

J. Thomas Beckett, USB #5587  
Brian M. Rothschild, USB #15316  
**PARSONS BEHLE & LATIMER**  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
Telephone: 801.532.1234  
Facsimile: 801.536.6111  
TBeckett@parsonsbehle.com  
BRothschild@parsonsbehle.com  
ecf@parsonsbehle.com

*Proposed Attorneys for VidAngel, Inc.*

Ryan G. Baker (Cal. Bar No. 214036)  
rbaker@bakermarquart.com  
Jaime Marquart (Cal. Bar No. 200344)  
jmarquart@bakermarquart.com  
Scott M. Malzahn (Cal. Bar No. 229204)  
smalzahn@bakermarquart.com  
Brian T. Grace (Cal. Bar No. 307826)  
bgrace@bakermarquart.com  
BAKER MARQUART LLP  
2029 Century Park East, Sixteenth Fl.  
Los Angeles, California 90067  
Telephone: (424) 652-7800  
Facsimile: (424) 652-7850

*Proposed Special Counsel for VidAngel, Inc.*

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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In re:

VIDANGEL, INC.,

Debtor.

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

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**DEBTOR'S MOTION TO EMPLOY BAKER MARQUART  
LLP AS SPECIAL COUNSEL UNDER SECTION 327(e) OF  
THE BANKRUPTCY CODE**

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VidAngel, Inc., the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”), hereby moves the Court (the “**Motion**”) for entry of an order, pursuant to section 327(e) of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “**Bankruptcy Code**”), Federal Rules of Bankruptcy Procedure 2014(a) and 2016 (the “**Bankruptcy Rules**”), and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Utah (the “**Local Rules**”), authorizing the Debtor to employ Baker Marquart LLP (“**Baker Marquart**”) as special counsel. The Debtor seeks authorization for Baker Marquart to serve as special counsel to continue advising the Debtor with respect to ongoing actions in the

Central District of California and District of Utah in which Baker Marquart remains counsel of record for the Debtor and to provide advice on related matters, including intellectual property and antitrust law, that may arise in connection with those actions. In support of this Motion, the Debtor submits the Declaration of Jaime W. Marquart, a partner and co-founder of Baker Marquart (the “**Marquart Declaration**”). In further support of this Motion, the Debtor respectfully states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider the relief requested in this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in the District of Utah under 28 U.S.C. §§ 1408 and 1409.

2. The legal predicates for the relief sought in this Motion are 11 U.S.C. § 327 and Federal Rule of Bankruptcy Procedure 2014.

3. No prior application has been filed for the relief requested herein.

### **BACKGROUND**

4. On October 18, 2017 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under the Bankruptcy Code. The Debtor continues in possession of its properties and is operating and managing its businesses as a debtor-in-possession under sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner and a creditors’ committee has not yet been appointed in this Case.

5. The Debtor is the worldwide leader in video filtering technology. The Debtor’s service allow its subscribers to filter potentially objectionable content (such as profanity, nudity, and violence) in motion pictures (including television shows) and stream such content for its subscribers’ private viewing. The Debtor is also an original content provider, and it provides a streaming service to view the content it produces. The Debtor’s original comedy series, Dry Bar

Comedy, has had more than 16 million minutes viewed in the 7 days prior to the Petition Date. The Debtor's services give subscribers and their families choice over the content they view and share with the families.

### **RELIEF REQUESTED**

The Debtor submits this Motion pursuant to section 327(e) of the Bankruptcy Code and Rule 2014(a) of the Bankruptcy Rules to retain Baker Marquart as special counsel for the Debtor.

### **RETENTION OF BAKER MARQUART**

Baker Marquart is a boutique law firm located in Los Angeles, California that specializes in intellectual property and commercial litigation. Baker Marquart has represented the Debtor in connection with copyright infringement and antitrust actions in the Central District of California and the District of Utah (the "**Copyright Litigations**"). The claims brought against the Debtor in the Central District of California are stayed, but the Debtor's claims remain active in the Copyright Litigations. Baker Marquart continues to be counsel of record in those actions.

