

STATE OF MINNESOTA

**FILED**

DISTRICT COURT

COUNTY OF CARVER

JAN 23 2017

**CARVER COUNTY COURTS**

FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

Case Type: Special Administration

In the Matter of:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,

Decedent,

**ORDER REGARDING THE FILING OF  
CERTAIN DOCUMENTS UNDER SEAL**

The above matter has come to the Court’s attention due to the number of documents being filed under seal in this case, the Court’s concern that the parties follow the various court rules regarding the proper filing of documents, and the Court’s concern that the public has access to documents in this file that should properly be filed as a public document.

There are several rules that apply to the filing of documents as confidential or under seal in a civil proceeding in the State of Minnesota. They are repeated here for the public and for attorneys appearing this matter that do not practice in the State of Minnesota.

**Minn. Gen. R. Prac. 11.01**

**Definitions**

The following definitions apply for the purposes of this rule:

- (a) “Restricted Identifiers” shall mean the following numbers of a party or other person: complete or partial social security number, complete or partial employer identification number, and financial account numbers when last four numbers of a financial account number that is not also a social security number.
- (b) “Financial source documents” mean income tax returns, W-2 forms and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information deemed financial source documents by court order.

**NOTICE:** A true and correct copy of this Order/Notice has been served by EFS upon the parties. Please be advised that orders/notices sent to attorneys are sent to the lead attorney only.

**Minn. Gen. R. Prac. 11.06**

**When Documents May Be Filed as Confidential or under Seal**

A party may submit a document for filing as a “confidential document” or “sealed document” only if one of these circumstances exists:

- (a) The court has entered an order permitting the filing of the particular document or class of documents under seal or as confidential.
- (b) This rule or any applicable court rule, court order, or statute expressly authorizes or requires filing under seal or as confidential.
- (c) The party files a motion for leave to file under seal or as confidential not later than at the time of submission of the document.

The court may require a filing party to specify the authority for asserting that a filing is a “confidential document” or “sealed document.” For purposes of this rule, the terms “confidential document” and “sealed document” shall have the meanings set forth in Rule 14.01. Additional requirements for electronically submitting a document as confidential or sealed in the E-Filing System are set forth in Rule 14.06.”

**Minn. Gen. R. Prac. 14.06**

**Sealed and Confidential Documents**

Any interested person must seek and obtain advance approval from the court, with notice of the request to all parties, to submit a document to the court for in camera review. A document submitted for in camera review shall be submitted to the court outside the E-Filing System by either:

- (1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer, or
- (2) upon approval of the presiding judge or judicial officer, transmitting the document to the presiding judge or judicial officer, via e-mail, as an attachment to an e-mail address as directed by the presiding judge or judicial officer. Any document submitted for in camera review must be clearly labeled “For In Camera Review” and, unless otherwise ordered by the court, shall be sealed and preserved as a court exhibit.

A Registered User electronically filing a document that is not accessible to the public in whole or in part under the Rules of Public Access to Records of the Judicial Branch or other applicable

law, court rules or court order, is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the court.

Upon review, the court may modify the designation of any document incorrectly designated as sealed or confidential and shall provide prompt notice of any such change to the Registered User who filed the document. A Registered User must seek advance approval from the court to transmit a document for filing designated as sealed or confidential if that document is not already inaccessible to the public under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules, or court order.

A document to be filed under seal or as confidential may be filed in paper form if required or permitted by the court. A motion to file a document in paper form under seal or as confidential must be filed and served electronically.

### **Minn. R. Pub. Access 4, subd. 2**

#### **Restricting Access; Procedure.**

Procedures for restricting access to case records shall be as provided in the applicable court rules. A court may restrict access to public case records in a particular case only if it makes findings that are required by law, court rule, or case law precedent. The factors that a court must consider before issuing a restrictive order in regard to criminal case records are discussed in MINN. R. CRIM. P. 25, *Minneapolis Star & Tribune v. Kammeyer*, 341 N.W.2d 550 (Minn. 1983), and *Northwest Publications, Inc. v. Anderson*, 259 N.W.2d 254 (Minn. 1977). For a discussion of the factors to consider in civil cases, see MINN. R. CIV. P. 26.03 and *Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197 (Minn. 1986). For standards to consider in cases involving a child in need of protective services, see MINN. R. JUV. PROT. P. 8.07. For factors to consider in juvenile delinquency cases, see MINN. R. JUV. DEL. P. 10.06, subd. 5. For factors to consider for restricting public access to jury records, see MINN. GEN. R. PRAC. 814(a).

