

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re:

Estate of Prince Rogers Nelson,
Decedent,

Case Type: Special Administration
Court File No.: 10-PR-16-46
Judge: Kevin W. Eide

REDACTED

And

Tyka Nelson,

Petitioner.

**AFFIDAVIT OF THOMAS P. KANE IN
SUPPORT OF OMARR BAKER'S
MOTION FOR APPROVAL OF PAYMENT
OF ATTORNEYS' FEES**

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Thomas P. Kane, after being duly sworn, states:

1. I am an attorney duly licensed to practice and in good standing in the State of Minnesota and, if called as a witness, I could and would competently testify to the facts stated herein based on my own personal knowledge.
2. I am an attorney at Cozen O'Connor ("Cozen"), counsel of record for Omarr Baker. I make this affidavit in support of Omarr Baker's Motion for Approval of Payment Attorneys' Fees from Assets of the Estate.
3. Cozen was retained by Omarr Baker ("Baker") 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.
4. Since June 2016, in addition to its work on the entertainment aspects of the Estate, Cozen has spent significant time in other Estate related proceedings that have benefitted the Estate and not Baker individually. These include proceedings to determine the rightful heirs of

the Estate, interviewing and selecting a successor to replace Bremer Trust, National Association (“Bremer” or “Special Administrator”), which announced its intent to resign as Special Administrator on September 27, 2016, and other tasks related to the administration of the Estate.

5. Cozen was hired in part because of its expertise—both nationally and in Minnesota—in the areas of litigation, trusts and estates, and entertainment law. Cozen has received national rankings from the *U.S. News – Best Lawyers* “Best Law Firms” guide in Commercial Litigation, Corporate Law, and Trusts & Estates Law, among others. In addition, the “Best Law Firms” guide recognized Cozen as a leader in Trusts & Estates Law and Trusts & Estates Litigation in its regional offices. The members of Cozen O’Connor’s private client services group are among the most respected in their field and include four fellows of the invitation-only American College of Trust and Estate Counsel. Cozen attorneys also include a member of the Society of Trust and Estate Practitioners, two certified public accountants, and three attorneys with LL.M.s in tax law. Several senior Cozen attorneys regularly lecture and publish articles about trust and estate law and related tax issues.
6. I am a commercial trial lawyer with more than 40 years’ experience litigating in federal and state courts throughout the United States. I was selected as one of the “Leading American Attorneys” determined by a statewide survey of lawyers conducted by the American Research Corporation, a distinction limited to fewer than 6 percent of Minnesota lawyers. In May 2006 in the area of Commercial Litigation, I was selected as one of The Best Lawyers in America, by Woodward/White, Inc., and subsequently as one of the “Best Lawyers in Minnesota,” as published in *Minnesota Monthly*. Since 2006, I have been

named to the Super Lawyers by *Minnesota Law & Politics* magazine. In addition, I hold the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability. I am also a fellow of the prestigious American College of Trial Lawyers. My full biography, along with the biographies of the other attorney professionals who have worked on this matter, is attached as **Exhibit A**.

7. In providing legal services sought by this Motion, Cozen attorneys and paralegals have expended 1,122 hours from June 23, 2016 through November 30, 2016. *See* Exhibit A to the Affidavit of Steven H. Siltan. Cozen's unredacted time records have been provided for the Court's review. Based on my experience, and compared with the billing rates identified in prior submissions to the Court by other lawyers representing non-excluded heirs 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.
8. From June 23, 2016 through November 30, 2016, attorneys at Cozen performed services that were reasonably and necessarily incurred to benefit the Estate. Such services performed by Cozen for the benefit of the Estate have included but not been limited to the following tasks performed by various attorneys:

Briefing, Discovery, and Hearing on Heirship Claims

9. Given the high profile nature and size of the Estate, there have been numerous claims from individuals alleging to be heirs.
 - A. Throughout May and June of 2016, the Court considered the various claims and asked the Special Administrator to determine a protocol. The Court held a hearing on July 27, 2016 and requested submissions regarding the protocol by July 15, 2016. The Non-Excluded Heirs submitted briefing on July 15, 2016. In preparing the briefing, Cozen spent considerable time reviewing and analyzing the legal facts and contentions presented by the Special Administrator and various petitioners.

