

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Case Type: Special Administration

Court File No. 10-PR-16-46

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In the Matter of:

Estate of Prince Rogers Nelson,

**ORDER & MEMORANDUM ON  
MOTION FOR PAYMENT OF FEES**

Decedent.

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The above entitled matter came on before the Court based upon the Motion to Approve Payment of Heir Representative Fees and Expenses filed by Charles F. Spicer, Jr on April 15, 2020. At the same time, Mr. Spicer filed the Affidavit of Charles F. Spicer Jr. which, in roughly two pages, set forth his claim for payment of fees and expenses. On June 29, 2020, Comerica Bank and Trust filed a response. On July 17, 2020, Mr. Spicer filed his reply. These documents constitute the record before the Court.

Throughout this proceeding the Heirs have been represented by counsel and have received advice from paid and unpaid advisors. In the spring of 2018, many of the Heirs were finding it financially impossible for them to continue to be represented by attorneys during all discussions taking place regarding the Estate broadly, and new entertainment licenses and agreements specifically.

The Court has required the Personal Representative to maintain a high level of communication with the Heirs but the Heirs have often felt like they were not being heard, or they were at a disadvantage expressing their concerns and wishes without the assistance of an advisor. Security of conversations, communications, entertainment agreements and data has been a primary concern of the Personal Representative and the Heirs. The Personal Representative was not willing to discuss confidential matters with others unless they had signed a non-disclosure agreement and it was necessary for that individual to have access to the information.

During this time, Sharon Nelson, Norrine Nelson and John Nelson (collectively referred to as "SNJ") had aligned their interests and generally presented themselves as a group. Tyka Nelson, Omarr Baker and Alfred Jackson also were somewhat aligned, but to a lesser degree.

With this as a backdrop, the Heirs (more specifically the two groups of Heirs) requested permission to be assisted by an advisor of their choosing who would assist in their communication with the Personal Representative and would assist the Personal Representative in reviewing proposals for entertainment deals and their subsequent negotiation.

On May 15, 2018, the Court filed an Order on the Appointment of Heirs' Representative and appointed Gregg Walker as an Heirs' Representative for Omarr Baker and Alfred Jackson. On May 25, 2018, this Court filed an Order & Memorandum on Proposed Entertainment Deal & the Appointment of Heirs' Representative which appointed Charles F. Spicer, Jr. to be an Heirs' Representative for Sharon Nelson, Norrine Nelson and John Nelson.

Regarding billing for his services, the Court specifically ordered, "[t]he billing for the services for Charles Spicer shall, in the first instance, be billed to Sharon Nelson, John Nelson and Noreen Nelson. *They* may submit the billing to the Court to determine whether the services provided were a benefit to the Estate as a whole, instead of a benefit to the individual Heirs, and should be paid for by the Estate." *Emphasis added.*

Now, therefore, the Court makes the following:

### **ORDER**

1. The Motion of Charles F. Spicer, Jr. for the payment of fees and expenses is hereby DENIED.

BY THE COURT:

Dated: September 17, 2020

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Kevin W. Eide  
Judge of District Court

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.

## MEMORANDUM

Minnesota Statutes generally provide that an attorney representing an heir shall bill their attorney fees to their client, the heir. *See* Minn. Stat. §524.3-720 (2019). If, however, the attorney can demonstrate that the worked benefited the estate as a whole, the attorney may request payment by the estate. *Id.* While there is no similar statute giving an heirs' representative a similar right to bill the estate, the Court permitted this in its May 25, 2018 Order.

When this Court appointed Mr. Walker and Mr. Spicer as Heirs' representatives, it was at the request of the Heirs to assist them in being in a better position to advocate for what they felt was in the best interest of the Estate. The Court made it clear that the fees were to be billed to the respective Heirs who sought their appointment. These individuals were representatives of the Heirs, not the Estate. Only if the representative can establish that his work directly benefited the Estate as a whole can the representative bill the Estate for their work. Said another way, if the representative can establish that specific work performed by him increased the income to the Estate or decreased the expenses incurred by the Estate, then that specific work can be billed to the Estate.

In his Affidavit in support of this motion, Mr. Spicer states, “[a]s a consummate entertainment professional in my role as the court appointed Heir Representative for SNJ, I expend an extensive amount of time working in the *best interest of the Heirs collectively*, engaging in robust conversations, discussions, and negotiations with the Personal Representative (“Comerica”), their advisors, mediator, and Heirs for the Benefit of the Estate. (Exhibit C) *Due to SNJ’s financial hardships, I have not been paid for the work performed and expenses incurred....*” *Emphasis added.* The Court notes that Mr. Spicer’s claim that he was working in the best interest of the Heirs collectively is, in this instance, highly subjective, totally unsupported, and not necessarily the same as providing a benefit to the Estate as a whole. Further, the inability of Sharon Nelson, Norrine Nelson and John Nelson to pay Mr. Spicer’s fees is not a basis for submitting any part, or all, of the billing statement to the Court.

