

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re:

Curae Health, Inc., *et al.*¹

1721 Midpark Road, Suite B200
Knoxville, TN 37921

Debtors.

Chapter 11

Case No. 18-05665

Judge Walker

Jointly Administered

**APPLICATION TO RETAIN AND EMPLOY DUNHAM HILDEBRAND PLLC AS
SPECIAL COUNSEL TO REPRESENT THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF CURAE HEALTH, INC., ET AL. NUNC PRO TUNC
TO MAY 9, 2019**

Comes now, the Official Committee of Unsecured Creditors of Curae Health, Inc., *et al.* (the “Committee”) and respectfully submits this application to retain and employ Dunham Hildebrand, PLLC (“DH”) as special counsel to represent the Committee *nunc pro tunc* to May 9, 2019 (the “Application”), pursuant to section 1103 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). In support of this Application, the Committee respectfully represents as follows:

BACKGROUND

1. On August 24, 2018, Curae Health, Inc., *et al.* (the “Debtors”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Tennessee (the “Court”).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Curae Health, Inc. (5638); Amory Regional Medical Center, Inc. (2640); Batesville Regional Medical Center, Inc. (7929); and Clarksdale Regional Medical Center, Inc. (4755); Amory Regional Physicians, LLC (5044); Batesville Regional Physicians, LLC (4952); Clarksdale Regional Physicians, LLC (5311).

2. The Debtors continue to operate their businesses and manage their affairs as debtors-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1108. No trustee or examiner has been appointed in these cases.

3. On September 6, 2018, the Office of the United States Trustee appointed the Committee pursuant to 11 U.S.C. §§ 1102(a) and 1102(b)(1). [Dkt No. 112]. The Committee consists of the following seven creditors: MEDHOST, Inc., Cardinal Health 110, LLC, Cardinal Health 200, LLC, Cardinal Health 414, LLC, Morrison Management Specialists, Inc., Dothan Security Inc., Crown Health Care Laundry Services, and Boston Scientific Corporation.

4. The first meeting of the Committee was held on September 6, 2018, and at that meeting, the Committee selected Sills Cummis & Gross P.C. (“Sills”) and Manier & Herod, P.C. (“Manier”) as its proposed attorneys in these cases. The Court subsequently granted the Committee’s applications to employ Sills and Manier. [Dkt Nos. 302 and 324].

5. As explained more fully in the *Expedited Motion for Entry of an Order Granting the Official Committee of Unsecured Creditors Standing to Pursue Certain Estate-Based Claims* (the “Committee Standing Motion”) [Dkt No. 998], the Committee believes that the Debtors and their estates have claims and causes of action against the Debtors’ current and/or former officers, directors, and managers. Some or all of these claims are covered by that certain insurance policy numbered 8242-0764 (as extended by any applicable tails, endorsements, or riders (collectively, the “Policy”) issued by Chubb Group of Insurance Companies (“Chubb”). Pursuant to the Committee Standing Motion, the Committee sought standing to file a complaint against Chubb based on the coverage provided by the Policy.

6. On May 9, 2019, the Court granted the Committee Standing Motion. [Dkt No. 1057].

7. Manier, the local co-counsel for the Committee, has a conflict regarding the filing any action against Chubb. As a result, the Committee must obtain local special counsel to prosecute any action against Chubb. The Committee has selected DH as its proposed special counsel for the purposes of prosecuting any action against Chubb.

JURISDICTION AND VENUE

8. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334.

9. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

10. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

11. The Committee respectfully requests the entry of an order authorizing the Committee to retain and employ DH as its special counsel effective *nunc pro tunc* to May 9, 2019.

12. Section 1103(a) of the Bankruptcy Code provides that:

At a scheduled meeting of a committee appointed under section 1102 of this title, at which a majority of the members of such committee are present, and with the court's approval, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents, to represent or perform services for such committee.

11 U.S.C. § 1103(a).

13. The Committee submits that, pursuant to 11 U.S.C. § 1103(a) and Bankruptcy Rule 2014(a), DH should be employed as the Committee's special counsel in the Debtors' bankruptcy cases for the purposes of prosecuting any action against Chubb.

14. DH was selected for its experience and expertise in complex chapter 11 cases, including recent cases filed in the Court. The Committee believes that DH is well-qualified to

represent it in conjunction with these cases within the scope of its proposed retention as special counsel and that such representation is in the best interests of the Debtors' estates.