- B. Cozen's input in Non-Excluded Heirs' arguments were considered in the Court's "Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment," dated July 29, 2016. The July 29 Order provided considerable clarity as the Court excluded certain individuals as heirs of the Decedent's Estate. (*See* July 29 Order, pp. 17-19.) The July 29 Order also defined the Non-Excluded Heirs as Omarr Baker, Alfred Jackson, John Nelson, Norrine Nelson, Sharon Nelson, and Tyka Nelson.
- C. After the July 29 Order, Brianna Nelson, minor V.N. and Corey Simmons, sought to intervene in these proceedings, claiming to be heirs of the Decedent. I was the lead attorney for the Non-Excluded Heirs' counsel on the heirship claim, and Cozen took the lead in briefing the issues. I argued on behalf of the Non-Excluded Heirs at the hearing on the matter on October 21, 2016. In addition, Cozen met and conferred with Brianna and V.N.'s counsel and attended depositions in the matter. Following the hearing, the Court issued its October 26, 2016 "Order & Judgment Denying Heirship Claims of Brianna Nelson, V.N. and Corey Simmons." Under this Order and the Order Authorizing Genetic Testing of Corey D. Simmons, which I received a copy of and reviewed, the claims of Brianna and V.N. were dismissed and Corey Simmons was allowed to take DNA testing.
10. In my opinion, the Cozen time sought for reimbursement for efforts related to the heirship issues is just and reasonable and commensurate with the benefit to the Estate.

Finding a Successor Personal Representative

11. Following Bremer Trust's notice of its intent to resign as Special Administrator, Baker and Cozen, directly alongside the other members of the family and their counsel, conducted an exhaustive and comprehensive two month search process for a personal representative to replace Bremer Trust.
12. I, along with my colleagues Steve Siltan and Jeffrey Kolodny, vetted more than [REDACTED] national financial institutions, conducted several rounds of in-person interviews, and surveyed each institution's qualifications, staffing levels, and plans for administering this Estate in exhaustive detail.
13. To start the process, nearly [REDACTED] financial institutions were identified as potential candidates and contacted. A [REDACTED] financial institutions were considered but rejected for a variety of reasons. From this group, counsel for the family conducted a series

of meetings and interviews with [REDACTED]

[REDACTED]

Counsel for each of the heirs participated in numerous conference calls and written exchanges with all of these institutions as their qualifications, interest and fit for the estate were closely vetted and evaluated.

14. Hundreds of pages of written proposals from the various institutions were received, reviewed and analyzed by counsel, with additional follow-up questions and responses prepared by counsel and answered by the various institutions. My colleagues and I had numerous phone calls, hundreds of email exchanges and other written correspondence with the various institutions and counsel for the other Non-Excluded Heirs over a period of months to determine their qualifications and each member of the family's respective reactions to the various institutions.
15. These efforts led to the identification of [REDACTED] potential successor candidates, including one that has the unanimous consent of the family, Comerica Bank & Trust N.A. ("Comerica") and the filing of the petitions to appoint the same, either as successor Special Administrator or as Personal Representative (the work for preparing the Petitions is not captured by this motion). The Court subsequently appointed Comerica as Personal Representative, and as of February 1, 2017 Comerica is serving as Personal Representative. These efforts have benefitted the Estate by ensuring an exceptionally qualified financial institution is administering the Estate that has a rapport with the family, and is capable of taking on the complex challenges this Estate has to offer.

16. In addition, Cozen assisted in determining [REDACTED]
[REDACTED] This included research and discussions regarding the state of probate law in Minnesota.
17. In my opinion, the Cozen time sought for reimbursement for efforts related to the personal representative search is just and reasonable and commensurate with the benefit to the Estate.

Assessing the Special Administrator's Requests for Costs and Fees

18. Although Bremer has stepped down as Special Administrator, Bremer had petitioned the Court for approval of its fees and costs and expenses (and those of its counsel) for the time spent working for the Estate, starting with its fees through June 30, 2016. With its first petition for fees, Bremer also sought establish a procedure to govern payment and approval of such fees and costs and expenses. In response to this first petition, Cozen conducted research and prepared briefing for the Non-Excluded Heirs' response in opposition to the Special Administrator's petition for fees. Subsequently, the Court issued its "Order Approving Fees and Costs and Expenses and Establishing Procedure for Review and Approval of Future Fees and Costs and Expenses" on October 28, 2016.
19. The October 28 Order approved the Special Administrator's fees, but the Court recognized that the Non-Excluded Heirs were entitled to review the fees prior to approval and voice any issues. (*See* October 28 Order, p. 8.) Cozen's efforts benefitted 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.