As a result of Baker Marquart's experience representing the Debtor, Baker Marquart has acquired extensive knowledge of the Debtor and its business. Baker Marquart's experience and expertise will be vital to the Debtor's strategy regarding its reorganization and, in particular, resolution of the Copyright Litigations.

The Debtor wishes to employ Baker Marquart as special counsel because, among other reasons, Baker Marquart is uniquely positioned to advise the Debtor with respect to the intellectual property issues facing the Debtor in its strategy in the regarding its reorganization and, in particular, resolution of the Copyright Litigations.

The Debtor believes that Baker Marquart is qualified to represent it, and that the best interests of the Debtor and its creditors would be served if Baker Marquart is authorized by the Court to be employed as the Debtor's special counsel.

The professional services that the Debtor may request Baker Marquart to provide may include the following:

- A. Representing the Debtor in the action captioned *Disney Enterprises, Inc., et al v. VidAngel, Inc.*, Case No. CV 16-04109-AB (PLAx), United States District Court, Central District of California, and any further related proceedings in any forum;
- B. Representing the Debtor in the action captioned *VidAngel, Inc. v. Sullivan Entertainment Group, Inc., et al.*, Case No. 2:17-cv-00989, United States, District Court, District of Utah, and any further related proceedings in any forum; and
- C. Otherwise advising the Debtor on related matters including intellectual property issues.

#### COMPENSATION

The Debtor desires to employ Baker Marquart with reasonable compensation to be based upon Baker Marquart's normal hourly rates at a ten percent discount, subject to all necessary approvals of the Court. At the start of its engagement and prior to the Petition Date, Baker Marquart received from the Debtor a retainer in the amount of \$70,000 (the "**Retainer**") in connection with its representation of the Debtor before any litigation had commenced. Subsequently, Baker Marquart opened additional matters with the Debtor in connection with litigation. Prior to the filing of this bankruptcy case, Baker Marquart applied the funds from the retainers and other payments that it received from Debtor for legal services provided to the Debtor through the Petition Date. As of the Petition Date (for services from October 1 through October 17, 2017), Baker Marquart was owed a total of \$27,494.10 for unpaid work, and held a total of \$7,827.45 as a retainer for previous engagements. Accounting for the retainer, Baker Marquart is owed \$19,666.65 for services from October 1 to October 17, 2017. If the Court approves Baker Marquart's appointment as special counsel, Baker Marquart will apply the

remaining retainer amount toward its services rendered for the Debtor herein and seek payment of its remaining \$19,666.65 for these services in a proof of claim. The Debtor understands that Baker Marquart will apply to the Court as required for allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules and orders of this Court for all services provided and expenses incurred.

Baker Marquart's customary hourly rates in matters of this type are subject to change in accordance with the firm's general billing procedures. The range of current hourly billing rates for attorneys anticipated to perform the majority of the services on behalf of the Debtor (as discounted by agreement) is \$292.50 to \$463.50. Baker Marquart's staff hourly rates range from \$157.50 to \$243.00. In particular, Baker Marquart's hourly rates, with ten percent discount applied, for those currently anticipated to render services on this case are Jaime W. Marquart, currently billing at \$463.50 per hour; Ryan G. Baker, currently billing at \$463.50 per hour; Scott M. Malzahn, currently billing at \$436.50 per hour; Brian T. Grace, currently billing at \$292.50 per hour; Tiffany Olson, currently billing at \$243.00 per hour; and Lisa Jung, currently billing at \$157.50 per hour.

It is contemplated that Baker Marquart will seek compensation based upon normal and usual hourly billing rates at a ten percent discount, as noted above. It is further contemplated that Baker Marquart may seek interim compensation during the case as permitted by section 331 of the Bankruptcy Code and any order this Court enters regarding interim compensation procedures for estate professionals.

**BAKER MARQUART IS DISINTERESTED AND HOLDS NO ADVERSE INTEREST**

Baker Marquart has indicated its willingness to act as special counsel to the Debtor in the capacities designated above.

