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STATE OF MINNESOTA

COUNTY OF CARVER

DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT
Case Type: Special Administration
Court File No.: 10-PR-16-46
Judge Kevin W. Eide

Estate of

Prince Rogers Nelson,

Decedent.

OBJECTIONS TO THE PROTOCOL PRIOR TO POTENTIAL GENETIC TESTING AND THE SPECIAL ADMINISTRATOR'S DETERMINATION PURSUANT THERETO ON THE CLAIM OF ESTABON BENNERMON

ORAL ARGUMENT REQUESTED

Estabon Bennermon ("Estabon"), by and through his attorneys of record, hereby submits this Objections to the Protocol Prior to Potential Genetic Testing and the Special Administrator's Determination Pursuant Thereto on the Claim of Estabon Bennermon by letter dated July 1, 2016.

INTRODUCTION

Procedurally, Estabon is objecting to the determination made in the letter dated July 1, 2016 issued by counsel for Bremer Trust National Association ("Bremer" or "Special Administrator"), as Special Administrator of the Estate of Prince Rogers Nelson ("Prince" or "Decedent"), pursuant to its Protocol Prior to Potential Genetic Testing (the "Protocol"), as approved by Court Orders dated May 18, 2016 and June 6, 2016, subject to objections to be filed with the Court by no later than June 20, 2016 and by subsequent Court Order dated June 27, 2016 seeking additional comments to the Protocol by no later than July 8, 2016. Estabon should be permitted to undergo DNA testing now. He claims through good faith factual assertions

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regarding the likelihood that he is the natural son of Prince, and consequently objects to the Protocol for several reasons. While he does not and cannot now rule out the possibility that Prince was not his father, Estabon is entitled to know at the earliest opportunity whether he should proceed with the arduous task of asserting his rights of inheritance. Testing at this juncture will eliminate what could be a significant waste of judicial resources and prevent unnecessary and continued litigation costs being borne by both Decedent's estate and Estabon when the threshold question can be resolved now by an expeditious and flexible approach. The July 1, 2016 letter determination rejecting his claim will, on the other hand, cause all involved to expend significant resources—before it is confirmed that such an investment in the attendant legal inquiry is in fact necessary.

Bremer states that Estabon has not presented evidence sufficient for him to undergo DNA testing. But Estabon has presented facts supporting the likelihood that he is the genetic son of Prince based on an affair that occurred in 1984 and related validation of this likelihood by one of Prince's business associates. Confirmation of this possibility was in progress prior to Prince's untimely passing. Despite such factual assertions and without any acknowledgement of the potential legal problem inherent in an adoption that was likely unknown and without notice as to the biological father, Bremer argues pursuant to Minn. Stat. § 524.2-119 and § 524.2-116, that Estabon's circumstances do not meet the exceptions for inheritance. Bremer does so without any review of the underlying facts and circumstances underpinning Estabon's adoption, the procedures that were employed in his case in the State of New York, the termination of parental rights that occurred at that time, the laws in effect at the time of the adoption proceedings and application of the appropriate body of law through conflicts of law principles. The circumstances surrounding his adoption by foster parents may need to be investigated as to the issues raised

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here. None of these issues deserve short shrift or avoidance – and none need to be undertaken unless and until genetic testing confirms what the facts suggest: that Estabon is Prince's biological son.

Going beyond the Protocol, Bremer also invokes the Adoption Law, Minn. Stat. § 259.59 to raise a new issue. Bremer argues that as an adoptee, Estabon cannot bring an action seeking to establish a parent-child relationship to inherit from either birth parent. The refusal to permit Estabon to submit to DNA testing is, however, a violation of Estabon's Equal Protection Rights under the Fourteenth Amendment to the United States Constitution since it unfairly discriminates between classes of "illegitimates" — those that were adopted and those that were not, and also those that were adopted by a stepparent and those that were not. This Court should not countenance a potential violation of Estabon's constitutional rights. For the moment, there should be no impediment to permitting Estabon to confirm his belief that Prince was his birth father, despite any other challenges to the contrary, that he may face in establishing his rights of inheritance. We submit that there is no longer a universally held belief that adopted children should be deprived of such information if they desire to have it.

