


UNITED STATES BANKRUPTCY COURT For the District of Delaware		PROOF OF CLAIM
Name of Debtor: Graceway Pharmaceuticals, LLC	Case Number: 11-13036	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Caremark, L.L.C.		COURT USE ONLY
Name and address where notices should be sent: Geoffrey S. Goodman, Esq. Foley & Lardner LLP 321 North Clark St., Suite 2800, Chicago, IL 60654 Telephone number: (312) 832-4500 email: ggoodman@foley.com		<div style="font-size: 24px; font-weight: bold; margin: 0;">RECEIVED</div> <div style="font-size: 24px; font-weight: bold; margin: 0;">DEC 30 2011</div> <div style="font-size: 24px; font-weight: bold; margin: 0;">BMC GROUP</div>
Name and address where payment should be sent (if different from above): Telephone number: email:		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where payment should be sent (if different from above): Telephone number: email:		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ <u>340,236.09</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>See attached Rider and Exhibit A thereto</u> (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: 8 0 0 1	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other Describe: Right of setoff/recoupment (see attached Rider) Value of Property: \$ <u>37,513.61</u> Annual Interest Rate _____% <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: <u>N/A</u> Amount of Secured Claim: \$ <u>37,513.61</u> Amount Unsecured: \$ <u>302,722.48</u>
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).
<input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)().
		Amount entitled to priority: \$ _____ Graceway Pharmaceuticals LLC  00191
*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: See attached Rider

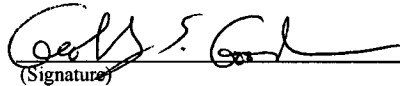
8. Signature: (See instruction #8)

Check the appropriate box.

- I am the creditor. I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. I am a guarantor, surety, indorser, or other codebtor.
- (Attach copy of power of attorney, if any.) (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Geoffrey S. Goodman
 Title: Attorney for Caremark, L.L.C.
 Company: Foley & Lardner LLP
 Address and telephone number (if different from notice address above):

 12-29-11
 (Signature) (Date)

Telephone number: _____ email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

IN RE:) Chapter 11
)
GRACEWAY PHARMACEUTICALS, LLC,) Case. No. 11-13036 (PJW)
et al.,¹)
) Jointly Administered
Debtors.)

**NOTICE OF APPEARANCE, REQUEST FOR
SERVICE OF PAPERS AND CONSENT TO E-SERVICE**

PLEASE TAKE NOTICE that the undersigned hereby files this Notice of Appearance and Request for Service of Papers as counsel for CVS Caremark Corp., Caremark, L.L.C., CaremarkPCSHHealth, L.L.C. (f/k/a CaremarkPCS Health, L.P.), Pharmacare Management Services, L.L.C. and Silverscript, L.L.C. (n/k/a CVS Caremark Part D Services, L.L.C.) (collectively “Caremark”) in these cases. Pursuant to the applicable Federal Rules of Bankruptcy Procedure, the undersigned does hereby request and demand that the Clerk of this Court and all other parties-in-interest in these proceedings, provide notice of, and where applicable, service of, all motions, applications, orders, pleadings, notices or other

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Graceway Pharma Holding Corp., a Delaware corporation (9175), Case No. 11-13037 (PJW); Graceway Holdings, LLC, a Delaware limited liability company (2502), Case No. 11-13038 (PJW); Graceway Pharmaceuticals, LLC, a Delaware limited liability company (5385), Case No. 11-13036 (PJW); Chester Valley Holdings, LLC, a Delaware limited liability company (9457), Case No. 11-13039 (PJW); Chester Valley Pharmaceuticals, LLC, a Delaware limited liability company (3713), Case No. 11-13041 (PJW); Graceway Canada Holdings, Inc., a Delaware corporation (6663), Case No. 11-13042 (PJW); and Graceway International, Inc., a Delaware corporation (2399), Case No. 11-13043 (PJW). The mailing address for Graceway Pharmaceuticals, LLC is 340 Martin Luther King Jr. Blvd., Suite 500, Bristol, TN 37620 (Attn: John Bellamy). On October 4, 2011, Graceway Canada Company filed an application in the Ontario Superior Court of Justice (Commercial List) pursuant to the Courts of Justice Act, R.S.O. 1990, c. C. 43.

