

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT

In Re the Estate of:

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

Prince Rogers Nelson,

**MEMORANDUM OF LAW IN SUPPORT
OF ASA J. WESTON'S MOTION
TO APPROVE PAYMENT OF ATTORNEY'S
FEES AND EXPENSES FOR PERIOD
MAY 22, 2019 THROUGH
AUGUST 7, 2019**

Decedent

**TO: THE HONORABLE JUDGE KEVIN EIDE, FIRST JUDICIAL DISTRICT JUDGE,
CARVER COUNTY COURT ADMINISTRATION, PERSONAL
REPRESENTATIVE COMERICA TRUST, AND JOSEPH CASSIOPPI AND
MARK GREINER, ATTORNEYS OF FREDCRICKSON & BYRON, COUNSEL
FOR COMERICA TRUST**

INTRODUCTION

Asa J. Weston ("Attorney") served as counsel of record for Alfred Jackson ("Jackson") beginning May 22, 2019 through August 7, 2019. During that time, Attorney performed a substantial amount of work that benefitted the Estate of Prince Rogers Nelson ("the Estate") as a whole. Pursuant to Minn. Stat. § 524.3-720, Attorney hereby submits this memorandum in support of his Motion to Approve Attorney Fees from may 22, 2019 through August 7, 2019 ("Motion").

FACTUAL BACKGROUND

On May 18, 2017, this Court issued an order Determining Intestacy, Heirship & McMillan Matter. This Order named Jackson as well as five other persons ("The Heirs") as legal heirs to the Estate. Jackson was represented by several other attorneys and/or law firms prior to May 22, 2019, when Jackson hired Asa J. Weston ("Attorney") to represent him in all matters related to the Estate. Attorney represented Jackson in all matters related to the Estate (and other personal matters) from May 22, 2019 until August 7, 2019, when representatives of Jackson terminated Attorney.

Attorney spent a great deal of time familiarizing himself with the ins and outs of such a complicated estate. This included a review of hundreds of prior filings as well as discussions with Jackson's former attorneys, as well as attorneys for the Personal Representative, the other Heirs and/or their attorneys, as well as discussions with Jackson and his advisors. The Court is undoubtedly aware of the complicated nature of this Estate, as well as the intricacies of the relationships between the various Heirs, advisors and the Personal Representative.

Attorney attempted to familiarize himself with the Estate in the most efficient nature possible, so as to ease the transition from Jackson's former attorneys. Discussions with all the involved parties made it clear that familiarity with all interested persons and/or their attorneys was paramount to an efficient administration of the Estate and advocacy on behalf of Jackson in all matters related to the Estate. At all times relevant hereto, Attorney acted with professionalism and candor to all other parties in an effort to streamline administration of the Estate.

Although all of Attorney's aforementioned work in familiarizing himself with the Estate is arguably compensable by the Estate as work that benefitted the Estate, Attorney is only seeking compensation for legal work related to one issue – [REDACTED]

[REDACTED] This work clearly benefitted the Estate as a whole as it avoided costly litigation against Lythcott and Walker and helped to effectuate a settlement with Walker.

Attorney is seeking payment of [REDACTED] in legal fees for work performed on the [REDACTED] – work that benefitted the Estate as a whole rather than Jackson individually. True and accurate copies of Attorney's invoices for work on the [REDACTED] are attached as Exhibit A to the Affidavit of Attorney Asa J. Weston, which was filed along with Asa J. Weston's Motion to Approve Payment of Attorney's Fees and Expenses for Period May 22, 2019 Through August 7, 2019.

ARGUMENT

1. LEGAL BASIS

Minnesota law allows for the payment of attorney’s fees from the Estate for services rendered on behalf of the Estate where “the services of an attorney for any interested person contribute to the benefit of the estate, as such, as distinguished from the personal benefit of such person.” Minn. Stat. § 524.3-720. In such cases, the “attorney shall be paid such compensation from the estate as the court shall deem just and reasonable and commensurate with the benefit to the estate from the recovery so made or from such services.” *Id.*; see also *In re Estate of Van Den Boom*, 590 N.W.2d 350, 354 (Minn. Ct. App. 1999) (“Van Den Boom [a remainder beneficiary], as an interested person, acted for the benefit of the estate by keeping a major asset intact. His attorney is entitled to fees.”). *In re the Estate of Kane*, No. A15-1033, 2016 WL 1619248, at *7 (Minn. Ct. App. April 25, 2016). Minn. Stat. § 524.3-720 allows compensation for attorneys representing interested persons in four circumstances:

1. An “interested person . . . successfully opposes the allowance of a will”;
2. If “after demand, the personal representative refuses to prosecute or pursue a claim or asset of the estate . . . and any interested person . . . by a separate attorney prosecute[s] or pursue[s] and recover[s] such fund or asset for the benefit of the estate”;
3. If “a claim is made against the personal representative on behalf of the estate and any interested person . . . by a separate attorney prosecute[s] or pursue[s] and recover[s] such fund or asset for the benefit of the estate”; and
4. If “the services of an attorney for any interested person contribute to the benefit of the estate, as such, as distinguished from the personal benefit of such person.”