15. The Committee anticipates that DH may render the following services:
 - a. Provide legal advice regarding the Committee's rights, powers, and duties as related to any action against Chubb.
 - b. Prepare all necessary complaints, applications, answers, responses, objections, orders, reports, and other legal papers as related to any action against Chubb.
 - c. Represent the Committee in any action against Chubb.
 - d. Perform any and all other legal services for the Committee that may be necessary or desirable in these cases related to any action against Chubb.

16. Sills, Manier, and DH will make every effort to maximize the value of their services to the Debtors' estates by utilizing their respective skills and experience. As set forth herein, DH has structured its rates and the scope of its representation, in conjunction with Sills and Manier, to efficiently represent the Committee without duplicating services.

17. Subject to the Court's approval of this Application, DH has indicated that it is willing to serve as the Committee's special counsel in these cases and perform the services described above.

18. DH does not represent any adverse interest to the Debtors' estates in the matters upon which it is to be engaged. DH does not have any connection to the Debtors, their creditors, any other party in interest, the respective attorneys and accountants for said parties, the U.S. Trustee, and any person employed in the Office of the U.S. Trustee.

19. The declaration of disinterestedness required by Bankruptcy Rule 2014 (the "Dunham Declaration") is submitted simultaneously herewith as **Exhibit A**.

20. To the best of the Committee's knowledge, based upon the Dunham Declaration, and except as set forth therein, DH: (i) does not hold or represent any other entity having an adverse interest in connection with these cases as required by 11 U.S.C. § 1103(b) and (ii) is a "disinterested person" as that term is defined in 11 U.S.C. § 101(14).

21. DH understands that there is a continuing duty to disclose any adverse interest or change in disinterestedness. DH will from time to time review its disclosures in these cases, and in the event that additional material connections are discovered, the firm will disclose such information to the Court on notice to parties-in-interest and the United States Trustee.

22. Section 330(a) of the Bankruptcy Code authorizes the employment of a professional person on any reasonable terms and conditions of employment, including on an hourly basis. DH intends to apply for compensation for professional services rendered in connection with these cases, subject to approval of the Court and in compliance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders of the Court, on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by the firm.

23. DH has advised the Committee that the hourly rates for individuals who may perform services in the case are as follows:

Principals	\$350 per hour
Associates	\$250 per hour
Paralegals	\$175 per hour

24. In addition, it is DH's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case. These expenses include, among other things, telephone and telecopier toll and other charges, mail and express mail charges,

special or hand delivery charges, document processing, photocopying charges, travel expenses, expenses for working meals, computerized research, and transcription costs, as well as non-ordinary overhead expenses such as overtime for secretarial personnel and other staff. DH will charge the Debtors' estates for these expenses in a manner and at rates consistent with charges made generally to the firm's clients and in compliance with any guidelines promulgated by the Office of the United States Trustee, subject to approval by the Court.

25. The Committee requests approval of the retention and employment of DH as special counsel *nunc pro tunc* to May 9, 2019, the date DH was selected as special counsel to represent the Committee subject to the execution of a mutually agreeable engagement letter issued to the Committee by DH. Due to the complex and time-sensitive nature of these cases, there was an immediate need for DH to perform services for the Committee, and the Committee has sought authorization to retain and employ DH as soon as reasonably practicable. Indeed, the deadline to submit a claim under the Policy is May 15, 2019, at 12:01 p.m. The Committee submits that these circumstances warrant approval *nunc pro tunc* to May 9, 2019.

NOTICE AND PRIOR APPLICATION

26. Notice of this Application is being given to: (a) counsel for the Debtors; (b) counsel for the United States Trustee; (c) counsel for ServisFirst Bank; (d) counsel for Community Health Systems; and (e) all parties that have requested service pursuant to Bankruptcy Rule 2002 in these cases. The Committee submits that, given the nature of the relief requested, no further or other notice is necessary.

27. No prior application for the relief requested in this Application has been made to this or any other Court.

WHEREFORE, for the foregoing reasons, the Committee requests that it be authorized to retain and employ DH as special counsel *nunc pro tunc* to May 9, 2019, that DH be paid such compensation as may be allowed by the Court, and such other and further relief that the Court deems just and proper.

Respectfully submitted,

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF CURAE HEALTH, INC., ET AL.

/s/ Bill Anderson
MEDHOST, Inc., Chair
By: Bill Anderson

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2019, a copy of the foregoing was sent via ECF to all parties registered to receive electronic notice in the case and via U.S. mail, postage prepaid to the following:

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/s/ Michael E. Collins

Michael E. Collins