

J. Thomas Beckett, USB #5587  
Brian M. Rothschild, USB #15316  
**PARSONS BEHLE & LATIMER**  
201 South Main Street, Suite 1800  
Salt Lake City, UT 8411  
Telephone: (801) 532-1234  
Facsimile: (801) 536-6111  
TBeckett@parsonsbehle.com  
BRothschild@parsonsbehle.com

Attorneys for VidAngel, Inc.

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

---

In re: VIDANGEL, INC., Debtor.	Case No. 17-29073 Chapter 11 Judge Kevin R. Anderson
--------------------------------------	--

---

**DEBTOR'S MOTION TO EMPLOY DURHAM JONES &  
PINEGAR AS SPECIAL COUNSEL UNDER SECTION  
327(e) OF THE BANKRUPTCY CODE**

---

VidAngel, Inc., debtor and debtor-in-possession (the “**Debtor**”), by and through counsel, hereby moves under 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**”), that the Court enter an order authorizing the Debtor to employ the law firm of Durham Jones & Pinegar (“**DJP**”) as special counsel for the Debtor for the limited purposes stated in this Motion. In support of this Motion, the Debtor submits the Declaration of Clinton E. Duke under section 329(e) of the

Bankruptcy Code and Bankruptcy Rule 2014(a) in Support of this Application (the “**Duke Declaration**”). In further support of this Motion, the Debtor respectfully states as follows:

1. The Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code on October 18, 2017 (“**Petition Date**”). The Debtor has been operating as a debtor in possession since that date.

2. As of the Petition Date, the Debtor was a plaintiff in a lawsuit commenced in the United States District Court, for the District of Utah, Central Division, case no. 2:17-cv-00989 (the “**Copyright Lawsuit**”).

3. As of the Petition Date, the Debtor was a plaintiff in a lawsuit pending in the United States District Court, for the District of Utah, Central Division, case no. 2:14-cv-00160 (the “**Patent Lawsuit**”).

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction to consider this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b).

5. Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

6. The legal predicates for the relief sought in this Motion are section 327(e) of the Bankruptcy Code and Bankruptcy Rule 2014.

#### **RETENTION OF DURHAM JONES & PINEGAR**

Subject to approval of this Court, the Debtor wishes to retain DJP as special counsel in this case under section 327(e) of the Bankruptcy Code. As of the Petition Date, DJP was representing the Debtor in the Copyright Lawsuit and the Patent Lawsuit.

Accordingly, the Debtor respectfully requests entry of an order under section 327(e) of the Bankruptcy Code and Bankruptcy Rule 2014, authorizing it to employ and retain DJP as its special litigation counsel with respect to the following issues and activities:

- a. Represent the Debtor with respect to the Copyright Lawsuit and related proceedings;
- b. Represent the Debtor with respect to the Patent Lawsuit and related proceedings.

The Debtor has selected DJP for the reason that they are very familiar with the issues and the facts relating to the Copyright Lawsuit and the Patent Lawsuit because of DJP's longstanding reputation representation on these same matters. The Debtor believes that DJP is well qualified to represent it as special litigation counsel with respect to the Copyright Lawsuit and the Patent Lawsuit.

DJP has stated its desire and willingness to act in this case and render the necessary professional services as special counsel for the Debtor.

To the best of Debtor's knowledge, DJP does not hold or represent any interest adverse to the Debtor or the bankruptcy estate with respect to the matters in which it will be employed as special counsel and does not have any other connection with parties in interest except as set forth in the Duke Declaration filed in connection with this Motion.

DJP has disclosed all of the information required by section 329 of the Bankruptcy Code and Bankruptcy Rule 2016(a) in the Duke Declaration. As of the Petition Date, the Debtor owed DJP \$1,664.00 for legal services and \$125.00 for expenses related to the Copyright Lawsuit, and \$14,979.00 for legal services and \$93.10 for expenses related to the Patent Lawsuit.

The employment of DJP with respect to the matters will be more economical and efficient than locating new counsel, and it will save judicial resources.

The Debtor will compensate DJP on an hourly basis for the services provided to the estate, subject to court approval and any procedures approved for compensation of professionals in this case.

**7. 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).

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 DJP as its counsel in the prepetition litigations, and wishes to continue to do so. DJP 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, DJP 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 DJP to continue representing it in the litigations.

**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:

A. Approving the Motion to employ DJP as special counsel in the Bankruptcy Case, under section 327(e) of the Bankruptcy Code, for the limited purpose of representing the Debtor with respect to the Copyright Lawsuit and the Patent Lawsuit and related proceedings, with compensation to be determined on an hourly basis, subject to court approval; and

B. Granting the Debtor such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Brian M. Rothschild

\_\_\_\_\_  
Brian M. Rothschild

J. Thomas Beckett

**PARSONS BEHLE & LATIMER**

*Proposed Attorneys for VidAngel, Inc.*

Agreed: DURHAM JONES & PINEGAR

By:

  
\_\_\_\_\_

Clinton E. Duke

Proposed Special Counsel for VidAngel, Inc.