

**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 OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS
FOR AUTHORITY TO RETAIN AND EMPLOY SILLS CUMMIS & GROSS P.C.
AS CO-COUNSEL NUNC PRO TUNC TO SEPTEMBER 6, 2018**

The Official Committee of Unsecured Creditors (the “Committee”) of Curae Health, Inc., *et al.* (collectively, the “Debtors”) hereby files this application (the “Application”) for entry of an order authorizing the Committee to retain and employ Sills Cummis & Gross P.C. (“Sills”) as its co-counsel, *nunc pro tunc* to September 6, 2018, pursuant to section 1103 of chapter 11 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 the Application, the Committee respectfully s as follows:

BACKGROUND

1. On August 24, 2018, (the “Petition Date”), each of the Debtors filed a voluntary petition in this Court commencing a case for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

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. On September 6, 2018, the United States Trustee appointed the Committee pursuant to section 1102(a) of the Bankruptcy Code [Docket No. 112].

3. The Committee consists of the following creditors: Boston Scientific Corporation; Cardinal Health 110, LLC, Cardinal Health 200, LLC, and Cardinal Health 414, LLC (collectively, "Cardinal"); Crown Health Care Laundry Services; Dorthan Security Inc.; MEDHOST, Inc.; Morrison Management Specialists, Inc.; and Owens Minor.

4. The first meeting of the Committee was held on September 6, 2018, and at that meeting, the Committee selected Sills and Manier & Herod ("Manier") as its proposed attorneys in these cases.

JURISDICTION AND VENUE

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

6. The statutory predicates for the relief requested herein are sections 105(a), 330, 331, and 1102 of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Rules 2014-1 and 2016-1.

RELIEF REQUESTED AND BASIS FOR RELIEF

7. The Committee respectfully requests the entry of an order substantially in the form submitted herewith authorizing the Committee to employ and retain Sills as its co-counsel effective *nunc pro tunc* to September 6, 2018.

8. Section 1103(a) of the Bankruptcy Code provides as follows:

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).

9. The Committee submits that, pursuant to section 1103(a) and Bankruptcy Rule 2014(a), Sills should be employed as the Committee's co-counsel in this bankruptcy case.

I. Selection

10. Sills was selected for its significant experience representing creditors in complex bankruptcy cases, including as committee counsel in hospital cases throughout the country. Among other representations, Sills has represented or currently represents the creditors' committees in the bankruptcy cases of *In re Bayonne Medical Center* (Case No. 07-15195 (MBK), Bankr. D.N.J.); *In re Hudson Healthcare, Inc.* (Case No. 11-33014 (VFP), Bankr. D.N.J.); *In re Christ Hospital* (Case No. 12-12906 (MS), Bankr. D.N.J.); *In re Fairmont General Hospital, Inc., et al.* (Case No. 13-01054 (PMF), Bankr. N.D.W. Va.); *In re Union Hospital District* (Case No. 14-03299 (DD), Bankr. D.S.C.); *In re Ultura (LA) Inc., et al.* (Case No. 14-12382 (KG), Bankr. D. Del.); *In re SMMC Liquidation Corp. f/k/a Saint Michael's Medical Center, Inc., et al.* (Case No. 15-24999 (VFP), Bankr. D.N.J.); *In re Progressive Acute Care, LLC, et al.* (Case No. 16-50740, Bankr. W.D. La.); *In re Gardens Regional Hospital and Medical Center, Inc.* (Case No. 16-17463 (ER), Bankr. C.D. Cal.); *In re CH Liquidation Association f/k/a Coshocton County Memorial Hospital Association* (Case No. 16-51552 (AMK), Bankr. N.D. Ohio); *In re Gainesville Hospital District d/b/a North Texas Medical Center* (Case No. 16-40101 (BTR), Bankr. E.D. Tex.); and *In re Morehead Memorial Hospital* (Case No. 17-10775 (BK), Bankr. M.D.N.C.). Sills also represented or currently represents the debtors in *In re Pascack Valley Hospital Association, Inc.* (Case No. 07-23686 (RG), Bankr. D.N.J.) and *In re Mammoet-Starneth LLC* (Case No. 17-12925 (LSS), Bankr. D. Del.); a secured creditor/plan

sponsor in *In re Motor Coach Industries International, Inc., et al.* (08-12136 (BLS), Bankr. D. Del.); and served as special counsel to the committee in *In re 710 Long Ridge Road Operating Company II, LLC, et al.* (Case No. 13-13653 (DHS), Bankr. D.N.J.) and special counsel to the debtors and committee in *In re Specialty Hospital of Washington, LLC, et al.* (Case No. 14-00279 (SMT), Bankr. D.C.). The Committee believes Sills is well-qualified to represent it in conjunction with these cases and that such representation is in the best interests of the Debtors and their creditors.

II. Scope of Employment

11. The professional services Sills will render include the following:

- a. Provide legal advice regarding the Committee's rights, powers, and duties in these cases.
- b. Prepare all necessary applications, answers, responses, objections, orders, reports, and other legal papers.
- c. Represent the Committee in any and all matters arising in these cases, including any dispute or issue with the Debtors or other third parties.
- d. Assist the Committee in its investigation and analysis of the Debtors, their capital structure, and issues arising in or related to these cases, including but not limited to the review and analysis of all pleadings, claims, and bankruptcy plans that might be filed in these cases, and any negotiations or litigation that may arise out of or in connection with such matters, the Debtors' operations, the Debtors' financial affairs, and any proposed disposition of the Debtors' assets.
- e. Represent the Committee in all aspects of any sale and bankruptcy plan confirmation proceedings.
- f. Perform any and all other legal services for the Committee that may be necessary or desirable in these cases.