20. In my opinion, the Cozen time is sought for reimbursement for efforts related to the Special Administrator's fee request is just and reasonable and commensurate with the benefit to the Estate.
21. Cozen's legal fees are in the total amount of \$491,799.00 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 was actually performed for the benefit of the Estate, was necessary for the proper administration 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 work required over several sophisticated and complex disciplines, and the time demands require 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 for similar firms in other major metropolitan areas.
22. Given the complexity of the litigation, the Entertainment deals the Estate is negotiating, and the results achieved, \$491,799.00 is a just and reasonable amount to be requested.
23. Costs advanced to be reimbursed total \$5,857.24.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated: February 9, 2017

/s/ Thomas P. Kane

Thomas P. Kane

Subscribed and sworn to before me
this 9th day of February, 2017.

/s/ Amy E. Kulbeik

Notary Public

EXHIBIT A



Camille M. Miller

Co-Chair, Intellectual Property Department

Philadelphia

cmiller@cozen.com | (215) 665-7273

Camille M. Miller concentrates her practice in all aspects of intellectual property, specifically trademark, trade dress, copyright, unfair competition, cyber security and data breaches, right of privacy, right of publicity, domain names, counterfeiting, licensing, trade secret and franchising law, as well as all areas of intellectual property litigation, including patent, trademark and copyright. She is a member of the firm's Management Committee and a member of the firm's Board of Directors.

Camille is a member of the Pennsylvania and American Bar Associations. She is also a member of the Philadelphia Intellectual Property Law Association, the Trademark Legislative Committee of the Intellectual Property Organization, and the Copyright Society of the USA and its Philadelphia Chapter. She is also a member of the National Women's Association and the Ben Franklin American Inn of Court. Camille is also an active member of the International Trademark Association, participating on the Emerging Issues Committee (2014-2015), Trademark Classification Committee (2012-2013), Trademark Trade Dress Committee (2008-2011), Trademark Reporter Committee (2006-2007), and Emerging Issues Subcommittee of the Issues and Policy Committee (2002-2004).

Camille has published numerous articles and has also spoken on IP issues for many legal associations. She has been interviewed by general press and legal outlets including *Philadelphia Business Journal*, *The Legal Intelligencer*, *Women's Wall Street*, *USA Today* and *Business Journal of Portland*. Camille has also served as a guest lecturer at the University of Pennsylvania, Drexel University, Temple University Beasley School of Law and Rutgers Law School.

Experience

Served as lead trial counsel for Beachbody, LLC in prosecuting a trademark infringement, unfair competition and counterfeiting case adverse to Walmart and Universal Nutrients.

Served as lead trial counsel for Clark Capital Management Group in multiple trademark infringement actions involving unauthorized use of its NAVIGATOR marks.

Served as lead trial counsel for Celgene Corporation against various Internet pharmacies to stop the unauthorized sale of products.

Served as lead trial counsel for Barcade in prosecuting various establishments that are attempting to use the incontestable BARCADE registration.

Served as trial counsel for American Music Theater in defending against copyright and trademark infringement claims brought by The Walt Disney Co.

Served as lead trial counsel for Beachbody, LLC and its BODY BEAST fitness program in defense of trademark infringement and unfair competition claims filed by USA Nutraceuticals.

Served as lead trial counsel for Triumbari Corporation in a motion to intervene and a motion to set aside a consent decree filed by Bug Juice concerning product trade dress on a plastic bottle.

Served as lead trial counsel for Arora Board Review and various doctors in defense of claims of copyright infringement and breach of contract filed by the American Board of Internal Medicine.

Practice Areas

- Intellectual Property
- Intellectual Property Litigation
- Trademark & Copyright
- Patents

Education

- Chicago-Kent College of Law, Illinois Institute of Technology, J.D., 1991
- Franklin and Marshall College, B.A., 1987

Bar Admissions

- Illinois
- Pennsylvania

Court Admissions

- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court -- Colorado
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- Eastern District of Texas
- U.S. District Court -- Northern District of Illinois
- U.S. District Court -- Western District of Michigan

Affiliations

- American Bar Association
- Pennsylvania Bar Association
- International Trademark Association
- Philadelphia Intellectual Property Law Association
- Philadelphia Chapter of the Copyright Society
- American Intellectual Property Association
- Intellectual Property Owners Association

Awards & Honors

- Lawyer Monthly, Trademark – Lawyer of the Year - USA 2016
- Chambers USA 2006-2016
- Finalist for the 2015 Philadelphia SmartCEO Power Player Awards in the Industry Practice Group
- Exclusive Winner of the Intellectual Property – Trademarks for Pennsylvania, a Client Choice Award USA and Canada - Lexology (2013- 2014)
- Women in Law Award, *Lawyers Monthly* (2014)