communications filed in, or pertaining to these proceedings to the undersigned, whether such motion, application, order, pleading, notice, or other communication is written or oral, formal or informal, by hand delivery, mail, telephone, telex, telecopy, or made in any other manner whatsoever, to the attorneys listed directly below:

Geoffrey S. Goodman
FOLEY & LARDNER LLP
321 North Clark Street, Suite 2800
Chicago, IL 60654-5313
Tel: (312) 832-4500
Fax: (312) 832-4700
E-mail: ggoodman@foley.com

PLEASE TAKE NOTICE that Caremark intends that neither this Notice of Appearance nor any later appearance, pleading, claim, or suit shall waive (1) its right to have final orders in non-core matters entered only after *de novo* review by a United States District Court Judge, (2) its right to a trial by jury in any proceeding so triable in these cases or any case, controversy, or proceeding related to these cases, (3) its right to have the United States District Court withdraw the reference in any matter subject to mandatory or discretionary withdrawal, or (4) any other rights, claims, actions, defenses, setoffs, recoupments or remedies to which it is or may be entitled under agreements, in law or in equity, all of which rights, claims, actions, defenses, setoffs, recoupments and remedies it expressly reserves.

Dated: Chicago, Illinois
December 15, 2011

By: /s/ Geoffrey S. Goodman
Geoffrey S. Goodman (#6272297)
FOLEY & LARDNER LLP
321 North Clark Street, Suite 2800
Chicago, IL 60654
Tel: (312) 832-4500
Fax: (312) 832-4700
ggoodman@foley.com

Attorneys for CVS Caremark Corp., Caremark, L.L.C., CaremarkPCSHHealth, L.L.C. (f/k/a CaremarkPCS Health, L.P.), Pharmacare Management Services, L.L.C. and Silverscript, L.L.C. (n/k/a CVS Caremark Part D Services, L.L.C.)

CERTIFICATE OF SERVICE

I, Geoffrey S. Goodman, an attorney, certify that on December 15, 2011, I caused a true and correct copy of NOTICE OF APPEARANCE, REQUEST FOR SERVICE OF PAPERS AND CONSENT TO E-SERVICE to be served upon the following via First Class U.S.

Mail:

David S. Heller
Josef S. Athanas
Matthew L. Warren
233 S. Wacker Drive, Suite 5800
Chicago, IL 60606

BMC Group, Inc.
Attn: Graceway Pharmaceuticals
18750 Lake Drive East
Chanhassen, MN 55317

Young Conaway Stargatt &
Taylor, LLP
Michael R. Nestor
Kara Hammond Coyle
1000 West Street, Suite 17th Floor
Wilmington, DE 19801

Juliet Sarkessian
Office of the United States Trustee
844 King Street, Suite 2207
Wilmington, DE 19801

/s/ Geoffrey S. Goodman

FOLEY & LARDNER LLP
321 North Clark Street, Suite 2800
Chicago, IL 60654-5313
Tel: (312) 832-4500
Fax: (312) 832-4700

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
GRACEWAY PHARMACEUTICALS, LLC,)	Case No. 11-13036 (PJW)
<i>et al.</i> ¹)	
)	
)	(Jointly Administered)
Debtors.)	
<hr/>		

RIDER TO PROOF OF CLAIM OF CAREMARK, L.L.C.

1. Caremark, L.L.C. (“Caremark”) submits this Rider to its annexed proof of claim against Graceway Pharmaceuticals, LLC (“Graceway”), the debtor in the above-captioned chapter 11 case (Case No. 11-13036) (PJW).

BACKGROUND

2. Caremark is in the business of, among other things, providing certain prescription benefit and formulary management services to large and small businesses across the country. Caremark and Graceway are parties to that certain Rebate Agreement, dated as of January 1, 2009, as amended (the “Rebate Agreement”). Pursuant to the Rebate Agreement, Graceway provides discounts, in the form of rebates, to Caremark for certain drugs manufactured or developed by Graceway and included in Caremark’s formulary for eligible beneficiaries of prescription drug plans.