12. Sills and Manier will make every effort to maximize the value of their services by utilizing their respective skills and experience, and as set forth below, have structured their rates in conjunction to efficiently represent the Committee without duplicating services.

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

III. Terms of Retention

14. Sills intends to apply for compensation for professional services rendered in connection with these cases, subject to approval of the Court and in compliance with sections 330 and 331 of the Bankruptcy Code, applicable provisions of the Bankruptcy Rules, and any orders of the Court, on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by the firm.

15. As set forth in the declaration of Andrew H. Sherman (the "Sherman Declaration") submitted in support of this Application, Sills has advised the Committee that Sills will provide two types of fee discounts: (i) the hourly rates for Andrew H. Sherman and Boris I. Mankovetskiy will be discounted to \$595 and \$545 per hour, respectively, and the hourly rates for all other attorneys and paraprofessionals will be discounted by 20% from their standard hourly rates; and (ii) Sills's blended hourly rate for each month will be capped at \$495. Accordingly, Sills's fees for each month in these cases will be the lesser of (a) the amount of Sills's fees at the discounted rates set forth in (i) above, and (b) the amount of Sills's fees at a blended hourly rate of \$495.²

16. Sills's standard, non-discounted hourly rates are currently \$425-\$1,050 for Members, \$425-\$625 for Of Counsel, \$295-\$495 for Associates, and \$95-\$295 for Paralegals, and are subject to periodic adjustment.

² For example, if Sills bills 100 hours in a given month and its fees at its discounted rates for that month equal \$55,000, Sills's fees for the month will be capped at \$49,500 (a blended hourly rate of \$495).

17. The following professionals are expected to have primary responsibility for providing services to the Committee in these cases:

Professional	Standard Hourly Rate	Discounted Hourly Rate
Andrew H. Sherman	\$775	\$595
Boris I. Mankovetskiy	\$695	\$545
Lucas F. Hammonds	\$525	\$420
Rachel E. Brennan	\$495	\$396

18. The foregoing rates are set at a level designed to fairly compensate Sills for its work and to cover fixed and routine overhead expenses. It is Sills'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. Sills 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.

19. There is no proposed arrangement to compensate Sills other than as set forth herein. Sills has not shared, nor agreed to share (i) any compensation it has received or may receive with any other party or person, other than with the Members, Of Counsel, and Associates of the firm or (ii) any compensation another person or party has received or may receive.

IV. Sills Does Not Hold or Represent Any Adverse Interest

20. As set forth in greater detail in the Sherman Declaration, Sills has completed conflicts checks for the list of people and entities identified on Exhibit 1 to the Sherman Declaration (collectively, the “Conflicts Check Parties”), which includes the following, among others: (i) the Debtors, (ii) the parties identified on the Debtors’ List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders [Docket No. 1], (iii) the Debtors’ purported secured lenders, and (iv) certain other potential parties in interest (including the parties identified on the conflicts check list attached to the retention application for the Debtors’ attorneys).

21. Sills compared the names of the Conflicts Check Parties to a list of the firm’s current and former engagements, clients, adverse parties, and additional parties related to the firm’s current and former engagements. To the best of the Committee’s knowledge, based upon the Sherman Declaration, and except as set forth therein, Sills (i) does not hold or represent any other entity having an adverse interest in connection with these cases as required by section 1103(b) of the Bankruptcy Code and, further, (ii) is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code.

22. The Committee is aware that, because Sills is a large law firm with diverse clients, Sills may represent, may have represented, or may have connections to certain creditors of the Debtors’ estates or other parties-in-interest in matters unrelated to the Debtors or these cases. Any such representations and connections are disclosed in the Sherman Declaration in an abundance of caution.

23. To the best of the Committee’s knowledge, based upon the Sherman Declaration, Sills has no connection with the United States Trustee or any other person employed in the Office of the United States Trustee.

V. **Employment Nunc Pro Tunc to September 6, 2018**

24. The Committee requests approval of the retention and employment of Sills *nunc pro tunc* to September 6, 2018, the date Sills was selected to represent the Committee. Due to the complex and sensitive nature of these cases, there was an immediate need for Sills to perform services for the Committee, and the Committee has sought authorization to retain and employ Sills as soon as reasonably practicable. The Committee submits that these circumstances warrant approval *nunc pro tunc* to September 6, 2018.

NOTICE

25. Notice of this Application has been given to (i) the Office of the United States Trustee; (ii) the Debtors; (iii) counsel for the Debtors; (iv) counsel for ServisFirst Bank; (v) counsel for Midcap Funding IV Trust; (vi) counsel for Community Health Systems; and (vii) all parties requesting notice under Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Committee submits that no further notice of the Application is necessary or required.

NO PRIOR REQUEST

26. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, for the foregoing reasons, the Committee requests that it be authorized to retain and employ Sills as its co-counsel *nunc pro tunc* to September 6, 2018, that Sills 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 this 18 day of September, 2018.

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF MOREHEAD MEMORIAL
HOSPITAL

By: William P. Leach
MEDHOST, Inc., Chair
By: Bill Anderson

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2018, 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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Counsel for the United States
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Counsel for Community
Health Systems

/s/ Michael E. Collins

Michael E. Collins