

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re:

Court File No.: 10-PR-16-46

Judge: Kevin W. Eide

Estate of Prince Rogers Nelson,

Decedent.

**AFFIDAVIT OF THOMAS P. KANE
IN SUPPORT OF COZEN O'CONNOR'S
MOTION FOR APPROVAL OF PAYMENT
OF ATTORNEYS' FEES FROM
FEBRUARY 1, 2017 THROUGH
DECEMBER 31, 2017**

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Thomas P. Kane, after being duly sworn, state as follows:

1. I am an attorney duly licensed to practice and in good standing in the State of Minnesota. If called as a witness, I could and would competently testify to the facts stated here based on my own personal knowledge.

2. Until my retirement on August 31, 2018, I was an attorney at Cozen O'Connor ("Cozen") and served as counsel of record for Omarr Baker. I submit this affidavit in support of Cozen's Motion for Approval of Payment for Attorneys' Fees from February 1, 2017 through December 31, 2017.

3. Omarr Baker ("Baker") retained Cozen in June 2016 to provide legal services and specialized advice regarding the Estate of Prince Rogers Nelson (the "Estate"). Cozen formally appeared in the matter on June 23, 2016 and withdrew as Baker's counsel of record two years later, on June 18, 2018.

4. Between February 1, 2017 and December 31, 2017, Cozen spent significant legal time on Estate-related proceedings that have benefited the Estate and not just Baker individually.

These included, among other tasks:

- A. Preparing documents and providing testimony regarding determination of the rightful heirs of the Estate, including obtaining an order to have the six siblings of Prince Rogers Nelson determined as the heirs;
- B. Objecting to the Special Administrator, its counsel, and its advisors' fees and decisions when they were made to the detriment of the Estate;
- C. Addressing the claims against Charles Koppelman, L. Londell McMillan, and Bremer Trust, N.A.;
- D. Facilitating the appointment of the Second Special Administrator to investigate the former Special Administrator and participating willingly in the Second Special Administrator's investigation; and
- E. Addressing the attempt by Sharon Nelson, John Nelson, and Norrine Nelson to remove Comerica Bank & Trust, N.A. as the Personal Representative.

5. I am a commercial trial lawyer with more than 50 years of experience litigating in federal and state courts in Minnesota and throughout the United States. For the full details of my professional accomplishments and those of the attorneys working on this matter, I respectfully refer the Court to the affidavits and exhibits filed on February 9, 2017.

6. This Court has awarded Cozen fees in the past for work done from June 2016 through January 2017. (*See* Second Order & Memorandum Approving Payment of Attorneys' Fees and Costs, filed April 5, 2017.) The Court granted in part and denied in part Cozen's request for attorneys' fees and ordered the Estate to pay Cozen \$159,240.75 in attorneys' fees and costs. (*Id.*) Attached as Exhibit A is a true and correct copy of the Court's order.

7. On June 5, 2017, Cozen appealed the Court's decision to the Minnesota Court of Appeals. After briefing and arguing, the Court of Appeals affirmed in part, reversed in part, and remanded the decision to this Court on January 22, 2018. Attached as Exhibit B is a true and correct

copy of the unpublished decision by the Minnesota Court of Appeals, *In the Matter of the Estate of Prince Rogers Nelson*, No. A17-0880.

8. The Court then issued an order stating that by March 2, 2018, the parties shall submit any memoranda to assist the Court in supplementing its findings in connection with the decisions filed on April 5, 2017 and May 15, 2017 in response to the Minnesota Court of Appeals decision on January 22, 2018 (the “Remanded Fees Issue”). On June 5, 2018, the Court appointed Judge Richard B. Solum (Ret.) as Special Master to hear and rule on the Remanded Fees Issue.

9. On October 4, 2018, Judge Solum issued the Order on Remanded Fee Issues (the “Remanded Fees Order”) awarding Cozen \$236,362 for work done from June 2016 through January 2017, an amount which is in addition to the Court’s earlier award. Attached as Exhibit C is a true and correct copy of the Remanded Fees Order. The Court accepted and adopted Judge Solum’s Remanded Fees Order on October 4, 2018. Attached as Exhibit D is a true and correct copy of the Order Adopting Decision of the Special Master.

10. Cozen now seeks an order from the Court for fees incurred from February 1 to December 31, 2017 that were just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services. In providing legal services sought by this Motion, Cozen’s attorneys and paralegals have expended 1,385.9 hours from February 1 through December 31, 2017. Attached as Exhibit E is a true and correct copy of Cozen’s time and costs for this matter from February 1, 2017 through December 31, 2017.

