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

In re:

VIDANGEL, INC.,

Debtor.

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

**DEBTOR’S EX PARTE MOTION REQUESTING (1) AN
EXPEDITED HEARING ON THE FIRST-DAY MOTIONS,
(2) SHORTENING OF TIME FOR NOTICE AND
OBJECTION TO THE INTERIM RELIEF REQUESTED
IN THE FIRST-DAY MOTIONS OR FINDING THAT NO
FURTHER NOTICE IS NECESSARY, AND
(3) SCHEDULING A FINAL HEARING ON THE FIRST-
DAY MOTIONS WITHIN 30 DAYS AND AT LEAST 14
DAYS FOLLOWING THE ORGANIZATIONAL
MEETING OF THE CREDITORS’ COMMITTEE UNDER
SECTION 1102 OF THE BANKRUPTCY CODE**

VidAngel, Inc., the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”), hereby moves *ex parte* (this “**Ex Parte Hearing Motion**”) under sections 105 and 1102 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for an order of the Court (1) granting an expedited hearing on the Debtor’s first-day motions, (2) shortening time for notice

and objection to the interim relief requested in the first-day motions, and (3) scheduling a final hearing on the first-day motions within 30 days but no sooner than 14 days following the organizational meeting of the creditors' committee contemplated by Section 1102 of Title 11 of the Bankruptcy Code, which in this district should coincide with the scheduled Section 341(a) meeting of creditors. This Ex Parte Hearing Motion is supported by the arguments and authorities set forth below, the *Declaration of Patrick Reilly in Support of the Debtor's Chapter 11 Petition and Requests for First-Day Relief* (the "**First-Day Declaration**"), and the entire record before the Court in this Chapter 11 case (this "**Case**").

I.
SUMMARY OF RELIEF REQUESTED

1. This Court has authority under Section 105(d) of Title 11 of the Bankruptcy Code and Rule 9014 of the Bankruptcy Rules to schedule and hold hearings and status conferences "as are necessary to further the expeditious and economical resolution of the case." 11 U.S.C. § 105(d)(1).

2. The statutory predicates for the relief sought herein are sections 105(a) and 105(d) of the Bankruptcy Code and Bankruptcy Rules 6003,6004, and 9014, and

II.
JURISDICTION

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

III.
RELEVANT BACKGROUND

A. General.

4. On the date hereof (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 services 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 their families.

6. From late 2014 through late December 2016, VidAngel used a purchase model to provide video to its customers (the "**Disc Ownership Model**"). Under the Disc Ownership Model, VidAngel purchased DVDs and Blu-ray discs and sold them to its customers. VidAngel would decrypt the contents of the purchased discs and stream the content to the owner of such discs, filtered as each customer individually requested. VidAngel's proprietary technology enabled (and required) users to filter the video for various types of potentially objectionable content, which were silenced or deleted when the video was streamed. Once purchased, a customer could opt to sell the video disc back to VidAngel, or keep the actual physical disc, which VidAngel would ship to purchasers, on request, or store for the customer in a secure vault.

7. VidAngel's Disc Ownership Model was popular and growing, with more than 1 million viewers as of December 2016. However, in June 2016, Disney Enterprises, Inc., Lucasfilm Ltd. LLC, Twentieth Century Fox Film Corporation, and Warner Bros. Entertainment Inc. (the "**Studios**") sued VidAngel in the United States District Court for the Central District of

California, Case No. 2:16-cv-04109-AB-PLA (the “**Copyright Action**”), for copyright infringement of approximately 80 of the Studios’ copyrighted works. The Studios alleged that VidAngel’s decryption of its works was a technical violation of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 1201(a), and that VidAngel’s filtering and streaming violated their exclusive rights to make copies of and publicly perform their works in violation of 17 U.S.C. § 106. On December 12, 2016, the District Court granted the Studios’ Motion for a Preliminary Injunction. VidAngel complied with the preliminary injunction, shutting down VidAngel’s and its customers’ use of the Disc Purchase Model. The Studios have amended their complaint to add additional plaintiffs and allege the infringements of additional motion pictures before pursuing the Copyright Action to a judgment. The Studios rejected VidAngel’s Statutory Offer to Allow the Entry of Judgment against it.