To the best of the Debtor's knowledge, Baker Marquart has no direct or indirect relationship to, connection with, or interest in the Debtor, any of the Debtor's creditors, any other party in interest, any of their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as disclosed in the Declaration of Jaime W. Marquart, filed herewith, executed on behalf of Baker Marquart in accordance with section 327 of the Bankruptcy Code and rule 2014 of the Federal Rules of Bankruptcy Procedure.<sup>1</sup>

### **AUTHORITY FOR RELIEF REQUESTED**

Section 327(e) of the Bankruptcy Code provides as follows:

The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

Section 328(a) of the Bankruptcy Code provides as follows with respect to the terms of such employment:

The trustee, or a committee appointed under section 1102 of this title, with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.

11 U.S.C. § 328(a) (emphasis added).

In this case, the Debtor is operating its business as debtor in possession in accordance with sections 1107(a) and 1108 of the Bankruptcy Code. The Debtor has regularly employed

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<sup>1</sup> As noted in the Declaration of Jaime W. Marquart, paragraph 8, Baker Marquart's engagement agreement with Debtor gave it the contractual right to receive certain options in Debtor stock as part of its compensation, but Baker Marquart has never exercised any such right.

Baker Marquart as its counsel in the prepetition litigations, and wishes to continue to do so. Baker Marquart may hold a prepetition claim against the Debtor, but that claim is not “an interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.” Accordingly, Baker Marquart may serve as special litigation counsel under section 327(e) of the Bankruptcy Code. The terms of the retention, including the discount and option portions of the compensation, are reasonable and within the Debtor’s business judgment. Accordingly, it may retain Baker Marquart to continue representing it in the litigations.

**NO PRIOR REQUEST**

No prior motion or application for the relief requested herein has been made to this or any other court.

**NOTICE**

The Debtor has provided notice of this Motion to the Office of the United States Trustee for the District of Utah and all ECF notice parties and parties who have requested notice on the Court’s docket. Bankruptcy Rule 9013. In light of the nature of the relief requested in this Motion, the Debtor respectfully submits that no further notice is necessary.

**CONCLUSION**

For the reasons stated above, the Debtor requests that the Court grant the Motion and enter the Order submitted herewith.

Respectfully submitted,

/s/ Brian M. Rothschild

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Brian M. Rothschild

J. Thomas Beckett

**PARSONS BEHLE & LATIMER**

*Proposed Attorneys for VidAngel, Inc.*

**Exhibit A**

**Proposed Order**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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In re:

VIDANGEL, INC.,

Debtor,

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

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**ORDER GRANTING DEBTOR’S MOTION TO EMPLOY BAKER  
MARQUART LLP AS SPECIAL COUNSEL PURSUANT TO  
BANKRUPTCY CODE § 327(e)**

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The Court has considered the motion (the “**Motion**”)<sup>1</sup> filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”) requesting authorization to employ Baker Marquart LLP (“**Baker Marquart**”) as special counsel, the Declaration of Jaime W. Marquart in Support of the Motion, and applicable law. Based thereon, the Court finds that (i) the employment of Baker Marquart as special counsel to the Debtor is in this best interests of the Debtor’s bankruptcy estate; (ii) Baker Marquart does not represent any interest materially adverse to the Debtor or the bankruptcy estate with respect to the matter on which it is to be employed; and (iii) Baker Marquart is a “disinterested person” as that term is defined in section 327(e) of the Bankruptcy Code. Accordingly, and for good cause otherwise appearing,

IT IS HEREBY ORDERED THAT:

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1. The Motion is GRANTED;.
2. The Debtor is authorized under 11 U.S.C. § 327(e) and Federal Rule of Bankruptcy Procedure 2014 to employ Baker Marquart as special counsel for and on behalf of the Debtor, as outlined in the Motion; and
3. The Debtor may employ Baker Marquart at Baker Marquart's hourly rates, plus actual and necessary expenses, subject to the provisions of 11 U.S.C. §§ 327(e) and 330, with compensation and reimbursements of expense to be paid by the Debtor after appropriate notice and opportunity for hearing.

**[END OF ORDER]**