BACKGROUND

Estabon was born on June 7, 1985 in Bennington, Vermont. Affidavit of Estabon Bennermon dated June 22, 2016 (filed June 23, 2016) which was submitted in accordance with the Protocol (the "Estabon Affidavit") ¶1. Estabon's mother, Rebecca Bell, was not married when he was born. Id. ¶2. He was raised and spent his childhood in Poughkeepsie, New York. Id. He lived with his mother from birth to age seven, when he was placed in foster-care by social services. Id. At the age of twelve he was adopted by foster parents living outside of

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Poughkeepsie, New York. Id. During his childhood, he was not aware of the identity of his birth father. Id.

Over the past few years, Estabon reconnected with his maternal birth family. His maternal aunt suggested to him that Prince was his birth father. Id. at 3. Estabon's mother later confirmed that while a student she had a brief affair with Prince in 1984 when he was promoting his music in the Buffalo, New York area. Id.

Since discovering the facts regarding his birth father and prior to Prince's death, Estabon was approached by a business associate of Prince who thought that he might be related to Prince because of his similar appearance. Id. at 4. This business associate encouraged Estabon to meet Prince, but Estabon was uneasy about doing that out of fear of rejection and embarrassment. Id. Regrettably, Prince died before Estabon was emotionally prepared to meet with him.

Estabon believes, in good faith, that he is the biological son of Prince. He seeks to have a DNA test performed immediately, at his expense, and provide any other additional documents or proofs necessary to establish his lineage. Id. at 5.

Since becoming aware of the requirements set forth in the Protocol, Estabon has begun the process to obtain records regarding his birth, parental termination proceedings, foster parentage placement and adoption by his foster parents. As of this date, aside from the reissued birth certificate, Estabon has not been able to obtain additional documents since those records are confidential and generally maintained under seal. Estabon continues to make good faith efforts to obtain records from the States of New York and Vermont. Specifically, Estabon seeks records relating to the propriety of his New York State adoption proceedings and the facts and circumstances surrounding the termination of his natural mother's parental rights. This may be a long and arduous process.

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The Protocol applies the Minnesota Parentage Act in direct contravention of the Minnesota Probate Code and Minnesota common law, as part of the process of determining the heirs to the Estate of Prince Rogers Nelson. The Protocol is a set of questions drawn by Bremer from the Minnesota Parentage Act. As requested, Estabon provided the Affidavit in response to the Protocol. In making a determination whether Estabon may undergo genetic testing to learn if he is an heir, Bremer relied upon both presumptions of paternity contained in the Parentage Act and the Minnesota Supreme Court's decision In re Estate of Jotham, 722 N.W.2d 447 (Minn.2006). Bremer also went beyond the Protocol in refusing to allow testing without further allowance as to potential legal complexities, including, *inter alia*, the fact that Estabon was adopted by his foster parents while a minor.

LEGAL ARGUMENT

POINT I

ESTABON SHOULD BE PERMITTED TO UNDERGO DNA TESTING NOW

At this juncture, Estabon should be permitted to undergo a DNA test for comparison with that of Prince. The Protocol is internally inconsistent as it applies to Estabon. Exhibit B of the Protocol entitled "DNA Parentage-Relationship Testing" indicates that a direct lineal descendant can be determined with 99.99% accuracy. The Protocol as applied to putative lineal descendants is not meaningful and does not operate in a just and efficient manner. Estabon should be permitted to undergo DNA testing at the earliest opportunity.

In the 1970's, the United States Supreme Court was troubled by the "difficulty of proving paternity and the related danger of spurious claims." Trimble v. Gordon, 430 U.S. 762, 765-66 (1977). DNA testing would soon prevent "spurious claims" noted by the Trimble Court. In the modern age of scientific advancement, DNA testing is indeed commonplace. By 1981, the

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Supreme Court supported the accuracy and reliability of DNA testing in Little v. Streater, 452 U.S. 1 (1981). In relevant part, the Supreme Court noted:

> As far as the accuracy, reliability, dependability—even infallibility—of the test are concerned, there is no longer any controversy. The result of the test is universally accepted by distinguished scientific and medical authority. There is, in fact, no living authority of repute, medical or legal, who may be cited adversely.... [T]here is now ... practically universal and unanimous judicial willingness to give decisive and controlling evidentiary weight to a blood test exclusion of paternity.

Id. at 6-7 (1981) quoting S. Schatkin, Disputed Paternity Proceedings § 9.13 (1975).

Given that DNA testing is so accessible and reliable in determining paternity, Estabon will be prejudiced if he is forced to wait any longer to submit his DNA tests. Further, it appears that the class of possible claimants has been effectively closed by order of this Court, making it unlikely that Bremer will be overwhelmed by numerous demands for DNA testing.