Mr. Spicer then goes on to identify in seven paragraphs the activities that he has been involved in. In no instance, however, does he identify specific entries in his billing statement which contributed to an identifiable benefit to the Estate. Mr. Spicer concludes his Affidavit with several emails which he suggests document his contributions to the Estate. The first two do not aid his attempt to show benefit to the Estate. The last, from Troy Carter, suggests that the work of Charles Spicer and Gregg Walker has reduced the number of conflicts between the Heirs and Comerica. Even in this instance, the Court is left guessing which entries in his billing statement contributed to this reduction in conflict and how to quantify any value added to the Estate.

Comerica’s response to Mr. Spicer’s motion first addresses the procedural manner in which the billing statement was submitted to the Court. Comerica correctly surmises that the Court’s intent was that any billings from Mr. Spicer were to be billed directly to Sharon Nelson, Norrine Nelson and John Nelson for payment. If *they* believed that the services provided were a benefit to the Estate as a whole, instead of a benefit to the individual Heirs, they could submit the billing to the Estate. The Court’s intent was that Sharon, John or Norrine submit the billing to the Court. The Court acknowledges that in this context, “they” could be interpreted to mean Gregg Walker and Charles Spicer. The Court will not deny the motion for payment due to this procedural defect. However, the Court agrees that Mr. Spicer did not submit periodic billings to Sharon

Nelson, John Nelson and/or Norrine Nelson. Charles Spicer acknowledges that they had no money to pay for his services. The Billing Statement was sent to Sharon Nelson, who acknowledged receipt, but there is no indication that she was expected to pay anything or intended to pay anything. It is obvious to the Court that Mr. Spicer always intended to submit the bill for the entirety of his services to the Court. This was clearly not the Court's intent when he and Mr. Walker were appointed and it is clearly not what the Court allowed in the May 25, 2018 Order.

Comerica addresses the \$625 per hour fee being charged by Mr. Spicer. The Court has the inherent authority to determine the reasonableness of the fees being charged to the Estate. The plain language of Minn. Stat. § 524.3-721 provides that the power afforded the district court includes the authority to review the "reasonableness of the compensation of any person" working for the Estate. Further, there is nothing in Section 524.3-721 indicating that a contract establishing any type of fee arrangement deprives the district court of authority to decide the reasonableness of compensation received. *In Re Estate of Nelson*, 936 N.W.2d 897, 908 (Minn. Ct. App. 2019). The Court would certainly require some justification for the fee charged. However, under these facts where there is no showing of benefit to the Estate as a whole, the Court need not address the issue at this time.

Comerica next suggests that Mr. Spicer is billing the Court for many hours of services performed outside of the scope of services Mr. Spicer was authorized to provide. Again, under these facts where there is no showing of benefit to the Estate as a whole, the Court need not address the issue at this time. In his Reply, Mr. Spicer addresses several of the specific concerns raised by Comerica. The Court will highlight two as they demonstrate Mr. Spicer's clear lack of understanding of his scope of services. Mr. Spicer goes into detail to describe two charities that his clients, Sharon, John and Norrine, wanted to pursue. It further discusses the partnership of the two charities with the Minnesota Twins and the benefit to the charities. He suggests that he worked to develop a working partnership between the Estate and the Minnesota Twins. Mr. Spicer's description suggests that the two charities being pursued by his clients benefited from his work. It, in no way, establishes a benefit to the Estate as a whole. If this working partnership between the Minnesota Twins and the Estate somehow benefited the Estate, the basis for this claimed benefit is nowhere to be found in the record. Mr. Spicer also responds to Comerica's discussion of time entries related to reviewing loan documents on behalf of the Heirs. The Court presumes, as it is not clearly stated in the record, that this reference relates to loans sought by individual Heirs from a third party to provide them financial support during the administration of this Estate. The loan would ultimately be repaid after the distribution of the Estate assets. This may have benefited the Heirs individually or collectively, but Mr. Spicer's description in no way establishes a benefit to the Estate as a whole. In fact, this would appear to be entirely irrelevant to the administration of the Estate.

In conclusion, the Court appointed Mr. Spicer to serve as a representative of Sharon Nelson, John Nelson and Norrine Nelson. He was to bill them for his services, not the Estate. Only in the event that Mr. Spicer, or Sharon, John or Norrine, could establish that Mr. Spicer's work benefited the Estate as a whole, and not just his clients, could those services be billed to the Estate. The record establishes that Mr. Spicer never intended to bill Sharon Nelson, John Nelson or Norrine Nelson for his services. The record is also entirely lacking in showing Mr. Spicer's services benefitted the Estate as a whole in any quantifiable way.

K.W.E.