¹ The debtors in these jointly administered cases (collectively, the “Debtors”) are: Graceway Pharma Holding Corp., Case No. 11-13037 (PJW); Graceway Holdings, LLC, Case No. 11-13038 (PJW); Graceway Pharmaceuticals, LLC, Case No. 11-13036 (PJW); Chester Valley Holdings, LLC, Case No. 11-13039 (PJW); Chester Valley Pharmaceuticals, LLC, Case No. 11-13041 (PJW); Graceway Canada Holdings, Inc., Case No. 11-13042 (PJW); and Graceway International, Inc., Case No. 11-13043 (PJW).

3. Caremark and Graceway are also parties to that certain Product Purchase Agreement, dated as of July 1, 2008, as amended (the “Product Purchase Agreement” and, together with the Rebate Agreement, the “Caremark Agreements”).² Pursuant to the Product Purchase Agreement, Graceway sells certain of its products to Caremark and Caremark possesses, among other things, a right to return such products to Graceway in accordance with the policies set forth in the agreement.

4. On September 29, 2011, the Debtors filed a motion to sell certain of their assets free and clear of liens, claims, encumbrances and other interests to Galderma S.A., a Switzerland Corporation (“Galderma”), or another higher and better bidder for such assets (the “Sale Motion”). The Sale Motion also requested that this Court approve the assumption and assignment of certain executory contracts to Galderma or another buyer, as applicable.

5. On October 20, 2011, the Debtors filed their Notice of (I) Cure Amounts With Respect to Executory Contracts to be Assumed and Assigned and (II) Potential Assumption and Assignment of Executory Contracts [Docket No. 141], and then on October 21, 2011 filed an Amended Notice thereof [Docket No. 148] (together, the “Cure Notice”). Exhibit 1 to the Cure Notice designated the Rebate Agreement as a contract proposed to be assumed and assigned to Galderma.

6. Immediately before the auction on the Debtors’ assets, the Debtors advised Caremark that they would not be assuming and assigning the Rebate Agreement to the buyer of the Debtors’ assets. On November 17, 2011, the Debtors conducted an auction on the sale of their assets and Medicis Pharmaceutical Corp. (“Medicis”) was selected as the winning bidder.

² The Caremark Agreements are confidential documents. Graceway already possesses copies of the Caremark Agreements, but additional copies of such agreements are available upon request by Graceway.

On information and belief, the sale of the Debtors' assets to Medicis closed on or about December 2, 2011 (the "Closing Date").

PROPOSED REJECTION OF THE CAREMARK AGREEMENTS

7. On November 23, 2011, the Debtors filed a Notice of Rejection of certain executory contracts and unexpired leases, but the Debtors designated the Caremark Agreements as "retained contracts" that would not be rejected under that Notice. On December 2, 2011, however, the Debtors filed a Motion to, among other things, reject certain executory contracts (the "Rejection Motion"). The Debtors designated the Caremark Agreements as contracts to be rejected under the Rejection Motion. As of the preparation of this proof of claim, the Bankruptcy Court has not entered an order on the Rejection Motion.

SUMMARY OF THE CAREMARK CLAIM

8. As set forth in more detail on Exhibit A attached hereto, Graceway owes Caremark approximately \$340,236.09 under the Caremark Agreements (the "Claim Amount").³ The Claim Amount includes (a) an estimate of the amounts Graceway owes to Caremark for 4th quarter 2011, as final numbers will not be available until January 2012,⁴ and (b) rejection damages in the event that Graceway rejects the Caremark Agreements as proposed in the Rejection Motion.

9. Because Graceway has not assumed or rejected the Caremark Agreements as of the date hereof, Caremark has performed and continues to perform under the Caremark Agreements, resulting in post-petition obligations owed by Graceway to Caremark. Moreover,

³ Invoices summarizing the amounts owed are not attached to the proof of claim because they are confidential and contain proprietary information. Copies of the invoices, however, have been previously sent to Graceway and are available upon request by Graceway.

