsylvania Ave., N.W., Room 3114
Washington, D.C. 20580

Hon. D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room 104
Washington, D.C. 20580

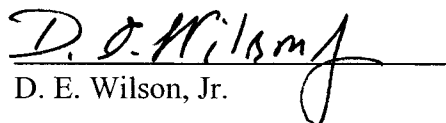
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D. E. Wilson, Jr.