In the Matter of the Estate of Prince Rogers Nelson, Decedent, No. A17-0880, 2018 WL 492639, at *3 (Minn. Ct. App. Jan. 22, 2018).

In the first circumstance, the interested person “is entitled to receive from the estate necessary expenses and disbursements including reasonable attorneys’ fees incurred.” *Id.* (citing Minn. Stat. § 524.3-720). In the second, third, and fourth circumstances, the attorney representing an interested person “shall be paid such compensation from the estate as the court shall deem just and reasonable and commensurate with the benefit to the estate from the recovery so made or from such services.” *Id.*

A. The Court of Appeals Established Five Factors to Aid the District Court in Awarding Fees pursuant to Minn. Stat. § 524.3-720.

In “ruling on an interested person’s attorney’s motion for compensation in a probate case,” this Court is obligated to “make findings that allow for meaningful appellate review.” *Nelson*, 2018 WL 492639, at *4. When addressing the fee appeal from this case the Minnesota Court of Appeals established five factors to aid the Court in ruling on requested attorneys’ fees. These five factors are intended to allow the Court “to resolve the significant issues in a complex case with somewhat broader strokes, rather than with a more granular analysis.” *Id.*, at *7. These five factors are; Statutory Basis, Measuring Benefit of Attorney Fees, Benefit to The Estate for Pre- Existing Categories of Service, Quantifying Personal Benefit to The Heirs and Estimated Value of The Estate.

(1) Statutory Basis

First, the Court should consider “the particular statutory basis of the services performed by an attorney for an interested person.” *Nelson*, 2018 WL 492639, at *6. According to the Minnesota Court of Appeals, “[t]his distinction is significant because compensation for an interested person’s attorney is more likely to be just and reasonable in the second circumstance than in the other three circumstances.” *Id.* Attorney acknowledges that he only has a basis to request fees under the fourth statutory basis described in Minn.Stat. § 524.3-720 - when “the services of an attorney for any interested person contribute to the benefit of the estate, as such, as distinguished from the personal benefit of such person.” *In the Matter of the Estate of Prince Rogers Nelson, Decedent*, No. A17-0880, 2018 WL 492639, at *3 (Minn. Ct. App. Jan. 22, 2018).

Although courts are to give more weight to a request for fees made under the second prong of the statutory test, the particular request in this circumstance should be given similar weight because the services Attorney is seeking payment for are for proceedings that were Court Ordered – [REDACTED]. Not only was the mediation Court Ordered, Attorney’s presence at the mediation and contributions were helpful in resolving the matter [REDACTED] without further expensive litigation. Attorney’s relationships with [REDACTED] were key in convincing them to back off certain negotiation positions that were counter-productive to the Mediation as a whole. In fact, Attorney, along with Omar Baker and his attorney, Jonas Herbsman, spent a great deal of the mediation in the same room with [REDACTED], touting the benefits of a mediated settlement rather than litigation. Attorney’s status as non-

adversarial to [REDACTED], as opposed to the Personal Representative's highly adversarial position, was helpful in resolving many issues.

(2) Measuring Benefit of Attorneys' Fees

Second, the Court should "measure benefits in terms of the reasonable amount of attorney fees for the assumed tasks." *Nelson*, 2018 WL 492639, at *6. The five-factor test for resolving motions for attorneys' fees contained in Minn. Stat. § 525.515(b) "does not apply to a motion for compensation brought by an attorney for an interested person." *Id.*, at *3 n.2. However, the Minnesota Court of Appeals states three of the factors "[m]ay be helpful": (1) the time and labor required; (2) the experience and knowledge of the attorney; and (3) the complexity and novelty of problems involved. *Id.*, at *6; Minn. Stat. § 525.515(b) (1), (2), (3).

These three factors heavily favor approving payment of Attorney's requested fees. The fees Attorney is seeking compensation for required substantial amounts of time and labor. Additionally, as stated above, Attorney had trusted, non-adversarial, working relationships, with [REDACTED], which were instrumental in resolving many issues at the mediation.