Camille M. Miller

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- Finalist for the 2014 Philadelphia SmartCEO Power Player Award
- Recognized as "Alumni of Distinction" by Chicago-Kent College of Law (2013)
- Trademark Group Named Top 7 in USA by Intellectual Property Today (2012)
- Named a Leading Lawyer 100 – Trademark, Lawyer Monthly (2011)
- Intellectual Property Advisory Firm of the Year in Pennsylvania: Global Award, Corporate Intl Magazine (2010)
- #1 Pennsylvania Law Firm US Trademark Filings, Trademark Insider (2010)
- #1 Philadelphia Law Firm US Trademark Filings, Trademark Insider (2007-2010)
- Trademark Law Firm of the Year, USA, Finance Magazine (2010)
- Received "Leaders in Law," Philadelphia Business Journal, April 11, 2008
- Top 50 Trademark Lawyers in the US, Trademark Insider (2007)
- Received Outstanding Volunteer Award Autism Society of Delaware (2007)
- Designated "Woman to Watch" by Main Line Today (2005)
- Designated a "Lawyer on the Fast Track" by The Legal Intelligencer and Pennsylvania Law Weekly (2004)
- "Pennsylvania Super Lawyer" by Philadelphia Magazine

Served as lead trial counsel for Oasys Mobile, Verizon Wireless, AT&T and Thumbplay in defense of a trademark infringement claim filed by Mantra Entertainment.

Served as lead trial counsel for Beachbody, LLC in prosecuting a copyright and counterfeiting case adverse to Costco Wholesale Corporation.

Served as lead trial counsel representing Jon Bon Jovi and the Philadelphia Soul Arena Football Team in prosecuting a trademark and copyright dispute.

Served as lead trial counsel for Wilmington Trust Company in largest multidistrict patent litigation suit in defense of claims of patent infringement of RAKTL concerning call processing patents.

Assisted in the IP due diligence of the \$2.9 billion Altria Group, Inc. acquisition of John Middleton.

Served as lead trial counsel for the estate of the author of the song "Disco Inferno," where we succeeded in negotiating a settlement which confirmed the author's estate was the copyright owner in the renewal rights, could appoint their own administrator of such rights, and could collect licensing fees relating to such rights.

Served as co-counsel representing National Association for Stock Car and Auto Racing, Inc., where NASCAR won a summary judgment leading to a ruling that NASCAR owns the worldwide copyrights to the NASCAR NEXTEL Cup Series Trophy. This ruling was upheld by the Third Circuit.

Served as lead counsel for a cigar manufacturer, now owned by Altria, where we won a summary judgment motion on product trade dress protection for the appearance of a cigar which led to a favorable settlement in which the opposing cigar manufacturer agreed to phase out all use of the trade dress in question.



Steven H. Silton

Member

Minneapolis

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Steve focuses his practice on sales and purchases of businesses, financing, securities placements and related work for mid-sized corporations, banks, credit unions, financial groups and professional athletes and sports franchises. He also works with distressed businesses in their reorganization efforts. Steve serves on the firm's board of directors.

Steve counsels his clients on purchase and sale of businesses, secured financing transactions, securities placements and negotiation of corporate documents. He often consults and/or associates with lawyers regarding their financially distressed business clients, has been instrumental in the reorganization of a number of businesses and has been appointed as counsel for creditor committees. Steve also applies his corporate experience in the representation of professional athletes, agents and franchises, documenting everything from endorsement contracts to secured financing deals.

Steve is a frequent author and lecturer and most recently taught a class at the University of Miami Law School called 'Representing a Professional Sports Franchise'. His co-instructors included Danna Haydar, Associate General Counsel at the Tampa Bay Lightning and Kevin Warren, COO of the NFL's Minnesota Vikings. Additionally, Steve serves as an Advisory Board member of the University of Miami School Sports and Entertainment Law LLM. The firm is nationally recognized for its work in sports law and was recently recognized by Holt Hackney Publications as one of the Top 20 Law Firms in the Professional Sports Team Industry.

The firm held its third Sports Law CLE and Players Panel with representatives from professional and amateur sports, owners and executives, agents and agencies, athletes, venues and arena management companies, corporate sponsors and sporting equipment manufacturers attending. Steve led the programming for this day long CLE event featuring speakers from all facets of pro and amateur sports including the Olympics, college & university programs and the major leagues.

