

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT

In the Matter of:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,

Decedent.

**ORDER DENYING
ADMISSION PRO HAC VICE**

This matter is before the Court pursuant to Attorney Ralph Love's Motion filed October 22, 2019 for Admission *pro hac vice* of L. Londell McMillan as attorney for Heirs Sharon Nelson, Norrine Nelson and John Nelson ("SNJ"). On October 30, 2019, the Court issued its Order granting Mr. McMillan limited admission *pro hac vice* for the purpose of representing the SNJ Heirs in connection with the mediation/arbitration of their attorney lien disputes, and giving all other parties leave to submit any objections to the Motion by November 8, 2019. Any replies were then to be filed by no later than November 13, 2019. The Personal Representative, Comerica, filed an objection to Mr. McMillan's unrestricted admission on November 8, 2019. Mr. Love and Mr. McMillan filed their reply on November 13, 2019.

Now, therefore, based upon the file and proceedings herein, the Court makes the following:

ORDER

1. The motion for admission *pro hac vice* of L. Londell McMillan as attorney for Heirs Sharon Nelson, Norrine Nelson, and John Nelson is respectfully DENIED.
2. The attached Memorandum is incorporated herein.

BY THE COURT:

Dated: November 20, 2019

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

L. Londell McMillan seeks admission *pro hac vice* as attorney for Heirs Sharon Nelson, Norrine Nelson, and John Nelson (“SNJ”). The Personal Representative objects to Mr. McMillan’s appointment, arguing it would be a violation of Minnesota Rule of Professional Conduct 1.7 in that it would create a concurrent conflict of interest. The Personal Representative also argues that Mr. McMillan would be unable to effectively represent SNJ without violating this Court’s prior orders, in particular, the Order on Motion Regarding Non-Disclosure Agreement and Confidentiality (“Confidentiality Order”) filed April 13, 2018. In response, McMillan argues his representation of the SNJ Heirs would not create a conflict of interest, and that the Confidentiality Order applied to him in his capacity as a business advisor to the SNJ Heirs, not as their attorney. As SNJ’s attorney, McMillan argues he would be required to comply with the same confidentiality orders as all other attorneys in this proceeding.

Minnesota Rule of Professional Conduct 1.7 provides as follows:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client;

or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

Mr. McMillan’s argument that his representation of SNJ would not create a conflict of interest or that any conflict could otherwise be waived by SNJ is less than compelling. Mr. McMillan previously served as an entertainment advisor to the Estate and was paid handsomely for agreements which were subsequently rescinded. The Court has since authorized the Second Special Administrator to pursue claims against Mr. McMillan for return of the commissions paid

on those rescinded agreements, ordering the funds be returned to the Estate pending an evidentiary hearing. That decision is on appeal. While SNJ may waive any conflict, this Court is hard pressed to believe Mr. McMillan's representation of SNJ would not be at least partially shadowed by the Second Special Administrator's action for the recovery of commissions on the rescinded agreements.

In addition to Mr. McMillan's personal conflict of interest, the Court is also concerned about his refusal to enter into a non-disclosure agreement, necessitating the Court's April 13, 2018 Confidentiality Order. In the Confidentiality Order, the Court stated, "The Court has serious concern that even if the terms of an NDA [are] successfully negotiated there will be ongoing disputes regarding issues when a conflict is obvious or arguable." This Court is not prepared to vacate the Confidentiality Order, possibly leaving Mr. McMillan free reign to disclose Estate information, nor will the Court hobble the Personal Representative by approving Mr. McMillan's admission, thus requiring the Personal Representative to first filter all confidential information that should otherwise be freely shared with the Heirs to determine whether it is appropriate to share such information with Mr. McMillan – whether that be for conflict purposes or confidentiality concerns. As a result, Mr. Love's motion for the admission of Mr. McMillan *pro hac vice* is respectfully denied.

K.W.E.