(3) Benefit to Estate for Pre-Existing Categories of Services

Third, the Court should "make findings concerning the extent to which the estate benefitted from the services of all heirs' attorneys with respect to each of the six pre-existing categories of services that the district court identified by letter codes." *Nelson*, 2018 WL 492639, at *6. In quantifying this, "the district court need not employ a line-by-line method of determining compensation," unless in its discretion it "deems such a method to be helpful or appropriate." *Id.* at *2. The pre-existing categories are (1) Services relating to entertainment deals (E), (2) Services relating to Paisley Park (PP), (3) Services relating to the determination of heirs (H), (4) Services relating to the selection of a Personal Representative (PR), (5) Services relating to legislation (PA), and (6) Services relating to a tribute concert (T). *Nelson*, 2018 WL 492639, at *2.

These categories were determined based on the first submitted request for fees from April 26, 2016 through January 31, 2017. In measuring based on these pre-existing categories, the Court may measure benefits in terms of an increase in the Estate's assets, or a decrease in the Estate's

liabilities or expenses. *Id.*, at *6. The Court should make findings concerning the relative proportions of the quantified benefits for which each law firm or attorney is responsible. *Id.*

This prong of the test is arguably not applicable to Attorney as Attorney is only seeking payment for fees incurred in one very narrow category ([REDACTED]). Moreover, upon review of the submissions for fees by other attorneys involved in this matter, numerous other categories have been created and acknowledged by this Court since the original 6 were outlined in *Nelson*, 2018 WL 492639. One of those additional categories that was established by the Court is “Time incurred in relation to the appointment of Justice James Gilbert as mediator and Judge Solum as Special Master and associated work.”

“Associated work” arguably means all proceedings in front of Justice Gilbert – i.e. the [REDACTED]. The Mediation was court ordered and Attorney’s participation in the same was beneficial to the Estate as a whole as it helped bring the parties closer to a mediated settlement agreement. Attorney should thus be compensated for his work on the [REDACTED]

(4) Quantifying Personal Benefit to the Heirs

Fourth, the Court “should consider whether any benefit to the estate is also a benefit to the heir,” and if that is the case, “quantify the heir’s personal benefit.” *Nelson*, 2018 WL 492639, at *6. However, quantifying this benefit does not include “benefits to the heir that are derivative of benefits to the estate.” *Id.* The question is whether a benefit to one heir “is not shared by all other heirs,” and if that is the case “it should be accounted for separately so that its proper effect on [the heirs’] compensation may be ascertained.” *Id.* Although Jackson received derivative benefits from Attorneys work, these benefits were shared by the Estate as a whole and thus the Court should not discount any fees awarded to Attorney. Further, Attorney has already removed from his invoices all fees that were incurred as a separate individual benefit to Jackson.

(5) Estimated Value of the Estate

Fifth, the Court “should consider the big picture.” *Nelson*, 2018 WL 492639, at *6. This includes a consideration of “whether compensation paid to the heirs’ attorneys for benefits to the estate is appropriate in light of the fees paid to the special administrator and the personal

representative and their attorneys and other agents.” *Id.* As this Court is surely aware, this Estate is large, complicated, and extremely valuable. Legal fees paid to the Special Administrator and Personal Representative are [REDACTED]. Attorney is requesting just [REDACTED], which is a paltry sum when compared to the value of the Estate and fees paid to other attorneys and parties involved with the Estate.

B. Judge Solum’s October 4, 2018 Order Established Four Elements for Consideration in Awarding Fees pursuant to Minn. Stat. § 524.3-720.

Judge Solum also established four additional elements for the Court to consider. (*See* Order on Remanded Fees filed October 4, 2018 (“Remanded Fees Order”).)

(1) Duplication

The Court should not award duplicative fees, and instead should look to the entity that conducted the work. Mediations are by nature and design, a collaborative process. All attorneys present at the [REDACTED] were instrumental in achieving the results – Attorney included. Awarding Attorney’s fees incurred in the [REDACTED] would not be duplicative, because Attorney’s relationship with both [REDACTED] were extremely beneficial to the Mediation as a whole.

(2) “Benefit” and “Commensurate”

Judge Solum found that given the complexity of the matters involved, it is difficult to quantify a benefit to the Estate in purely monetary terms: All these benefit-measuring difficulties are compounded by the nature of the Estate, **its value being materially measured by the value of intangible rights to music and related contractual undertakings**—about which benefits can derive from efforts to make contractual terms for favorable to the estate, by efforts to minimize potential losses or future expenses in respect to contractual arrangements, and the like, **such benefits largely not being susceptible to monetary quantification.** (*Id.* at 8-9, emphasis added.)