Steve is an adjunct professor at his alma mater, William Mitchell College of Law. In the spring of 2009, Steven and Thomas G. Wallrich launched the Bankruptcy Clinic at the University of St. Thomas Law School in conjunction with the University's School of Psychology and Social Work. The clinic provides pro bono bankruptcy services as well as counseling to indigent people.

Steve's professional memberships include the Hennepin County Bar Association, Minnesota State Bar Association, State Bar of Wisconsin, The Florida Bar, The Association of Trial Lawyers of America and Turnaround Management Association. Steve has been rated by Martindale-Hubbell for ethics and legal ability, and was named to the Rising Star list in 1999 by *Law & Politics* magazine and published in *Minneapolis-St. Paul* magazine. In 2011, Steve was included on *Minnesota Super Lawyers* magazine's list of the "Top 100 Minnesota 'Super Lawyers.'" Since 2002, he has been named to the "Super Lawyers" list by *Minnesota Super Lawyers* magazine and published in *Minneapolis-St. Paul* magazine.

Steve is active in the community serving on the board of Bolder Options and the Jack Brewer Foundation, in addition to a committee at the University of Minnesota. He is board chairman of the Sanneh Foundation, an academic enrichment program that is in all of the St. Paul schools, as well as some in Minneapolis. More than 6,000 children go through their program annually.

Practice Areas

- Bankruptcy, Insolvency & Restructuring
- Corporate
- International Arbitration

Industry Sectors

- Media & Entertainment
- Real Estate & Construction
- Sports

Education

- William Mitchell College of Law, J.D., 1995
- University of Wisconsin, B.A., 1991

Bar Admissions

- Minnesota
- Wisconsin
- Florida

Court Admissions

- U.S. District Court - District of Minnesota
- U.S. District Court -- Western District of Michigan
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Supreme Court

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Jerome C. Studer

Member

Chicago

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Jerome C. (Joe) Studer's practice encompasses general commercial litigation and insurance coverage litigation and counseling, with a particular focus on disputes involving attorney fees. Joe also practices with Legal Fee Solutions, LLC, a subsidiary of Cozen O'Connor.

As part of Legal Fee Solutions, Joe helps clients avoid or resolve disputes over attorneys' fees. Joe provides counsel on the reasonableness of attorneys' fees. He also assists clients with the management and control of legal costs in ongoing large-scale litigation.

With 20 years of experience as an attorney, and nearly 15 years' experience with Legal Fee Solutions, Joe has evaluated and participated in the review and audit of billions of dollars in legal fees. He provides independent analysis on the reasonableness of attorneys' fees, and has testified as an expert witness concerning the reasonableness of legal fees and hourly rates. Joe also works with clients on the management and control of legal costs, and has helped negotiate and implement litigation management plans in numerous situations involving large, complex litigation. Separately, Joe has successfully litigated numerous attorney fee disputes, including some of the largest fee dispute cases in the country.

Joe regularly speaks about and consults on attorneys' fee issues in presentations to industry groups, in continuing education seminars, and in presentations to clients and other small groups, and is chair of the Audit Committee for the Claims and Litigation Management Alliance.

Joe earned his Bachelor of Arts from the University of Chicago in 1992 and earned his law degree from IIT Chicago-Kent College of Law in 1995. While in law school, Joe served as a judicial extern for U.S. District Judge George M. Marovich and (then) U.S. Magistrate Judge Rebecca R. Pallmeyer.

Before college, Joe was a sergeant in the U.S. Army, where he served as a section leader in a cavalry scout platoon based in Germany. He is an avid bicyclist, and commutes to work by bike year round.

Practice Areas

- Complex Litigation
- Bankruptcy, Insolvency & Restructuring
- Commercial Litigation
- Legal Fee Litigation

Education

- Illinois Institute of Technology Chicago-Kent College of Law, J.D., *with honors*, 1995
- University of Chicago, B.A., 1992

Bar Admissions

- Illinois

Court Admissions

- U.S. District Court -- Northern District of Illinois

Affiliations

- American Bar Association
- Defense Research Institute
- Claims and Litigation Management Alliance

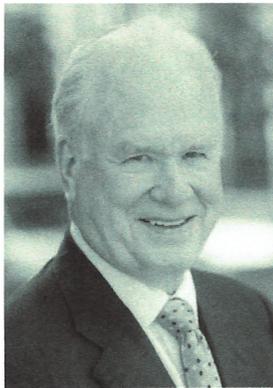
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Thomas P. Kane

Senior Counsel

Minneapolis

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Thomas P. Kane is a commercial trial lawyer with a focus on insurance coverage litigation, the representation of employers in all employment disputes, employment class actions and major commercial litigation including subrogation. Some examples of the commercial litigation he has been involved with recently involve the representation of banks, real estate lenders and developers, and professionals such as lawyers and accountants.

