

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

In re:

LYDIA CLADEK, INC.,

Case No. 3:10-bk-02805-PMG

Debtor.

(Consolidated by Prior Court Order with Case
No. 10-bk-02800-PMG)

**APPLICATION TO EMPLOY AKERMAN
SENERFITT AS COUNSEL FOR THE CHAPTER 11 TRUSTEE**

Michael Phelan, the Chapter 11 Trustee of the consolidated Chapter 11 cases of Lydia Cladek, Inc., pursuant to 11 U.S.C. § 327 and Rule 2014, Federal Rules of Bankruptcy Procedure, makes this application for an order authorizing the employment of Akerman Senterfitt as counsel for the Chapter 11 Trustee, *nunc pro tunc* to April 13, 2010, and in support thereof says:

1. On April 2, 2010, several petitioning creditors filed an involuntary Chapter 11 petition against Lydia Cladek, Inc., case styled as In re Lydia Cladek, Inc., Case No. 10-bk-02800-PMG, in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division (the "Involuntary Case").

2. Subsequently, on April 5, 2010, Lydia Cladek, Inc. ("LCI" or the "Debtor") filed the instant voluntary Chapter 11 petition, case styled as In re Lydia Cladek, Inc., Case No. 10-bk-02805-PMG, in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division (the "Voluntary Case").

3. On April 7, 2010, several creditors filed an Emergency Motion to Consolidate the Involuntary and Voluntary Chapter 11 cases of Lydia Cladek, Inc. [Docket No. 13]

4. On April 7, 2010, several creditors filed an Emergency Motion to Appoint a Chapter 11 Trustee. [Docket No. 11]

5. On April 12, 2010, the Court entered its Order Granting Motion To Consolidate, consolidating the Voluntary and Involuntary Chapter 11 cases of the Debtor, and providing that the Voluntary Case, Case No. 10-02805, shall be the lead case. [Docket No. 32]

6. On April 12, 2010, the Court entered its Order Granting Motion to Appoint Chapter 11 Trustee. [Docket No. 31]

7. On April 13, 2010, the United States Trustee filed its Appointment of Chapter 11 Trustee and Setting Bond, and its Application for Approval to Appoint Michael Phelan as Chapter 11 Trustee. [Docket No. 44 and 46]

8. On April 13, 2010, Michael Phelan filed a Notice of Acceptance as Chapter 11 Trustee (the "Chapter 11 Trustee"). [Docket No. 45]

9. On April 14, 2010, the Court entered its Order Approving Appointment of Chapter 11 Trustee and Setting of Bond. [Docket No. 47]

10. The Chapter 11 Trustee wishes to employ the law firm of Akerman Senterfitt as counsel for the Chapter 11 Trustee in these cases pursuant to Section 327 of the Bankruptcy Code.

11. Akerman Senterfitt has represented creditors which presently have claims against the Debtor's estates, including Robert Mengarelli, Mike Castelaz, John & Cecelia Castelaz, Robin Ponte, Donald N. Radbill, Jean Clancy, Charlotte E. Sears, Betty Ponce, Yanet Panteleon, John & Katherine Bristow, Gary and Judy Alligood, Malcolm Alligood, Jill Rand, Caroline S. Fortner, David A. Hall, M. Bruce Hall, Claudia Hundsdorfer-Abae, Curb Systems of North Florida, Inc., Michael Egelman, Andrea Holly Levinson, Ruth Howlett, Bennett and Noel Yell, Janet Lydecker, and Don and Katherine Yontz. However, Akerman Senterfitt's representation of

these creditors was limited to the commencement of the Involuntary Case and the appointment of a Chapter 11 trustee and concluded upon the fulfillment of these undertakings. Moreover, the creditors which Akerman Senterfitt formerly represented consented to Akerman Senterfitt's representation of the Chapter 11 Trustee.

12. Akerman Senterfitt also consulted with Virginia LaRue, Bruce Ewing, and Karen Ewing, individually and as Trustee of The Karen L. Dunn IV Living Trust, as creditors of the Debtor prior to the bankruptcy. These creditors did not retain Akerman Senterfitt to take action on enforcing their respective claims or in connection with the Involuntary Case.