11. In Exhibit E, Cozen endeavored to categorize its fees into the six pre-determined categories the Court established. These categories were established based on fees requested for the period through January 31, 2017. Since that time, new issues have arisen which require establishing new categories. In the event the Court continues to deem these categories helpful, and

to adhere to the third factor laid out in the Court of Appeals' decision, Cozen has categorized its fees into the six pre-existing categories and has also used new categories. I represent that the fees requested properly fall into the following categories:

| Code | Category | Amount |
|-------------|--------------------------------------------------------------------------------------------------------------------|---------------|
| | FEES | |
| E | Services relating to entertainment deals | \$113,462.00 |
| PP | Services relating to Paisley Park | \$3,508.00 |
| H | Services relating to the determination of heirs | \$124,699.50 |
| PR | Services relating to the selection of a Personal Representative | \$0.00 |
| PA | Services relating to legislation | \$0.00 |
| T | Services relating to a tribute concert | \$4,992.00 |
| SA | Services relating to Special Administrator's accounting, fees, and discharge | \$116,209.00 |
| M/K | Services relating to claims against the Special Administrator's experts, L. Londell McMillan and Charles Koppelman | \$71,946.50 |
| SSA | Services relating to appointment of the Second Special Administrator | \$75,570.50 |
| D | Services relating to the petition to discharge Comerica as Personal Representative | \$22,882.00 |
| C | Services relating to updating clients, filing, research costs, and court appearances | \$24,397.50 |

| | | |
|---|-------------------------------------------------------------------------------------------------|--------------|
| G | General fees which could not be adequately categorized, but were for the benefit of the Estate. | \$28,109.00 |
| | TOTAL | \$585,776.00 |
| | COSTS | \$18,983.83 |
| | TOTAL | \$604,759.83 |

12. Based on my experience, and when compared with the billing rates identified in prior submissions to the Court by other lawyers who have submitted fees in this matter, Cozen's billing rates are consistent with the rates charged by law firms in and around the Twin Cities metropolitan area with experience and sophistication sufficient to provide legal services on complex probate and entertainment matters.

13. From February 1 through December 31, 2017, attorneys at Cozen performed services that were reasonably and necessarily incurred to benefit the Estate. As an heir, Baker received derivative benefits from Cozen's work to better the Estate; however, the benefit Baker received was one shared by all other heirs. Such services that Cozen performed for the benefit of the Estate included, but were not limited to, the following tasks performed by various attorneys.

E – Entertainment

14. Throughout the period of time from February 1 through December 31, 2017, Cozen performed services that were reasonably and necessarily incurred to maintain the right of the Heirs to participate in the negotiation and finalizing proposed entertainment deals.

15. Cozen conducted research, prepared arguments, and presented arguments to the Court relating to the entertainment deals. These efforts benefited the Estate by providing the collective entertainment expertise of the counsel for the Heirs and Representatives to assist in the negotiations and provided a spot at the table for the Heirs to provide their input in the deals.

16. Cozen attorneys conferred with others involved to reach a consensus among counsel for the Heirs. Upon developing a consensus, the Heirs provided detailed redlines and comments for the various entertainment deals.

17. As a result of these efforts, the final versions of the entertainment deals were materially better for the Estate than the draft agreements initially submitted.

18. In my opinion, the Cozen time sought for reimbursement for efforts related to entertainment deals is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

H - Heirship

19. Given the high profile nature and size of the Estate, there have been numerous claims from individuals alleging to be heirs. Throughout the period of time from February 1 through December 31, 2017, Cozen spent a great deal of time addressing the claims of certain individuals' claims to be heirs.

20. Cozen undertook the entirety of researching, briefing, and arguing the Motion to Determine Heirs after the Personal Representative, Comerica Bank & Trust, N.A., declined to do so. I asked the Personal Representative whether it would bring such a motion. In response, the Personal Representative declined. Therefore, Cozen took the lead on behalf of the then non-excluded Heirs and briefed and argued the motion before the Court to name Omarr Baker, Alfred Jackson, John Nelson, Norrine Nelson, Sharon Nelson, and Tyka Nelson as Prince's heirs. The Court granted the motion in its Order Determining Intestacy, Heirship, and McMillan Motions dated May 18, 2017. This benefited the Estate by bringing much-needed clarity regarding the Heirs' identity, and setting the clock running on the one-year period for any additional heirs to

come forward. Between May 18, 2017 and May 18, 2018, no additional credible heirs came forward, and Prince's siblings remain the sole heirs.

