

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In re:

Estate of Prince Rogers Nelson,
DecedentCourt File No. 10-PR-16-46
Honorable Kevin W. Eide**AFFIDAVIT OF MARC BERG IN
SUPPORT OF MOTION FOR
ATTORNEYS' FEES AND COSTS**

STATE OF MINNESOTA }

COUNTY OF HENNEPIN }

Marc Berg, being first duly sworn, states and deposes as follows:

1. I am an attorney at J. Selmer Law, P.A. ("JSL"), a Minneapolis-based law firm. I submit this affidavit in response to the May 4, 2019 Order: Procedure for Fee Application (the "May 4th Order") as directed by Special Master Richard B. Solum.
2. On or about November 6, 2019, our law firm was contacted by Attorneys Kennedy Barnes, Ward White, and Nnamdi Anozie of White, Wiggins & Barnes ("WWB"), a Dallas, TX-based law firm, with a request that we serve as local counsel for Alfred Jackson, one of the determined heirs to the above-referenced estate, who had recently hired WWB. Given that none of the attorneys in WWB were licensed in Minnesota, WWB needed to associate with local counsel in Minnesota for purposes of *pro hac vice* sponsorship, service and filing of pleadings and papers in this matter, advice and consultation on Minnesota law and local practice, and overall advice and consultation with respect to representing Mr. Jackson in all future proceedings in this matter.

3. I have reviewed the Affidavit of Kennedy Barnes of WWB (the “Barnes Aff.”) prepared in response to the May 4th Order, including the discussion therein regarding the work that WWB’s attorneys performed in (a) opposing the complete discharge and release from liability of Bremer, the former special administrator, and (b) addressing issues arising out of the conduct of Michael Lythcott and Greg Walker, two individuals who had engaged in misrepresentation, abuses, and breaches of confidentiality obligations, all to the detriment of the Estate. *See* Barnes Aff., at ¶¶ 3-6 (regarding Bremer discharge issues) and ¶¶ 7-9 (regarding Lythcott/Walker issues).
4. I agree that the work performed by WWB as discussed and itemized in Paragraphs 3-9 of the Barnes Aff. benefitted the Estate, for the reasons referenced therein. I submit this affidavit, on behalf of JSL’s application for attorney’s fees and costs, as the work of JSL attorneys and staff was necessary to support WWB’s work in this matter. The attorney’s fees and costs incurred with JSL with respect to the Lythcott/Walker issues occurred after January 1, 2019, and are therefore outside the scope of the present proceeding (*see* Judge Eide Order Regarding Heir Attorney Fee Submissions dated March 7, 2019, limiting requests for the present proceeding to the time period ending December 31, 2018). However, the fees incurred and the time reflected below contributed to the benefit of the Estate as evidenced by the Court’s rulings that Bremer was not released from potential liability as to the Heirs and that Comerica is not released from liability as a result of submission of annual accountings. Each of the following time entries are related to supporting and assisting WWB in the engagement and/or work of the Second Special Administrator, and the Personal Representative—specifically their attempts to be released

from all liability associated with the administration of the Estate, as described in Paragraph 3 of the Barnes Aff.:

Date	Atty	Description of Work Performed	Hours
11/7/2018	MB	Draft email to WWB attorneys regarding procedure for obtaining PHV admission in Court of Appeals.	.10
	MB	Register WWB attorneys for district court electronic filing.	.30
11/8/2018	JS	Conference call with Attorney Nnamdi Anozie regarding role as local counsel for Alfred Jackson.	.40
	JS	Phone conference with Justin Bruntjen regarding current issues for heirs and need to file motions and appeals.	.40
	MB	Phone conference with Attorneys James Selmer and Nnamdi Anozie regarding current issues for heirs and need to file motions and appeals.	.30
	MB	Phone conference with Attorneys James Selmer and Kennedy Barnes regarding current issues for heirs and need to file motions and appeals.	.50
	MB	Review email from Yvonne Shirk of Carver County Court regarding questions on requirement of only one EFS contact per party.	.10
	MB	Draft email to Yvonne Shirk of Carver County Court regarding questions on requirement of only one EFS contact per party.	.10
	MB	Conference call with Attorneys James Selmer and Nnamdi Anozie regarding role as local counsel for Alfred Jackson.	.40 (No charge)