8. Six months after the issuance of the preliminary injunction, VidAngel launched a new streaming-based service (the “**Stream-Based Model**”), which avoids any decryption of the Studios’ copyrighted works, and does not involve any physical video discs. Subscribers who use the Stream-Based Model select video content from third-party services such as Amazon, Netflix, and HBO using their own accounts with those third-party streaming services.¹ Using VidAngel’s proprietary technology, subscribers can elect to have VidAngel remove or silence various types of potentially objectionable content when they view the selected video.

9. To ensure that the new Stream-Based Model does not violate the any provision of the Copyright Act, VidAngel initiated a declaratory relief action in the United States District Court for the District of Utah, Case No. 2:17-cv-00989-EJF (the “**Declaratory Relief Action**”), and

¹ Users must maintain and pay the third-party content providers directly.

named various copyright owners whose copyrighted works might be streamed and filtered. The Declaratory Relief Action is in its early stages, and none of the defendants have answered.

10. At this time, the Debtor requires the breathing space of the Automatic Stay of section 362(a) of the Bankruptcy Code after the disruption of its previous business and to reorganize around the new Stream-Based Model. The Studios are pressing forward with the preliminary injunction in the California District Court, attempting to apply it to enjoin VidAngel's new Stream-Based Model. The Declaratory Relief Action is in its early stages, and the Utah District Court needs an opportunity to consider the issues and confirm that the Stream-Based Model does not violate any rights of motion picture copyright owners. Further, the Stream-Based Model, which is profitable, will provide sufficient revenue to enable the Debtor to reorganize its business and pay its creditors.

B. Facts Specific to the Motion.

11. The Debtor filed the following motions on the Petition Date requesting expedited relief on a final basis or expedited interim relief pending a final hearing, as applicable:

- a. *Motion of the Debtor for Entry of Interim and Final Orders (A) Authorizing Continued Use of Bank Accounts, Business Forms, Cash Management System, and Pre-Petition Customer Credit Program, (B) Waiving Certain Investment and Deposit Guidelines, and (C) Granting Related Relief (the "Cash Management Motion");*
- b. *Motion of the Debtor for an Order Authorizing (1) Payment of Certain Pre-Petition Wages, Salaries, and Other Compensation, (2) Withholdings From Employee Paychecks and Related Deductions and Payments, (3) Employee Benefits, (4) Reimbursable Employee Expenses, and (5) Related Relief (the "Employee Wage Motion");*
- c. *Motion of the Debtor for an Order (1) Authorizing But Not Requiring the Debtor to Pay Utility Providers, (2) Determining and Approving Adequate Assurance of Payment for Future Utility Services, (3) Prohibiting Utility Providers From Disconnecting Service, and (4) Granting Related Relief (the "Utility Motion");*

- d. *Motion of the Debtor for Entry of Interim and Final Orders Authorizing the Payment of Certain Pre-Petition and Post-Petition Taxes and Fees* (the “**Tax Motion**”);
- e. *Motion of the Debtor for Entry of an Order Authorizing the Debtor to Maintain Existing Insurance Policies and Pay All Policy Premiums and Brokers’ Fees Arising Thereunder* (the “**Insurance Motion**”);
- f. *Motion of the Debtor for Authority to Limit Notice and to Establish Notice Procedures* (the “**Notice Procedures Motion**”);
- g. *Application for Interim and Final Orders Authorizing the Employment and Retention of Gil Miller and Rocky Mountain Advisory, LLC as Financial Advisor for the Debtor* (“**RMA Retention Application**”);
- h. *Application for Interim and Final Orders Authorizing the Employment and Retention of Parsons Behle & Latimer as Chapter 11 Counsel for the Debtor* (“**Parsons Behle Retention Application**”)
- i. *Motion for an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* (the “**Compensation Procedures Motion**”); and
- j. *This Ex Parte Hearing Motion Requesting (1) an Expedited Hearing on the First-Day Motions, (2) Shortening of Time for Notice and Objection to the Interim Relief Requested in the First-Day Motions or Finding that No Further Notice Is Necessary, and (3) Scheduling a Final Hearing on the First-Day Motions Within 30 Days and at Least 14 Days Following the Organizational Meeting of the Creditors’ Committee under Section 1102 of the Bankruptcy Code*

(collectively, the “**First-Day Motions**”).

12. The First-Day Declaration contains a detailed description of the factual circumstances and evidence supporting the relief requested in each of the First-Day Motions.

IV. **ARGUMENTS & AUTHORITIES**

13. The Debtor requests that the Court schedule and hold the First-Day Hearing and the Final Hearing (each as defined below).