21. Cozen also provided assistance in the appellate proceedings regarding heirship claims brought by Darcell Gresham Johnston, et al. (No. A16-1545), Venita Jackson Leverette (No. A16-1546), and Brianna Nelson and Minor V.N. (No. A16-2042). The Personal Representative briefed and argued these appeals on behalf of the Estate and the Heirs. Cozen's work benefited the Estate by ensuring the Heirs' input in the Personal Representative's submissions to the appellate court and advising the Personal Representative's counsel on these issues as the Personal Representative was not involved in the case when these issues were first raised. As a result of the work, the Minnesota Court of Appeals upheld trial court's decisions to exclude these individuals as heirs and the Minnesota Supreme Court denied further review.

22. In my opinion, the time Cozen seeks for reimbursement for efforts related to the heirship issues is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

SA - Special Administrator's Accounting, Fees, and Discharge from Liability

23. After six months as Special Administrator, Bremer Trust, N.A. resigned and petitioned the Court for approval of its fees, costs, and expenses (and those of its counsel) for the time spent working on behalf of its client. Bremer also sought to be discharged from any and all liability.

24. On October 28, 2016, the Court approved the Special Administrator's fees, but the Court recognized that the Heirs were entitled to review the fees prior to approval and voice any issues. Since the October 28 Order, Cozen and some of the other Heirs' counsel regularly reviewed and filed timely objections to Bremer's request for fees and costs, when appropriate. Cozen's

efforts benefited the Estate by providing a process for allowing the Non-Excluded Heirs to comment on the fees submitted by the Special Administrator. These efforts also ensured a proper vetting of the fees requested by the Special Administrator before they were removed from the Estate's resources.

25. In my opinion, the Cozen time is sought for reimbursement for efforts related to assessing and objecting to Bremer's fee requests is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

26. In addition to requesting its fees, Bremer also petitioned for discharge. Initially, the court approved the discharge. However, after Cozen brought to the Court's attention the apparent errors made by the advisors regarding the Jobu Presents Agreement and that there were potential claims against Stinson and Bremer arising out of the Jobu Presents Agreement, the discharge was stayed. In addition, Cozen advised the Court regarding the issues involving the UMG Agreement, which had been approved after objection by Cozen and others. Cozen also prepared a complaint against Bremer, Koppelman, and McMillan, and served it on the defendants but granted an unlimited time to answer to allow the Court to review these claims and address them as the Court saw fit.

27. Additionally, as discussed below, on Cozen's motion the Court appointed a Second Special Administrator. Cozen participated fully in the investigation, and the Second Special Administrator identified to the Court the potential validity of the claims raised by Cozen's complaint. Cozen spent considerable time and effort researching the law, the facts supporting the claims, and bringing those facts to the attention of the Court and the Second Special Administrator.

28. In my opinion, the Cozen time is sought for objecting to Bremer's discharge is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

M/K & SSA - Jobu Presents, McMillan, Koppelman, and the Second Special Administrator

29. Throughout 2017 as additional information came forth regarding Bremer's entertainment advisors and Jobu Presents,¹ Cozen was alone in raising these issues before the Court. Bremer, its counsel Stinson Leonard Street, and its entertainment advisors L. Londell McMillan and Charles Koppelman made no disclosures to the Court, the Heirs, or their counsel regarding the significant issues that have now come to light. Cozen, at times joined by counsel for the other Heirs, filed no fewer than eight objections to Bremer, McMillan, and/or Koppelman.²

30. Cozen's efforts benefited the Estate by raising before the Court issues regarding the Special Administrator and its advisors' role in the Prince Tribute Concert and various entertainment deals, including the UMG Agreement. Cozen pointed out to the Court that there was

¹ For a more detailed chronology of the events that Cozen raised for the Court, Cozen respectfully refers the Court to the Affidavit of Thomas P. Kane filed on August 8, 2018.

² In reverse chronological order, (1) Supplemental Objections to Bremer Trust, National Association's Discharge from Liability, filed April 24, 2017; (2) Omarr Baker and Alfred Jackson's Supplemental Objections to Bremer Trust, National Association's Final Accounts through January 31, 2017, filed April 7, 2017; (3) Omarr Baker and Tyka Nelson's Objections to Bremer Trust, National Association's Final Accounts Through January 31, 2017, filed March 13, 2017; (4) Omarr Baker's Objection to Special Administrator's Request for Fees and Costs and Attorney's Fees Through December 31, 2016, filed January 30, 2017; (5) Omarr Baker and Tyka Nelson's Supplemental Objections to Final Account Through 11/30/16 Final Account from 12/31/16, and Petition for Order Approving Accounting Distribution of Assets and Discharge of Special Administrator, filed January 23, 2017; (6) Omarr Baker and Tyka Nelson's Objection to Special Administrator's Request for Legal Fees through December 31, 2016, filed January 19, 2017; (7) Omarr Baker and Tyka Nelson's Objections to Final Account through 11/30/16, Final Account from 12/1/16 through 12/31/16, and Petition for Order Approving Accounting, Distribution of Assets, and Discharge of Special Administrator, filed January 11, 2017; (8) Memorandum of Law in Support of Non-Excluded Heirs' Objections to Advisor Agreement and Court Approval of "Major Deals," filed under seal Sept. 28, 2016.