Tom has represented employers for over 40 years in disputes with insureds and other insurance companies in federal and state courts throughout the United States. Tom has also been lead trial counsel in many employment class actions on behalf of Fortune 500 companies, trying some of them to conclusion and resolving others by summary judgment or by settlement satisfactory to the client. In addition to defending class actions alleging race, gender and disability claims, Tom has represented clients in the trial of individual race, national origin, gender, religious disability, and marital status cases. These cases were tried before juries and judges in both state and federal court.

Tom has received significant professional recognition for his law practice. He was selected as one of the "Leading American Attorneys" determined by a statewide survey of lawyers conducted by the American Research Corporation, a distinction limited to fewer than 6 percent of Minnesota lawyers. In May 2006 in the area of Commercial Litigation, Tom was selected as one of The Best Lawyers in America, by Woodward/White, Inc., and subsequently as one of the "Best Lawyers in Minnesota," as published in *Minnesota Monthly*. Since 2006, Tom has been named to the Super Lawyers list in the areas of Employment & Labor and/or Professional Liability: Defense by *Minnesota Law & Politics* magazine. In addition, he holds the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability. He is also a fellow of the prestigious American College of Trial Lawyers.

Experience

Won a motion to dismiss all claims brought by the purchaser of certain trademarks against our client, a secured creditor with a blanket security interest. The complaint, filed in the U.S. District Court for the District of Minnesota, sought a declaration that the secured creditor had no interest in various trademark applications and registrations, and an injunction barring the creditor from interfering with the purchaser's rights in the trademarks. In granting the motion, the court accepted our argument that the plaintiff had not stated any basis for challenging the secured creditor's interest in the trademarks under Article 9 of the Uniform Commercial Code, failed to allege an actual case or controversy and, in effect, sought an improper advisory opinion.

Practice Areas

- Commercial Litigation
- International Arbitration
- Labor & Employment
- Litigation

Education

- William Mitchell College of Law, J.D., 1968
- University of Minnesota at Minneapolis, B.A., 1964

Bar Admissions

- Minnesota

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Tenth Circuit

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Herbert B. Fixler

Of Counsel

New York

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Herbert Fixler concentrates his practice in the fields of estate planning and administration, providing services to a wide range of clients, many of whom are owners of family businesses. He designs and implements plans for the intergenerational transfer of family wealth—including family business interests—the reduction of gift, estate, and generation-skipping transfer taxes, estate liquidity needs, and charitable gifts and bequests. In addition, Herbert provides counsel on estate planning issues to U.S. citizens residing abroad and nationals of other countries residing or owning property in the United States. He also supervises the administration of estates and charitable and other trusts.

In the family business arena, Herbert advises owners of businesses and commercial real estate on ownership structures, owners' agreements, compensation arrangements, and business succession. He is a member of the board of directors of Attorneys for Family-Held Enterprises, a nonprofit organization comprised of attorneys from throughout the United States.

Herbert is a frequent lecturer on a variety of estate planning topics and is the author of numerous articles on estate planning. He is a member of the Advisory Board of the Children's Health Fund and the Planned Giving Committee of the Open University of Israel. Herbert also serves as chair of the Board of Trustees of the Hyde Leadership Charter School, located in the Hunts Point section of the Bronx. He is a member of the New York and District of Columbia Bars and is admitted to practice before the U.S. Tax Court.

Herbert earned his law degree from American University's Washington College of the Law, where he was director of the Legal Aid Society, and his undergraduate degree from Villanova University. Upon graduation from law school, he served as a VISTA volunteer.

Practice Areas

- Private Client Services

Education

- American University, Washington College of Law, J.D.
- Villanova University, B.A.

Bar Admissions

- District of Columbia
- New York

Court Admissions

- U.S. Tax Court

Herbert B. Fixler

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Jeffrey B. Kolodny

Member

New York

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Jeff concentrates his practice on complex international and domestic estate planning and administration, with a focus on wealth preservation through effective tax planning, structuring, and personal planning for high net worth individuals and multinational families.