A. First-Day Hearing.

14. Under Bankruptcy Rules 2002 and 9006(c), by this Ex Parte Hearing Motion, the Debtor requests that the Court shorten the notice period and consider the Ex Parte Motion at a hearing as soon after the Petition Date that counsel may be heard (the “**First-Day Hearing**”). Accordingly, the Debtor requests that the Court conduct the First-Day Hearing on the interim relief or expedited relief, as applicable, requested in the First-Day Motions as soon as practicable. A proposed order scheduling the First-Day Hearing is attached as Exhibit A hereto.

15. The Court’s decision to reduce the notice period under Bankruptcy Rule 9006 and grant expedited relief that is sought in the First-Day Motions is critical to the Debtor’s business operations and essential for the continued operations of the Debtor’s business. Failure to grant the relief requested in the First-Day Motions would significantly impair the Debtor’s ability to reorganize and threaten the Debtor’s business operations, employees, and the interest of the Debtor’s numerous stakeholders, all as set forth more specifically in each of the First-Day Motions.

B. Final Hearing.

16. In addition, the Debtor requests that the Court schedule a hearing within 30 days but no sooner than 14 days following the organizational meeting of the creditors’ committee contemplated by Section 1102 of the Bankruptcy Code, which should coincide with the scheduled Section 341(a) meeting of creditors, to consider the final relief requested in the First-day Motions (the “**Final Hearing**”). The Final Hearing must be at least 30 days from the entry of an order granting the relief requested in this Ex Parte Hearing Motion to allow for proper service and notice of the First-Day Motions and to comply with Local Rule 9006-1(b)(4) to allow parties-in-interest an opportunity to file a response no later than 14 days before the Final Hearing.

C. **Basis for Relief Requested.**

17. Bankruptcy Rule 9006(c)(1) and (d) authorize a court to reduce the time for a hearing, and allows a party to file an ex parte motion to shorten the time for a hearing. Bankruptcy Rule 9006(c)(1) provides in relevant part:

In General. Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

18. Such expedited relief does not violate due process rights even if the motion to shorten time is made *ex parte*. See *In re Gledhill*, 76 F.3d 1070, 1084 (10th Cir. 1996) (holding that the bankruptcy rules allow *ex parte* motions to shorten time “for cause shown”).

19. No previous motion for the relief sought herein has been made to this or any other Court.

V.
NOTICE

20. The Debtor has provided notice of this Ex Parte Hearing Motion to (a) the Office of the United States Trustee for the District of Utah; (b) the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); and (c) all ECF notice parties and parties who have requested notice on the Court’s docket. In light of the nature of the relief requested in this Ex Parte Hearing Motion, the Debtor respectfully submits that no further notice is necessary.

VI.
CONCLUSION

21. For the reasons stated above, the Debtor requests that the Court grant the Ex Parte Hearing Motion and enter the Order lodged herewith.

Respectfully submitted,

/s/

Brian M. Rothschild

J. Thomas Beckett

PARSONS BEHLE & LATIMER

Proposed Attorneys for VidAngel, Inc.

Exhibit A

Proposed Order

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

In re:

VIDANGEL, INC.,

Debtor,

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

**ORDER GRANTING DEBTOR’S EX PARTE MOTION
REQUESTING (1) AN EXPEDITED HEARING ON THE FIRST-
DAY MOTIONS, (2) SHORTENING OF TIME FOR NOTICE AND
OBJECTION TO THE INTERIM RELIEF REQUESTED IN THE
FIRST-DAY MOTIONS OR FINDING THAT NO FURTHER
NOTICE IS NECESSARY, AND (3) SCHEDULING A FINAL
HEARING ON THE FIRST-DAY MOTIONS WITHIN 30 DAYS
AND AT LEAST 14 DAYS FOLLOWING THE
ORGANIZATIONAL MEETING OF THE CREDITORS’
COMMITTEE UNDER SECTION 1102 OF THE BANKRUPTCY
CODE**

Upon the motion (the “**Ex Parte Hearing Motion**”)¹ filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) seeking entry of an order (1) granting an expedited hearing on the Debtor’s First-Day Motions, (2) shortening time for notice and objection to the interim relief requested in the First-Day Motions, and (3) scheduling a final hearing on the First-Day Motions within 30 days but no sooner than 14 days following the organizational meeting of

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

the creditors' committee contemplated by Section 1102 of the Bankruptcy Code, which in this district should coincide with the scheduled Section 341(a) meeting of creditors. As demonstrated by the Certificate of Service attached to the Ex Parte Hearing Motion, the Ex Parte Hearing Motion was properly served on: (a) the Office of the United States Trustee for the District of Utah; (b) the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); and (c) all ECF notice parties or parties who have requested notice on the Court's docket. The Court finds that the foregoing notice is adequate under all the circumstances and that no further notice of the Ex Parte Hearing Motion is required.