MB	Draft email to Attorney Nnamdi Anozie regarding forms needed for file appearance, including notice of substitution and PHV motion, including locating and reviewing forms.	.30
MB	Phone conference with Attorney Nnamdi Anozie regarding notice of substitution and pro hac vice motions.	.10
MB	Review and revise notice of substitution and pro hac vice forms and begin efilng of same.	1.30
MB	Leave voicemail for Attorney Nnamdi Anozie regarding notice of substitution and pro hac vice motions.	.10
MB	Efiling of pro hac vice motion papers.	.70
MB	Draft email to Attorney Nnamdi Anozie regarding confirmation of filing of pro hac vice motions	.10
MB	Review email from Attorney Nnamdi Anozie regarding request to obtain non-redacted court filings.	.10
MB	Phone conference with Attorneys James Selmer and Justin Bruntjen regarding current issues for heirs and need to file motions and appeals.	.40 (No charge)
MB	Review letter from Attorney Cassioppi regarding liens from former counsel for heirs.	.10
MB	Draft email to Attorneys Ward, Barnes, and Anozie regarding letter from Attorney Cassioppi regarding liens from former counsel for heirs.	.10
MB	Review letter from Attorney Zabot regarding Bremer's position on discharge of Bremer agents.	.10

MB	Draft email to Attorneys Ward, Barnes, and Anozie regarding letter from Attorney Zobot regarding Bremer's position on discharge of Bremer agents.	.10
MB	Review and revise motion for relief from order.	.20
MB	Draft email to Attorney Nnamdi Anozie confirming service and filing of motion for relief from order.	.20
MB	Draft email to Attorney Nnamdi Anozie transmitting the file-stamped motion for relief from order.	.10
MB	Review order denying motion to recuse and forward same to WWB attorneys.	.10
MB	Phone conference with Attorney Nnamdi Anozie regarding draft of motion and objection to Oct. 17 th Order and local citation practices.	.30
MB	Review letter from Attorney Liz Fischer regarding Stinson firm's request to approve payment.	.10
MB	Draft email to WWB attorneys regarding letter from Attorney Liz Fischer regarding Stinson firm's request to approve payment.	.10
MB	Review email from Yvonne Shirk regarding her question on forwarding motion to stay to Judge Eide.	.10
MB	Draft email to WWB attorneys regarding email from Yvonne Shirk regarding her question on forwarding motion to stay to Judge Eide	.10
MB	Review and revise objection and motion to clarify October 17, 2018 order.	.30

	MB	E-serve and E-file objection and motion to clarify October 17, 2018 order.	.20
11/9/2018	RG	Review letter from Attorney Erin Lisle to Judge Eide regarding discharge of liability for Bremer.	.10
	JS	Review letter from Londell McMillan regarding discharge of Bremer agents.	.20
	MB	Review letter from Attorney Erin Lisle to Judge Eide regarding discharge of liability for Bremer.	.10
11/13/2018	MB	Review order granting Comerica's motion for attorneys' fees and costs payable from estate.	.10
	MB	Draft email to WWB attorneys regarding orders granting PHV motions and Comerica's motion for attorneys' fees and costs payable from estate.	.10
11/15/2018	JS	Phone conference with Attorneys Marc Berg, Kennedy Barnes, and Nnamdi Anozie regarding decision to appeal Oct. 17 th order on discharge of Bremer, and applicable procedure.	.60
	MB	Review Lommen Abdo motion to approve attorneys' lien.	.10
	MB	Phone conference with Attorneys James Selmer, Kennedy Barnes, and Nnamdi Anozie regarding decision to appeal Oct. 17 th order on discharge of Bremer, and applicable procedure.	.60
	MB	Review rules regarding procedure for discretionary appeal and provisions of probate code allowing appeals.	.60
	MB	Phone conference with Attorney Nnamdi Anozie regarding procedure for taking discretionary appeal, including need to serve adverse party with petition.	.10

	MB	Phone conference with Attorney Nnamdi regarding options for appeal pursuant to Section 525.71 of probate code.	.10
	MB	Review email from Judicial Clerk Yvonne Shirk regarding e-filing and eservice requirements for Prince case.	.10
	MB	Draft email to WWB attorneys regarding email from Judicial Clerk Yvonne Shirk regarding e-filing and eservice requirements for Prince case.	.10
11/16/2018	MB	Phone conference with attorney Nnamdi Anozie regarding decision to file appeal of Oct. 17 th order and procedure for requesting PHV admission.	.10
	MB	Tasks related to filing appeal of Oct. 17 th order, including review and revision of notice of appeal and statement of the case, telephone conferences with Attorney Nnamdi Anozie regarding same.	1.90
	MB	Strategy conference with paralegals Joey Jadoonanan and Ramon Chin regarding filing of appeal and need for pro hac vice motion filings.	.10
	JS	Review order denying emergency motion for relief.	.10
11/19/2018	MB	Draft emails to WWB attorneys regarding hearing of Nov. 29 th .	.10
	MB	Draft email to WWB attorneys regarding Court of Appeals acceptance of filing of notice of appeal and assignment of case number.	.10
	MB	Draft email to WWB attorneys regarding filing of PHV motions.	.10
	MB	Phone conference with Ann Marie O'Neill of Clerk of Appellate Courts office	.10

