

STATE OF MINNESOTA
COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
DISTRICT COURT
PROBATE DIVISION

Court File No. 10-PR-16-46
Judge Kevin W. Eide

In re:

Estate of Prince Rogers Nelson,

**SKOLNICK & JOYCE, P.A.'S MEMORANDUM
OF LAW SUPPORT OF MOTION TO ESTABLISH
ATTORNEYS' LIEN**

Decedent.

INTRODUCTION

Skolnick & Joyce, P.A. (“the Firm”), former counsel for Sharon, Norrine, and John Nelson (collectively “SNJ”), brings this motion seeking to have the Court determine the validity and amount of its perfected attorneys’ lien. Unlike a number of the issues facing the Court in this matter, this particular issue is straightforward. The Firm has a retainer agreement with SNJ, billing was sent to SNJ but not paid, and therefore the Firm is entitled to a lien upon SNJ’s interest in the Estate. For these reasons, the Firm respectfully requests that the Court enter a Judgment finding a valid lien in the amount of \$180,935.12, with additional provisions in the Order providing direction to the Estate on how current and future payments are to be made to the Firm to satisfy the lien.

FACTS

On October 18, 2017, the Firm began providing legal services to SNJ in this matter as heirs to the Estate of Prince Rogers Nelson. (Skolnick Dec. ¶¶ 4 & 7). On October 27, 2018, SNJ executed a retainer agreement with the Firm. *Id.* at Ex. 1. The retainer agreement provides that

SNJ will be billed for legal services provided on an hourly basis, at the hourly rate of the individual(s) providing the legal services, and subject to periodic increases. *Id.*

Between October 18, 2017 and June 29, 2018, the Firm provided continuous legal services to SNJ on a wide array of issues related to this matter. SNJ were sent monthly bills by the Firm, but no payment was received. (Skolnick Dec. Ex. 2). On a number of occasions, the Firm demanded payment towards the outstanding balance owed to the Firm, but SNJ did not make any payment. *Id.* at ¶ 9.

On June 29, 2018, the Firm withdrew from representation of SNJ in this matter. Subsequently, the firm perfected an attorneys' lien by serving on Comerica its Notice of Attorneys' Lien. (Skolnick Dec. Exs. 2 & 3). The amount currently owed to the Firm by SNJ is \$180,935.12. (Skolnick Dec. ¶ 17 & Ex. 4).

ARGUMENT

In estate matters, there are two relevant Minnesota statutes concerning attorneys' liens. Minn. Stat. § 525.491 provides:

When any attorney at law has been retained to appear for any heir or devisee, such attorney may perfect a lien upon the client's interest in the estate for compensation for such services as may have been rendered respecting such interest, by serving upon the personal representative before distribution is made, a notice of intent to claim a lien for agreed compensation, or the reasonable value of services. The perfecting of such a lien, as herein provided, shall have the same effect as the perfecting of a lien as provided in section 481.13, and such lien may be enforced and the amount thereupon determined in the manner therein provided.

That procedure was followed by the Firm and its lien on the "client's interest in the estate for compensation for such services" has been perfected. Minn. Stat. § 525.491.

Similarly, Minn. Stat. § 481.13 is the common vehicle by which an attorneys' lien is established in Minnesota and almost all of the case law concerning property subject to attorneys' liens relates to § 481.13. In relevant part, the attorneys' lien attaches to:

...(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....

Minn. Stat. § 481.13, subd. 1(a). An attorneys' lien protects against a client receiving the benefit of an attorney's services without paying for those services. *Thomas A. Foster & Assocs. V. Paulson*, 699 N.W.2d 1, 5 (Minn. Ct. App. 2005).

A lien under Minn. Stat. §§ 481.13 or 525.491 "may be established, and the amount of the lien may be determined, summarily by the Court under this paragraph on the application of the lien claimant or of any person or party interested in the property subject to the lien....Judgment shall be entered under the direction of the court, adjudging the amount due.

Minn. Stat. §§ 481.13, subd. 1(c) & 525.491. To make these determinations, the Court must simply decide (1) the identity of the lienholder, (2) the subject of the lien; and (3) the amount due. *Dorsey & Whitney LLP v. Grossman*, 749 N.W.2d 409, 420-21 (Minn. Ct. App. 2008). Here, there is no doubt that the Firm is the lienholder. Similarly, the Court has already issued one ruling on the second issue, the subject of the lien, by finding that consultancy payments are "within the broad description of 'involved in or affected by' the Estate proceeding." (Order & Memorandum Denying Motion to Approve Consultant Payments, p. 3 (Oct. 25, 2018)). The subject of the Firm's lien is SNJ's interest in the Estate and assets involved in or affected by the Estate proceeding.

The last factor, the amount due, is also an easy determination. The determination of the amount owed to an attorney in an attorneys' lien proceeding is made by reference to the retainer agreement. *See Blazek v. North Am. Life & Cas. Co.*, 121 N.W.2d 339 (Minn. 1963). From the time the Firm began representing SNJ, to the present, it sent monthly bills detailing the work

performed and the amounts incurred. (Skolnick Dec. Ex. 4). At no point did SNJ ever object to the amounts detailed on the billing. *Id.* at ¶ 15. Furthermore, the amounts billed were as provided for in the retainer agreement. Since the billed amounts were in accordance with the retainer agreement, and because SNJ never objected to the billed amounts, the full amount of the Firm's outstanding invoice, \$180,935.12 should be set by the Court as the amount due under the attorneys' lien. *See Meagher v. Kavli*, 88 N.W.2d 871, 879-81 (Minn. 1958).

Since all three factors can conclusively be determined, the Court should enter an attorneys' lien, in favor of the Firm, against SNJ's interest in the Estate, in the amount of \$180,935.12.

CONCLUSION

For these reasons, the Court should enter a judgment declaring that the Firm holds a valid lien, in the amount of \$180,935.12, against SNJ's interest in the Estate. To the extent that Comerica has not already made payment of the \$75,000 in consultant payments to the Firm pursuant to the Court's October 25, 2018 Order, the Firm also requests that the Court's Order direct immediate payment of those funds to the Firm. Finally, the Court should order that any further funds to be paid by the Estate, or any entity owned by the Estate, to SNJ must first be paid to the Firm, up to the amount necessary to satisfy the outstanding lien amount.

SKOLNICK & JOYCE, P.A.

Dated: December 26, 2018

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