The basis for the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

██
██
██
██

(3) “Big Picture”

Like the Court of Appeals, Judge Solum emphasized a consideration of the value of the Estate compared to the value of the fees requested. (*Id.* at 10 (“The estimated value of the Prince Estate, while somewhat speculative and materially dependent on intangible rights to music—some of which music being largely unheard, appears to be substantial, and the fees requested here are a small fraction of any such value.”).) Judge Solum also highlighted that during its administration, the Special Administrator requested and was awarded ██████████ in fees and this was without the analyses of what the Personal Representative has also received, which amount to ██████████. The amount of fees Attorney is requesting pales in comparison to the amounts the Special Administrator and Personal Representative have already received.

Additionally, as Judge Solum recognized, the “big picture” administration of the Estate necessitates input from the Heirs. *Id.* (“The mere fact that counsel to the heirs was invited by the Court to make submissions presupposes some benefit to the Estate and its judicial management, as well as some likely reduction in fees by the corporate fiduciaries and their counsel in limiting what otherwise could be expensive contests unnecessarily depleting of the Estate’s assets.”.) This shows that work done regarding input from the heirs should be deemed a benefit to the Estate as a whole and Attorney is just in his request for compensation for fees incurred in this regard.

(4) Time Entries and “Broader Strokes”

Finally, Judge Solum followed the Court of Appeals’ guidance and declined to review the invoices line-by-line. (*Id.* at 11.) Instead, Judge Solum considered the fees contained in each category, multiplied the number of hours by the average hourly rate, and awarded compensation by category. (*Id.* at 11-12.) The arithmetic sum of the awarded compensation for each category constituted the total attorneys’ fees award. (*Id.* at 12.)

2. ATTORNEY IS ENTITLED TO AN AWARD OF THE REQUESTED FEES PURSUANT TO MINN. STAT. § 524.3-720 AND THE LAW OF THE CASE.

In its' first fee petition to the Court the Special Administrator stated: "The Court is well aware of the unique and extraordinary nature of this proceeding and legal work performed on behalf of the Estate. The scope and sophistication required to represent the Estate may be unlike any other estate administration proceeding in Minnesota's history." (Mem. in Support of Motion to Approve Payment of Special Administrator's Fees and Costs, Attorney's Fees and Costs, and to Establish a Procedure for Review and Approval of Future Fees and Costs, dated July 29, 2016, p. 3.)

Nearly two years after the Estate proceeding commenced, the Minnesota Court of Appeals held "it is apparent that Prince's state is atypical because his commercial pursuits were relatively complex and he died with considerable financial assets." *Nelson*, 2018 WL 492639, at *1. And as recently as October 2018, Judge Solum emphasized the "size and complexity of the estate" and held "the nature of the Estate" makes it difficult to quantify a benefit in monetary terms. (Remanded Fees Order at 8, 10.)

The uniqueness, complexity, and public nature of the Estate has created unforeseen problems that the Heirs and their counsel have had to work through and attempt to mitigate. The Court of Appeals recognized as much in stating "the heirs have taken a keen interest in the work of the special administrator and have actively participated in the probate proceedings, with the assistance of their counsel." *Nelson*, 2018 WL 492639, at *1. Judge Solum also recognized "there were many instances in which the Court, presumably because of the size and complexity of the estate and the complicated monetization of Estate assets, sought input from the heirs' counsel so as (1) to have a wider input of interests and expertise as to matters concerning intangible values and related contractual rights about which any court would have limited expertise, and (2) to seek input and potential consensus among the heirs so as to avoid litigation costly to the Estate."

(Remanded Fees Order at 10.) The fees Attorney is requesting have been scrutinized and are extremely reasonable based on the overall benefit his work provided to the Estate as a whole. Following the Court of Appeals decision as well as Judge Solum's findings in the Remanded Fees Order, Attorney is entitled to the fees requested.

CONCLUSION

For all the foregoing reasons, Attorney respectfully requests that the Court authorize and direct the Personal Representative to pay a total of [REDACTED] in attorney fees for work incurred by Attorney from May 22, 2019 through August 7, 2019. The work done by Attorney significantly benefitted the Estate as a whole compared to his client, Jackson, individually.

Respectfully Submitted,

WESTON LAW OFFICE, LTD

Dated: 1/14/2020

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