an apparent breach of fiduciary duty involving self-dealing by the Special Administrator and its advisors. Cozen's briefing on this issue resulted in the Court's decision to order the Personal Representative to investigate the Special Administrator's entertainment advisor, Mr. McMillan. This subsequently led to the Court's decision to appoint the Second Special Administrator to conduct investigations regarding the Jobu Presents Agreement, and to then expand the scope of the Second Special Administrator's investigation. Had Cozen not raised these issues with the Court, the Estate would have suffered significant damage, lost considerable assets, and would lack the information uncovered by the court-ordered investigations. The Second Special Administrator's investigations resulted in the Court's order permitting the Second Special Administrator to bring the claims he identified (most of which Cozen raised in the complaint served on Bremer and Stinson approximately one year ago).

31. In my opinion, the Cozen time sought for services relating to claims against the Special Administrator's experts, L. Londell McMillan and Charles Koppelman and services relating to appointment of the Second Special Administrator is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

D - Sharon, Norrine, and John Nelson's Petition to Remove Comerica as Personal Representative

32. On October 27, 2017, Sharon, Norrine, and John Nelson filed a Motion to Allow Petition for Permanent Removal of Comerica Bank & Trust NA as Personal Representative. Upon receipt of this motion, Cozen (as counsel for Baker) contacted the Personal Representative to discuss what support was necessary to address this petition.

33. On November 10, 2017, Cozen (on Baker's behalf) responded to the petition to remove Comerica as Personal Representative. Cozen emphasized the upheaval that would come

with replacing the Personal Representative, especially when no credible legal reason was given to do so.

34. In my opinion, the Cozen time is sought for services relating to responding to the petition to permanently remove the Personal Representative is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

C – Court Appearances & Filings, Research, Meetings with clients

35. The Court has consistently emphasized in its orders and the judge's statements from the bench the importance of the Personal Representative working cohesively with the Heirs. This meant that counsel had to describe to the Heirs each proceeding taking place before the district court, analyze and interpret the entertainment deals being proposed, and act as a liaison between Bremer and the Heirs to (1) protect the Heirs' rights in the Estate administration, and (2) ensure the Estate administration was occurring in an effective and fair manner. To do this, Cozen needed to analyze the proposed entertainment deals, analyze Bremer's actions, analyze Bremer's experts' actions, attend court appearances, conduct research when necessary, make filings when necessary, and keep its clients updated on all of the above.

36. These efforts have benefited the Estate by ensuring the Heirs—who will ultimately be responsible for the Estate—stayed apprised of all that was occurring in the Estate.

37. In my opinion, the Cozen time sought for reimbursement for efforts related to meetings with clients is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

General

38. There are 96.20 hours totaling \$28,109.00 that could not be completely categorized into one of the above categories. Cozen has included this general category to encompass these fees.

39. While they are difficult to fully categorize into a bucket, the fees included in the general category were incurred for the benefit of the Estate, and a review of those fees indicates the same.

40. In my opinion, the Cozen time sought for reimbursement from the general category is just and reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

41. Cozen's legal fees are in the total amount of \$585,776.00 for services sought by this Motion. I and other attorneys at Cozen have reviewed the original time entries for the legal fees submitted by Cozen and affirm that the work performed was for the benefit of the Estate, and that the fees are reasonable given: (1) the time and labor required; (2) the complexity and novelty of the transactions involved; and (3) the extent of the responsibilities assumed and the results obtained. The coordination of the work required over several sophisticated and complex disciplines, and the time demands required finds the pending fee request reasonable under these unique circumstances. Furthermore, our firm's hourly rates and overall charges are fair when compared against the fees charged for comparable work from similar firms in other major metropolitan areas.

42. Given (among other things) the complexity of the litigation, the entertainment deals the Estate is negotiating, the heirship issues resolved, and the necessary investigation of the Special Administrator that was achieved, \$585,776.00 in fees and \$18,983.83 in costs is just and

reasonable and commensurate with the benefit to the Estate from the recovery so made or from such services.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated: January 10, 2019.

s/ Thomas P. Kane

Thomas P. Kane

Subscribed and sworn to before me
this 10th day of January, 2019.

/s/ Amy E. Kulbeik

Notary Public