Jeff handles a wide range of estate planning, tax, and other legal matters for international and domestic clients. He frequently advises clients with respect to their wealth transfer and tax planning, obligations as fiduciaries, and rights as beneficiaries of estates and trusts. For international clients, he often creates plans and structures that achieve wealth transfer and other objectives while minimizing taxes when multiple legal and tax systems apply. Jeff frequently represents foreign individuals acquiring or owning U.S. property, individuals and fiduciaries with assets in multiple jurisdictions, and U.S. nationals with assets abroad. He has counseled several individuals in connection with their participation in the Internal Revenue Service's voluntary disclosure program (and similar state and local programs) and the domestication of their offshore holdings.

Jeff also represents fiduciaries and beneficiaries in accounting proceedings, will contests, and other Surrogate's Court proceedings. He frequently counsels family-owned businesses regarding the development and implementation of business succession plans.

Jeff is a member of the New York Chapter of the Society of Trust and Estate Practitioners (STEP); full members of STEP are the most experienced and senior practitioners in the field of trusts and estates. He is currently serving as a member of the Trusts, Estates and Surrogate's Court Committee of the Association of the Bar of the City of New York. He is a frequent contributor to "The CPA Report," continuing professional education seminars for accountants.

Jeff earned his undergraduate degree from SUNY-Albany in 1989. He then earned both his J.D. and LL.M. (in taxation) from New York University School of Law in 1995 and 1998, respectively.

Practice Areas

- Private Client Services
- Tax
- International

Education

- New York University School of Law, J.D., 1995
- New York University School of Law, L.L.M., 1998
- SUNY-Albany, B.S., 1989

Bar Admissions

- New York

Court Admissions

- New York Supreme Court
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Southern District of New York
- U.S. Supreme Court
- U.S. Tax Court

Affiliations

- New York City Bar Association
- New York State Bar Association
- STEP: Society of Trust and Estate Practitioners

Jeffrey B. Kolodny
jkolodny@cozen.com
 P: (212) 883-4934 | F: (646) 588-1425

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Practice Areas

- Trademark & Copyright
- Intellectual Property Litigation
- Domains
- Entertainment Law

Industry Sectors

- Sports

Education

- University of Pennsylvania Law School, J.D., 2013
- University of Tennessee, M.S., 2008
- Princeton University, B.A., *cum laude*, 2005

Bar Admissions

- Pennsylvania
- New Jersey

Chanel L. Lattimer

Associate

Philadelphia

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Chanel L. Lattimer's practice focuses on trademark and copyright prosecution, enforcement and litigation, internet domain and social media infringement and cybersquatting issues, and intellectual property transactional matters, including licensing agreements.

Chanel graduated from the University of Pennsylvania Law School, the University of Tennessee with a masters in sports management, and Princeton University, *cum laude*, with a Bachelor of Arts in sociology. Chanel was the 2010 Minority Corporate Counsel Association's Boies, Schiller, & Flexner Scholar. She served as senior editor of the *Journal of Business Law* and was a clinical student in the inaugural Detkin Intellectual Property and Technology Legal Clinic. She also served as chapter president of the Black Law Student Association. Chanel currently serves as a board member of the Princeton Varsity Club, which serves to support the values and ideals of Princeton University Athletics. Chanel also serves as an executive board member of the Black Women in Sport Foundation, a national organization that provides programming to underrepresented youth in order to increase their involvement in all aspects of sports.

Experience

Counsel to Beachbody, LLC for various trademark and copyright prosecution and enforcement matters, and internet domain and social media infringement.

Counsel to Celgene Corporation for various trademark prosecution and enforcement matters, and internet domain and social media infringement.

Assisted in the representation of American Music Entertainment Theatre Inc. against Disney Enterprises, Inc., et al. in a trademark and copyright infringement action.

Assisted in the representation of Ronald Mark Associates in a patent infringement action regarding Ronald Mark's resin-based technologies.

Reviewed numerous exhibition and artist agreements for the National Museum of American Jewish History (pro bono).

Successfully overcame a motion to dismiss, which centered on a laches argument, in a trademark infringement case filed in federal court in Rhode Island. We then secured a favorable resolution of the matter on the eve of trial when the defendant agreed to discontinue use of our client's mark.

Represented Utz Quality Foods, LLC, the largest privately held snack food company in the United States, in connection with its acquisition of Alabama-based public snack food company Golden Enterprises, Inc. for \$146 million. The acquisition was financed through an investment in Utz by private equity firm Metropoulos & Co. Cozen O'Connor represented Utz in that investment by Metropoulos, which was the largest initial private equity transaction for U.S. snack food company since 2013. The complex and multi-faceted transaction drew on the experience of Cozen O'Connor's corporate, tax, intellectual property, employee benefits, antitrust, and securities attorneys.