13. To the best of the Chapter 11 Trustee's knowledge, information, and belief, and based on the annexed Affidavit of Jacob A. Brown, a partner in Akerman Senterfitt's Insolvency and Creditors' Rights Practice Group (the "Brown Affidavit"), Akerman Senterfitt does not represent any entity in connection with these cases having an adverse interest to the Chapter 11 Trustee or to the Debtor's estate.

14. Akerman Senterfitt represents no interest adverse to the Chapter 11 Trustee or to the Debtor's Estate in the matters upon which they are to be engaged, and their employment is necessary and would be in the best interest of the Estate. Akerman Senterfitt has also gained valuable information and experience in this case in the process of filing the Involuntary Case. To the extent that it is discovered that Akerman Senterfitt has an actual or potential conflict in representing the Chapter 11 Trustee in a particular matter in this case and is unable to facilitate a suitable waiver, then the Chapter 11 Trustee intends to seek to employ separate counsel for any such matter.

15. Akerman Senterfitt intends to apply to the Court from time to time for payment of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the guidelines promulgated by the Office of the United

States Trustee, and the Local Rules and Orders of this Court, and pursuant to any additional procedures which may be or have already been established by the Court.

16. The Chapter 11 Trustee has agreed to pay Akerman Senterfitt its standard hourly rates, and other charges such as expense reimbursements, photocopy services and the like, all being subject to approval by the Bankruptcy Court, on notice as provided in the Bankruptcy Code. The principal attorneys and paralegals presently designated to represent the Chapter 11 Trustee in these cases and their standard hourly rates are set forth below:

Jacob A. Brown	\$380.00
Steven R. Wirth	\$375.00
Mark S. Mitchell	\$300.00
M. Katherine Coxe	\$220.00
Jennifer S. Meehan	\$165.00

17. Other attorneys and paralegals of Akerman Senterfitt from time to time may perform services for the Chapter 11 Trustee in connection with the matters described herein. The Chapter 11 Trustee understands that the hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions, including increased experience of professionals rendering services.

18. Further, the Chapter 11 Trustee understands that it is Akerman Senterfitt's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's cases. The expenses charged to clients include, among other things, long distance telephone charges, telecopier charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, travel expenses, computerized research, transcription costs, as well as non-ordinary overhead expenses, such as secretarial and other overtime. The Chapter 11 Trustee understands that Akerman Senterfitt will charge the Chapter 11 Trustee for these expenses in a manner and at rates consistent with charges made generally to Akerman Senterfitt's other clients.

(g) taking any and all necessary actions in the interest of the Chapter 11 Trustee incident to the proper representation of the Chapter 11 Trustee in the administration of these cases.

WHEREFORE, the Chapter 11 Trustee respectfully requests that this Court enter an order (i) approving the retention of Akerman Senterfitt as counsel to the Trustee under the terms set forth herein *nunc pro tunc* to April 13, 2010, (ii) authorizing the Trustee to retain Akerman Senterfitt as counsel to the Trustee, and (iii) granting such other and further relief as the Court deems just and proper.

Dated: April 15, 2010.

AKERMAN SENTERFITT

By: /s/ Jacob A. Brown

Jacob A. Brown

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Proposed Attorneys for the Chapter 11 Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished either by electronic notification or U.S. mail, this 15th day of April, 2010 to:

Lydia Cladek, Inc.
108 Seagrove Main Street
St. Augustine, Florida 32080

Lawrence Lilly, Esq.
336 Redwing Lane
St. Augustine, Florida 32080-7979

Elena L Escamilla
United States Trustee
135 W Central Blvd Suite 620
Orlando, Florida 32806

and the parties listed on the attached Local Rule 1007-2 Parties in Interest List.

/s/ Jacob A. Brown
Attorney

Label Matrix for local noticing
113A-3
Case 3:10-bk-02805-PMG
Middle District of Florida
Jacksonville
Thu Apr 15 12:07:35 EDT 2010

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End of Label Matrix
Mailable recipients 10
Bypassed recipients 0
Total 10