		regarding limitation on filing of PHV motions.	
	MB	Draft email to WWB attorneys regarding call from Ann Marie O'Neill of Clerk of Appellate Courts office regarding limitation on filing of PHV motions.	.10
	MB	Phone conference with Ann Marie O'Neill of Clerk of Appellate Courts office regarding request for PHV admission of Kennedy Barnes.	.10
	MB	Phone conference with attorney Nnamdi Anozie regarding issues at November 29 th hearing and attendance at same.	.10
	JJ	E-file motion for pro hac vice and affidavit of support for admission for Kennedy Barnes with the Minnesota Court of Appeals.	.20
	JJ	E-file motion for pro hac vice and affidavit of support for admission for Nnamdi Anozie with the Minnesota Court of Appeals.	.20
	JJ	E-file motion for pro hac vice and affidavit of support for admission for Ward White with the Minnesota Court of Appeals.	.20
	JJ	Draft email to Attorneys Anozie, White, and Barnes regarding motion for admission pro hac vice, being accepted by the Minnesota Court of Appeals.	.10
11/20/2018	RG	Review email from attorney Marc Berg to WWB attorneys regarding Court of Appeals acceptance of filing of notice of appeal and assignment of case number.	.10
	RG	Review order from MN Court of Appeals regarding Attorney Kennedy Barnes' admission pro hac vice.	.10

	RG	Review Alfred Jackson's objection to and motion for clarification of the court's October 17, 2018 order.	.30
11/21/2018	MB	Phone conference with Attorney Nnamdi Anozie regarding filing opposition to Comerica accounting and appearance at hearing.	.10
	MB	Strategy conference with Ruty Gebreab regarding filing opposition to Comerica accounting and appearance at hearing.	.10
	MB	Review Barnes & Thornburg attorney lien notice.	.10
	MB	Review, revise, assemble, and e-file and e-serve objection to Comerica accounting.	.70
11/26/2018	JS	Review Comerica's reply brief in support of motion to approve accounting.	.20
	MB	Refile objection to Comerica accounting following court administration request for motion filing fee.	.10
11/27/2018	JS	Conference call with Attorneys Kennedy Barnes and Marc Berg regarding issues in hearing on Comerica's petition for approval of accounting.	.20
	MB	Conference call with Attorneys Kennedy Barnes and James Selmer regarding issues in hearing on Comerica's petition for approval of accounting.	.20 (No charge)
	JS	Strategy conference with Attorney Ruty Gebreab regarding call with Attorneys Barnes and Marc Berg regarding issues in hearing on Comerica's petition for approval of accounting.	.20
	MB	Strategy conference with Attorney Ruty Gebreab regarding call with Attorneys Barnes and James Selmer regarding issues	.20 (No charge)

		in hearing on Comerica's petition for approval of accounting.	
	RG	Strategy conference with Attorneys James Selmer and Marc Berg regarding call with Attorneys Barnes and James Selmer regarding issues in hearing on Comerica's petition for approval of accounting.	.20 (No charge)
	RG	Review Register of Actions to view time of hearing scheduled for November 29, 2018.	.10
	RG	Review email of Attorney Marc Berg regarding link to Carver County Court's page linking all of the public filings associated with the Prince estate matter.	.10
11/28/2018	RG	Review Comerica's reply brief in support of motion to approve accounting in preparation of hearing scheduling for November 29, 2018.	.20
11/29/2018	JS	Strategy conference with Attorneys Ruty Gebreab and Marc Berg regarding hearing on Comerica's motion to approve accounting.	.30
	MB	Strategy conference with Attorneys Ruty Gebreab and James Selmer regarding hearing on Comerica's motion to approve accounting.	.30 (No charge)
	RG	Strategy conference with Attorneys Marc Berg and James Selmer regarding hearing on Comerica's motion to approve accounting.	.30 (No charge)
	RG	Attend hearing regarding Comerica's amended petition to approve interim accounting and client's objections to Comerica's accounting.	1.30
	RG	Travel from Attorney Ruty Gebreab's residence in St Paul, MN to Carver County Justice Center in Chaska, MN.	1.10