The Court has received a number of documents during the last two weeks which are designated to be filed under seal. With respect to many of these documents the Court sees no legal basis to file the documents under seal. With respect to these documents, the Court believes that it is incumbent on the filer of the document to be filed under seal to also efile a motion to seal the document, argument to the Court as to why a portion of, or the entire document, should be filed under seal, a redacted copy for public filing if determined appropriate, and a proposed order for sealing.

Accordingly, based upon the record, the Court hereby **ORDERS** that:

1. No document shall be filed in this proceeding unless the filer complies with the filing requirements outlined in the aforementioned rules.

2. All documents to be filed in this case shall be presumed public unless the Court orders that an entire document be filed under seal or that an entire document be filed under seal and that parts of the document shall be redacted from a publicly accessible version of the document.

3. A party filing a document shall remove Restricted Identifiers from documents as defined in Rules 11.01 and 11.02 of the Minnesota General Rule of Practice - District Courts and shall file a Form 11.1 or Form 11.2 as appropriate with the Restricted Identifiers.

4. If a party filing a document wishes a document to be filed under seal, it shall file with the document a (1) motion for the document to be filed under seal, (2) memorandum setting forth why the document, or portions of the document, should be filed under seal, (3) redacted version of the document to be filed publicly (if applicable) and (4) proposed order for the sealing of the document. The motion, memorandum and proposed order are presumed publicly accessible documents upon filing.

5. If a party filing a document believes that the subject matter of a document is not accessible to the public pursuant to Rule 4, Subd. 1 of the Minnesota Rules of Public Access to Judicial Records, they shall provide the Court with the same documentation as required under paragraph 4 of this Order.

6. The Court shall exercise a strong preference for the sealing, through the use of a redacted copy, of only those portions a document that reference confidential business transactions,

privileged information, or otherwise should be filed under seal. In this analysis, the party should review the standard set forth in *Minneapolis Star & Tribune v. Schumacher*, 392 N.W.2d 197 (Minn.1986).

7. The Court shall also exercise a strong preference not to review documents by in camera review. This shall be permitted only upon proper motion along with a memorandum setting forth why the document should be reviewed in camera, a redacted version of the document to be filed publicly (if applicable) and a proposed order for in camera review.

8. The Court recognizes that legal billing statements contain references to confidential work product and confidential reference to attorney - client communication. However, these references should be addressed through redaction, not the sealing of the entire document, wherever possible. The redaction shall be very specific as to individual entries that need to be redacted and the filer shall explain why as to each redaction. This Order shall supplement or modify the Order Approving Fees and Costs and Expenses and Establishing Procedure for Review and Approval of Future Fees and Costs and Expenses filed October 24, 2016.

9. If a document is efiled to be filed under seal, along with the other documents required under paragraph 4 of this Order, the Court shall accept for filing as a public document the (1) motion for the document to be filed under seal, (2) memorandum setting forth why the document, or portions of the document, should be filed under seal, (3) redacted version of the document to be filed publicly (if applicable) and (4) proposed order for the sealing of the document. The un-redacted document shall be accepted for filing as a confidential document. If the Court approves the filing of the un-redacted document under seal, it will sign an appropriate order. If a document is received for filing and does not comply with the aforementioned rules, the Court shall do one of the following without notice:

- a. Accept the document for filing but change the security classification to reflect that it should be filed as a public document.
- b. Order that the filer refile the document with modifications regarding what information shall be redacted within 21 days of the order. If the filer fails to refile the document within 21 days as directed by the Court, the Court reserves the right to strike the document from the record for consideration.

BY THE COURT:

Dated: January 19, 2017

  
Kevin W. Eide  
Judge of District Court