The Court has reviewed the Ex Parte Motion, the *Declaration of Patrick Reilly in Support of the Debtor's Chapter 11 Petition and Requests for First-Day Relief*, and the entire record before the Court in this Chapter 11 case, and under the Local Rules of Bankruptcy Practice for the District of Utah, the Federal Rules of Civil Procedure, and applicable law and for good cause shown, therefore

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Motion is GRANTED as set forth below.
2. The Court will hold a hearing (the "**First-Day Hearing**") to consider the interim relief and other expedited relief requested in the First-Day Motions on October 20, 2017, at 9:30 a.m., Prevailing Utah Time, at the United States Bankruptcy Court, Frank E. Moss, U.S. Courthouse, 350 South Main Street, Courtroom No. 376, Salt Lake City, Utah 84101.
3. The Court will consider the interim relief and other expedited relief requested in all of the following motions at the First-Day Hearing:
 - a. *Motion of the Debtor for Entry of Interim and Final Orders (A) Authorizing Continued Use of Bank Accounts, Business Forms, Cash Management System, and Pre-Petition Customer Credit Program, (B) Waiving Certain Investment and Deposit Guidelines, and (C) Granting Related Relief (the "**Cash Management Motion**")*;

- b. *Motion of the Debtor for an Order Authorizing (1) Payment of Certain Pre-Petition Wages, Salaries, and Other Compensation, (2) Withholdings From Employee Paychecks and Related Deductions and Payments, (3) Employee Benefits, (4) Reimbursable Employee Expenses, and (5) Related Relief (the “**Employee Wage Motion**”);*
- c. *Motion of the Debtor for an Order (1) Authorizing But Not Requiring the Debtor to Pay Utility Providers, (2) Determining and Approving Adequate Assurance of Payment for Future Utility Services, (3) Prohibiting Utility Providers From Disconnecting Service, and (4) Granting Related Relief (the “**Utility Motion**”);*
- d. *Motion of the Debtor for Entry of Interim and Final Orders Authorizing the Payment of Certain Pre-Petition and Post-Petition Taxes and Fees (the “**Tax Motion**”);*
- e. *Motion of the Debtor for Entry of an Order Authorizing the Debtor to Maintain Existing Insurance Policies and Pay All Policy Premiums and Brokers’ Fees Arising Thereunder (the “**Insurance Motion**”);*
- f. *Motion of the Debtor for Authority to Limit Notice and to Establish Notice Procedures (the “**Notice Procedures Motion**”);*
- g. *Application for Interim and Final Orders Authorizing the Employment and Retention of Gil Miller and Rocky Mountain Advisory, LLC as Financial Advisor for the Debtor (“**RMA Retention Application**”);*
- h. *Application for Interim and Final Orders Authorizing the Employment and Retention of Parsons Behle & Latimer as Chapter 11 Counsel for the Debtor (“**Parsons Behle Retention Application**”); and*
- i. *Motion for an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals (the “**Compensation Procedures Motion**”);*

(collectively the “**First-Day Motions**”).

4. Objections, if any, to the interim relief requested on the First-Day Motions may be presented at the First-Day Hearing or may be filed on the Court’s docket and served on counsel to the Debtor so that such objection is received no later than the First-Day Hearing.

5. A hearing to consider final relief (the “**Final Hearing**”) requested in the First-Day Motions will be held) on November 14, 2017 at 10:00 a.m., Prevailing Utah Time, at the United

States Bankruptcy Court, Frank E. Moss, U.S. Courthouse, 350 South Main Street, Courtroom No. 376, Salt Lake City, Utah 84101.

6. Objections, if any, to the relief requested on a final basis in any of the First-Day Motions must be filed in the Court and served on counsel to the Debtor so that such objection is received no later than **October 31, 2017, at 5:00 p.m. (Prevailing Utah Time)** (the “**Objection Deadline**”). If no objections are filed to any given First-Day Motion, this Court may enter a Final Order on such First-Day Motion without holding the Final Hearing on such First-Day Motion.

7. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

[END OF DOCUMENT]