⁴ If the final numbers differ from the amounts set forth in this proof of claim, Caremark will file an amended proof of claim reflecting those numbers.

Caremark was induced to perform, and in fact did perform, its obligations under the Caremark Agreements throughout the post-petition period including, without limitation, through the Closing Date. This proof of claim is without prejudice to claims that Caremark had, has, or may have for amounts now or hereafter owing as an administrative expense allowable under 11 U.S.C. § 503(b), whether or not such amounts are included in this proof of claim, and Caremark expressly reserves its right to file such a claim at an appropriate time. This proof of claim is also without prejudice to any additional pre-petition damages that Caremark may assert in an amended proof of claim.

10. Caremark also possesses rights of recoupment and/or setoff against Graceway. Specifically, Caremark is holding amounts that would otherwise be owed to Graceway for product delivered to Caremark under the Product Purchase Agreement (the “Product Purchases”). As of the date hereof, the amount of the Product Purchases equals approximately \$37,513.61. Caremark has the right under the Caremark Agreements and applicable law to recoup and/or setoff any amount owed to Graceway for the Product Purchases against any amount Graceway owes to Caremark under the Caremark Agreements. Caremark hereby asserts and reserves all rights to exercise any rights and remedies that it may possess as a holder of rights of recoupment and/or setoff against Graceway and/or the Debtors including, but not limited to, any rights and remedies under §§ 105 and 553 of the Bankruptcy Code.

11. Caremark expressly reserves the right to: (a) alter, amend, update, modify, supplement or otherwise revise this proof of claim in any respect at any time; and (b) file additional proofs of claim for any other liability or indebtedness of Graceway, whether based on the Caremark Agreements or otherwise. Caremark specifically preserves all of its procedural and substantive defenses and rights with respect to any claim that may be asserted against

Caremark by Graceway or any other party in interest in Graceway's bankruptcy case, or any other person or entity whatsoever, including any challenge or defense to the jurisdiction of this Court over any such claim.

12. The filing of this proof of claim is not and should not be construed to be: (a) a waiver or release of Caremark's rights against any other person liable for all or part of any claim described herein; (b) a waiver of the right to seek to have the reference withdrawn with respect to any proceedings commenced in this case against or otherwise involving Caremark (including with respect to any counterclaims to the claims asserted in this proof of claim); or (c) an election of remedies which waives or otherwise affects any other remedy of Caremark.

GRACEWAY PHARMACEUTICALS, LLC
AMOUNTS OWED TO CAREMARK L.L.C.

<u>Contract</u>	<u>Pre-Petition Amount Owed</u>	<u>Estimated Amount Owed for 4th Quarter 2011 and thereafter</u>	<u>Total Claim Amount</u>
Rebate Agreement	\$2,348.52	\$373.96	\$2,722.48
Product Purchase Agreement	\$37,513.61	\$300,000.00	\$337,513.61
<u>TOTAL</u>	\$39,862.13	\$300,373.96	\$340,236.09



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

321 NORTH CLARK STREET, SUITE 2800
CHICAGO, IL 60654-5313
312.832.4500 TEL
312.832.4700 FAX
foley.com

December 29, 2011

VIA FEDERAL EXPRESS
VIA OVERNIGHT DELIVERY

WRITER'S DIRECT LINE
312.832.4514
ggoodman@foley.com EMAIL

CLIENT/MATTER NUMBER
071141-0317

BMC Group
Attention: Graceway Claims Processing
18750 Lake Drive East
Chanhassen, MN 55317

Re: In Re Graceway Pharmaceuticals, LLC
Case Number 11-13036, United States Bankruptcy Court for the District of Delaware

Dear Sir/Madam:

Enclosed please find an original and two copies of Proofs of Claim to be filed in the above captioned matter by the following parties.

- CVS Caremark Part D Services, L.L.C.
- CaremarkPCS Health, L.L.C.
- Caremark, L.L.C.
- Cvs Caremark Corporation

Please return filed stamped copies of each creditor's claim in the enclosed, self-addressed envelope.

Sincerely,

Geoffrey S. Goodman

GSG:acb
enclosures

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

