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October 27, 2016

District Court
Carver County Justice Center
604 E. Fourth St.
Chaska, MN 55318

Re: Estate of Prince Rogers Nelson
Court File: 10-PR-16-46
Attn. District Court Judge Kevin W. Eide

Your Honor,

Corey Simmons respectfully requests permission to make a motion for reconsideration regarding the “Order & Judgment Denying Heirship Claims Of Brianna Nelson, V.N., And Corey Simmons”, issued October 26th. Pursuant to Rule 115.11 Minn. Gen. R. Prac., we seek a reconsideration of the Court’s apparent decision to determine and deny Corey Simmons’ claim as an heir of the decedent to the extent that it denies him any further genetic testing. The Court’s Order reclassifies him as “Excluded” rather than allowing him to proceed to genetic testing as previously ordered by the Court. Although Brianna Nelson and V.N. declined genetic testing, Corey Simmons has never declined to participate and has consistently sought genetic testing as a means to resolve his relationship to the decedent.

Corey Simmons, was never served with notice in these proceedings. He obtained counsel and filed his motion for relief under Rule 60 on Sept. 26, 2016. In that motion, our request was for Corey Simmons to be included in the class of persons that this Court established in the Court’s July 29th Order, as an applicant “claiming to be a descendant of Duane Nelson.” We specifically moved “that the Court amend its Order to include him among the class of purported heirs *who should participate on the Court’s ordered genetic testing.*” [emphasis added]

Although the Court included him in the Amended Scheduling Order, this Court has not yet ruled to Amend its July 29th Order to allow him to submit to genetic testing.

In oral argument on October 21st, we reasserted our request to also be allowed to proceed to genetic testing.¹ We have never refused it.

Corey Simmons’ motion to seek genetic testing has never been opposed.

¹ The Court’s Order filed October 26th does not recite the existence of Corey Simmons’ brief filed on October 20, 2016. Our brief was a timely-filed response to the Non-Excluded Heirs’ brief filed October 17th and should be considered in the record for the Court’s October 26th Order.

This Court has previously Ordered genetic testing (July 29th Order), clearly recognizing genetic testing as a means to present a case for heirship. The Court also ordered approval of the Special Administrator's Protocol. Corey Simmons followed that Protocol by promptly filing the required documents with the Special Administrator and the Court. The Special Administrator also promptly responded, making the "determination that, unless such evidence of a presumption under Minn. Stat. §257.55 can be produced, *the alleged parent-child relationship between John and Duane will also need to be established through genetic testing, in a manner determined by the Court.*"² [emphasis added]

There is no technical reason why it is not possible that genetic testing will in fact result in a determination, with some degree of certainty, of the relationship between Corey Simmons, John L. Nelson, and the decedent. The descriptive memorandum of DNA Diagnostic Center, attached to the Special Administrator's Protocol on file with the Court, states that

For cases that involve in-direct relationship testing including avuncular, single grandparentage and Siblingship (full-siblingship & half-siblingship) tests will provide a statistical likelihood that gives evidence to support the tested relationship. A test of this nature also will not directly exclude the relationship. However, the test can give the odds of the relationship based on the purported relationship and the systems tested. *If a sufficient number of in-direct relatives (aunt/uncle, sibling, grandparent) are tested (3 or more), the alleged common relative's profile can be reconstructed and the test can be just as informative as a direct paternity test. This test is called a Family Reconstruction case.* [emphasis added]

This understanding was demonstrated by this Court's Order of July 29th, which Ordered, in paragraph 3, that genetic testing should occur, including John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson. The disposal of the *Palmer* and *Jotham* case doctrine by this Court and the Court's Exclusion of Brianna Nelson and V.N., who declined the testing, should not preclude the genetic testing sought by Corey Simmons, as it clearly remains the same legally supported and accepted procedure already ordered by the Court.

Sincerely,
Dammeyer Law Firm, P.A.
Attorney for Corey Simmons

/s/ Eric C. Dammeyer

Eric C. Dammeyer, Attorney
c: Counsel of Record, Self-represented Parties, Corey Simmons
encl.

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² The two-page limit under Rule 115 precludes a copy of the Special Administrator's response or any affidavit. However, if the Court grants our request to file a motion for reconsideration, we will properly document the letter from the Special Administrator and the proper chain of submissions which this Court requires for persons claiming heirship with the decedent.