	RG	Travel from Carver County Justice Center in Chaska, MN to J. Selmer Law in Minneapolis, MN.	.70
11/30/2018	MB	Draft email to WWB attorneys regarding receipt of hearing transcript and deadline for filing brief.	.20
	MB	Draft email to Attorney Kennedy Barnes responding to his question on request for extension of time on account of holiday schedule.	.10
	MB	Review respondent's statement of the case for appeal.	.10
	MB	Review respondent's motion to dismiss as premature.	.10
	MB	Draft email to WWB attorneys regarding respondent's motion to dismiss as premature and deadline for filing response.	.10
	RG	Review email from Attorney Marc Berg regarding receipt of hearing transcript and deadline for filing brief.	.10
	RG	Review email from Attorney Marc Berg to Attorney Kennedy Barnes regarding information pertaining to Court of Appeals approach to granting appeals due to holidays.	.10
12/4/2018	MB	Review letter from Judge Eide to Peter Gleekel of Larson King regarding clarification on release of Bremer.	.10
	MB	Draft email to WWB attorneys regarding letter from Judge Eide to Peter Gleekel regarding clarification on release of Bremer.	.10
	RG	Review letter from Judge Eide to Peter Gleekel regarding clarification on release of Bremer.	.10

12/5/2018	JS	Review notice of motion by second special administrator regarding requesting repayment of excess payments Jobu to Londell McMillian and Koppelman.	.10
	MB	Review amended notice of motion by second special administrator regarding return of compensation.	.10

5. The work of the JSL attorneys and staff reflected in the time entries above was necessary for the WWB attorneys to carry out the work reflected in the Barnes Aff. Stated differently, without JSL, WWB would not have been able to carry out its work that benefited the Estate.
6. At the time these services were performed, the hourly billable rates for the JSL attorneys and staff referenced above were as follows: Attorney James Selmer (JS), \$515/hour; Attorney Marc Berg (MB), \$485/hour; Attorney Ruty Gebreab, \$325/hour; and Paralegal Joey Jadoonanan, \$195/hour. These rates were customary and reasonable based on the complexity of the issues involved, the experience level of the attorneys, and the critical and quick-moving pace of this matter. The individual attorney fees were as follows: James Selmer, \$1,390.50; Marc Berg, \$6,353.50; Ruty Gebreab, \$1,430.00; and Paralegal Joey Jadoonanan, \$136.50. The total amount of attorneys' and paralegal fees represented by the time and work performed in paragraph 4 is \$9,310.50.
7. In addition, JSL incurred expenses related to that work in the amount of \$423.79, based on the following:

<u>Date</u>	<u>Expense Item</u>	<u>Amount</u>
11/8/2018	Filing fee for motion to clarify October 17, 2018 order	\$80.00
12/10/2018	Filing fees for motions for pro hac vice admission of Attorneys Anozie, Barnes, and White	\$230.00

11/29/2018	Roundtrip mileage for Attorney RG's attendance at motion hearing in Carver County	\$33.79
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8. Each of the entries described above were just and reasonable, including the rates charged and expenses incurred. Moreover, the fees and described work conferred a benefit on the Estate.
9. The Affidavit of James Selmer submitted on March 29, 2019 attached as Exhibit 1 a true and correct copy of JSL's billing statements for the work and through December 10, 2018, the contents of which are reflected in Paragraphs 4 and 6, above.
10. As required by Rule 119.02, the billing statements:
 - a. contain descriptions of each item of work per performed, the date upon which it was performed, the amount of time spent on each item of work, the identity of the lawyer or legal assistant performing the work, and the hourly rate sought for the work performed;
 - b. show hourly rates for each person for whom compensation is sought that are JSL's normal hourly rates; and
 - c. reflect itemized disbursements and expenses, with rates referenced for same, with all disbursements (*e.g.*, motion filing fees) were the actual cost to JSL.
10. I have reviewed JSL's original time records and hereby verify that the work performed conferred a benefit to the Estate, that it was necessary for the proper representation of the client and the interests of the Estate, and in the interests of protection or informing the Estate, and that there are no charges for unnecessary or duplicative work.

FURTHER YOUR AFFIANT SAYETH NOT.

Pursuant to Minn. Gen. R. Prac. 14(c), (d) and 15, I declare under penalty of perjury

that everything I have stated in this document is true and correct.

J. Selmer Law, P.A.

Dated: May 24, 2019

/s/Marc M. Berg

Marc M. Berg