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Represented an influencer marketing company in connection with its acquisition by a leading intelligent commerce intermediary. This multi-faceted transaction drew on the experience of the firm's corporate, tax, antitrust, employment, benefits, and intellectual property attorneys.



James Minor

Associate

Minneapolis

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James Minor is an associate in the firm's Minneapolis office.

James earned his J.D. from the University of Minnesota Law School. Prior to attending law school, James served in the U.S. Army's Special Operations at the 75th Ranger Regiment. James earned his undergraduate degree in international studies from Texas State University.

Education

- University of Minnesota Law School, J.D., 2016
- Texas State University, B.A., 2007

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Armeen F. Mistry is an associate in the firm's Commercial Litigation Practice.

Armeen earned her law degree from the University of Minnesota Law School, where she was managing editor of the *ABA Journal of Labor & Employment Law*. During law school, Armeen interned in the civil rights division of the U.S. Attorney's Office for the District of Minnesota and was a judicial extern to the Hon. Hildy Bowbeer of the U.S. District Court for the District of Minnesota. Armeen received a Bachelor of Journalism and a Bachelor of Arts in Economics from the University of Missouri.

Practice Areas

- Commercial Litigation
- Complex Litigation
- Litigation

Education

- University of Minnesota Law School, J.D., *cum laude*, 2015
- University of Missouri, B.A., *magna cum laude*, 2012

Bar Admissions

- Minnesota

Court Admissions

- U.S. District Court -- Minnesota
- U.S. Bankruptcy Court -- Minnesota

Affiliations

American Bar Association

Minnesota State Bar Association

Minnesota Women Lawyers

Minnesota Asian Pacific American Bar Association

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Edgar G. Rapoport

Attorney

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Edgar Rapoport is a former general counsel who brings an insider's view and broad experience to his corporate practice. He regularly guides clients through a range of transactional matters, including entity formation, corporate governance, customer and vendor agreements, regulatory compliance, financing, acquisitions and the sale or lease of real estate.

Edgar is also an experienced commercial litigator and trial lawyer. He has successfully defended claims made against businesses that alleged breach of contract, employment discrimination and vicarious liability. In his corporate practice, Edgar strives to negotiate and draft defensible contracts to reduce the risk of litigation for his clients.

Edgar is uniquely able to understand his clients' needs because he walked in their shoes. Before joining Cozen O'Connor, Edgar served as general counsel of Flash Cab Company in Chicago, where he personally handled the gamut of legal matters and oversaw the work of outside counsel. Having learned the day-to-day challenges of a business first-hand, Edgar is prepared to deliver the services his clients need and expect from their outside counsel.

Experience

Represented Spell Capital Partners, LLC in its acquisition of Viking Plastics, a leading manufacturer of tight-tolerance proprietary and custom injection molded products and assemblies for the automotive, HVAC, and industrial markets.

Represented Prizelogic LLC, which develops and executes digital promotions for large consumer brands and retailers, in connection with the company's recapitalization by Pamlico Capital.

Represented NewSpring Capital in connection with a co-investment, along with Revolution Growth and Comcast Ventures, of \$56 million in Interactions, LLC, a leader in speech and natural language technology solutions.

Represented Cornerstone Bank in its purchase of the Sioux Falls, S.D., mortgage business of First Interstate Bank.

Represented a taxicab company, which oversaw approximately 1,500 taxi drivers in Chicago, in connection with the acquisition of several competing taxicab affiliations through asset purchases, and negotiated joint venture agreements and contribution agreements on behalf of that client.

Won a directed verdict in a case tried in Illinois state court in which the state attorney general brought a claim against the client after an independent contractor claimed to have performed uncompensated sales work.

Successfully moved to dismiss a complaint in which the plaintiff alleged that a cab company violated Title III of the Americans with Disabilities Act and 775 ILCS 30/3 (the "White Cane Law"), was negligent, and should be held accountable for the actions of an employee under a theory of *respondeat superior*. In granting the motion to dismiss, the court accepted the argument that a longer-than-desired wait time does not constitute discrimination or denial of service.

Practice Areas

- Business/Corporate
- Corporate

Education

- Chicago-Kent College of Law, J.D., 2008
- University of Wisconsin, B.S., 2002

Bar Admissions

- Minnesota
- Illinois

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