

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISION

Case Type: Supervised Administration

In the Matter of:

Court File No. 10-PR-16-46

Judge Kevin W. Eide

Estate of Prince Rogers Nelson,

Decedent.

**COMERICA BANK & TRUST, N.A.'S
MEMORANDUM IN SUPPORT OF
MOTION TO APPROVE
CONSULTANT PAYMENTS****[REDACTED]**

INTRODUCTION

During 2016, Sharon Nelson, John Nelson, Norrine Nelson and Tyka Nelson each entered into a contract with Paisley Park Facility, LLC ("PP Facility") to provide consulting services in connection with the Paisley Park museum and exhibition. Under the terms of the contracts, they are entitled to a [REDACTED] consulting payment from PP Facility this month. Three law firms that formerly represented those four Heirs have asserted attorneys' liens (the "Liens") against those individuals' interests in the Estate and at least one of the firms has taken the position that its lien attaches to the PP Facility consulting payments. Although the consulting payments are not within the scope of the Minnesota attorney lien statute, Comerica Bank & Trust, N.A. (the "Personal Representative"), in its capacity as personal representative (and, in that capacity, manager of PP Facility) brings this motion to ensure that the PP Facility may make the consulting payments without exposing the Estate to liability for making payments to the Heirs in purported violation of the Liens.

BACKGROUND

I. THE HEIRS' CONSULTANT AGREEMENTS WITH PP FACILITY.

During August 2016, PP Facility, a limited liability company owned by the Estate, negotiated an agreement for the opening and operation of the Paisley Park museum and exhibition. (See August 17, 2016 Order.) In connection with the opening and ongoing operation of the Paisley Park museum and exhibition, PP Facility negotiated and entered into Exhibition Consultant Agreements with each of the Heirs ("Consultant Agreements"), effective September 12, 2016. (Cassioppi Decl. ¶ 2.) Pursuant to the Consultant Agreements, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (*Id.* Ex. A.) The Consultant Agreements were extended for additional one-year terms commencing September 12, 2017, and September 12, 2018. Accordingly, the [REDACTED] payment to each Heir for the renewal commencing September 12, 2018 ("Consultant Payment"), is now due.

II. THE ATTORNEYS' LIENS.

On August 8, 2018, Lommen Abdo, P.A. noticed an attorneys' lien in the amount of [REDACTED]. (*Id.* ¶ 3, Ex. B.) The lien is asserted against Sharon, Norrine, and John Nelson's "money or property arising from their status as heirs to the Estate . . . as claimed and/or determined in the probate matter" (*Id.*) On August 13, 2018, Barnes & Thornburg LLP, Tyka Nelson's former counsel, noticed its assertion of an attorneys' lien, but did not identify the amount of the lien or describe any money or property against which the lien is asserted. (*Id.* ¶ 4, Ex. C.) On August 27, 2018, Skolnick Joyce P.A. noticed an attorneys' lien in the amount of [REDACTED] against Sharon, Norrine, and John Nelson's "interest in the Estate." (*Id.* ¶ 5, Ex. D.)

Following receipt of the Liens, the Personal Representative reached-out to the three law firms through the Honorable James H. Gilbert to obtain confirmation that the firms would not assert that the Liens attached to the Consultant Payments. (*Id.* ¶ 6.) Unfortunately, not all of the law firms were willing to stipulate that the Consultant Payments are outside the scope of the Liens. (*Id.*) As a result, the Personal Representative now seeks authorization from the Court to disburse the Consultant Payments directly to Sharon, John, Norrine, and Tyka Nelson, or alternatively, to deposit those Consultant Payments with the Court, so that it may protect the Estate from any potential liability in connection with the Liens.¹

ARGUMENT

I. LEGAL STANDARD.

An attorney lien is an equitable lien created to prevent a client from benefitting from an attorney's services without paying for those services. *Dorsey & Whitney LLP, v. Grossman*, 749 N.W.2d 409, 420 (Minn. Ct. App. 2008). Attorney liens are governed by statute. *Schroeder, Siegfried, Ryan & Vidas v. Modern Elec. Prod., Inc.*, 295 N.W.2d 514, 516 (Minn. 1980). Minn. Stat. § 481.13 provides:

An attorney has a lien for compensation . . . (1) upon the cause of action from the time of the service of the summons in the action, or the commencement of the proceeding, and (2) upon the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of the lien claim, as provided in this section.

¹ The Personal Representative takes no position regarding the amount or the validity of the Liens. Instead, this motion is limited to seeking a judicial determination that the Liens do not apply to the Consultant Payments.

“The lien only applies to charges by the attorney for services in connection with the particular action or proceeding involved and not to a client’s general account.” *Schroeder, Siegfried, Ryan & Vidas v. Modern Elec. Prod., Inc.*, 295 N.W.2d 514, 516 (Minn. 1980).

II. THE HEIRS’ CONSULTANT PAYMENTS ARE NOT SUBJECT TO THE LIENS.

The Liens do not apply to the Consultant Payments for at least two reasons.

First, the Consultant Payments are not the type of asset to which an attorney’s lien attaches under Minnesota law. The liens are not a distribution or other type of payment from the Estate, but instead are a contractual payment between each of the Heirs and PP Facility—which is legal entity separate from the Estate. There is no provision in the Consultant Agreements that makes the agreements or the Consultant Payments thereunder contingent upon Sharon, John, Norrine, and Tyka Nelson’s status as heirs. Indeed, at the time they entered into the Consultant Agreements, the Court had not yet determined that Sharon, John, Norrine, and Tyka Nelson were heirs of the Estate. Because the Consultant Payments are not a judgment and are not “involved in or affected by” this Estate proceeding, the Liens do not attach to those payments. Minn. Stat. § 481.13, subd. 1(a).²

Second, the Liens themselves, as drafted by the law firms, do not even purport to apply to the Consultancy Payments. Barnes & Thornburg did not identify any property, at all, which they are asserting is subject to the Lien. Skolnick & Joyce and Lommen Abdo expressly limited their liens to Sharon, John, and Norrine Nelsons’ “interest in the Estate,” and “money or property arising from their states as heirs to the Estate,” respectively. Because the law firms did not attempt to extend their liens to any money or property beyond any distributions Sharon, John,

² Barnes & Thornburg and Skolnick & Joyce have the additional hurdle that neither represented their respective clients during the time period when the Consultant Agreements were negotiated, so they cannot assert that their services contributed in any manner to the Consultant Payments.

Norrine, and Tyka Nelson may receive from the Estate, the Liens do not apply to the Consultant Payments.

CONCLUSION

Because the Consultant Payments are not interests in the Estate and do not arise from or depend on Sharon, John, Norrine, and Tyka Nelson's status as heirs of the Estate, they are outside the scope of the Liens. The Court should authorize the Personal Representative to disburse the Consultant Payments directly to Sharon, John, Norrine, and Tyka Nelson.

Respectfully Submitted,

Dated: September 19, 2018

s/ Joseph J. Cassioppi

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