POINT II

THERE IS NO INDICATION THAT ESTABON AND PRINCE WERE GIVEN THE OPPORTUNITY TO OBJECT TO ESTABON'S ADOPTION

If Estabon is not now given the opportunity to submit to DNA testing due to the fact that he was adopted, it will be prejudicial to the interests of all interested parties. There is no current indication that Estabon and Prince were given the opportunity to object to Estabon's adoption by his foster parents pursuant to NY DOM REL § 111-a. It is also unlikely that Estabon or Prince were given the opportunity to object to the termination of parental rights proceedings, or that the same was entered into with knowledge that Prince was potentially Estabon's genetic parent. Estabon's adoptive parents had no choice but to adopt Estabon, as they likely would have lost both custody and financial support from the State of New York had Estabon returned as a foster child to the social services system. Had Estabon known the identity of his natural father, he would have most certainly objected through the court's appointment of a *guardian ad litem*.

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Failing to permit Estabon to submit to a DNA test now would violate Estabon's due process rights since there may well have been substantive and procedural defects in the adoption proceedings that he should have the opportunity to investigate if necessitated by the results of the DNA testing. Based upon the paucity of records available to Estabon, the Special Administrator, and the Court, the opportunity to determine that Estabon is a legitimate and rightful participant in these proceedings should not be foreclosed. It is common knowledge that records of these proceedings are difficult and sometimes impossible to obtain. Testing should not be deferred pending this investigation.

POINT III

THE EXISTENCE OF A GENETIC RELATIONSHIP IS THE THRESHOLD QUESTION IN DETERMINING THE RIGHTS OF CHILDREN TO INHERIT UNDER THE PROBATE CODE

The Minnesota Probate Code provides a complete mechanism for disposing of an estate when a person dies intestate. Minn. Stat. Ch. 524. It is not necessary or required to look to any other statutory scheme designed by the legislature for other purposes. Under Minnesota law, in an intestate proceeding, if the decedent is not the parent of any living children (or their descendants), then the decedent's siblings and half-siblings (and the descendants of deceased siblings and half-siblings) may be determined to be heirs. Minn. Stat. § 524.2-103(3).

Minnesota law defines a genetic parent as being "a child's genetic father or genetic mother." Minn. Stat. § 524.1-201(24). A genetic father is "the man whose sperm fertilized the egg of the child's genetic mother." Minn. Stat. § 524.1-201(22). However under the Parentage Act, circumstances where, if a father-child relationship is established under the presumption of paternity under chapter 257, "genetic father" will mean only the man for whom that relationship is established. Id. A genetic mother is "the woman whose egg was fertilized by the sperm of a

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child's genetic father." Minn. Stat. § 524.1-201(23).

Consequently, the Court should immediately resolve the threshold question of Estabon's status by ordering the Administrator to proceed with genetic testing for him forthwith.

POINT IV

MINNESOTA COMMON LAW CONFIRMS THE PROBATE CODE IS TO BE USED TO DETERMINE HEIRS

The Special Administrator erroneously attempts to limit the DNA testing of individuals such as Estabon. Bremer relies upon In re Estate of Jotham, 722 N.W.2d 447, 455-56 (Minn.2006) for additional support for the conclusion that the evidence is insufficient to warrant genetic testing. Bremer's letter dated July 1, 2016, citing the Minnesota Parentage Act argued that Estabon cannot bring an action seeking to establish a parent-child relationship as an adoptee. The Jotham case does not support Bremer's use of the Parentage Act as the tool by which to determine the legal heirs of the Estate of Prince. Jotham just held that if one benefits from the presumptions of the Parentage Act, he or she is not permitted to challenge the rights of another individual who also claims the benefits of those presumptions to establish his or her rights to inherit.

The Jotham decision is the third in a line of cases decided by the Minnesota Supreme Court and Court of Appeals between 2003 and 2006. The cases are In re Estate of Palmer, 658 N.W.2d 197 (Minn.2003), Estate of Martignacco, 689 N.W.2d 262 (Minn.Ct.App.2004) *review denied* (Minn. January 26, 2005) and Jotham. Each court addressed the question of how to determine heirs in an intestate Probate proceeding. None of the three Courts held that it was mandatory to use the Parentage Act to do so. When Palmer, Martignacco, and Jotham were

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decided, the Probate Code contained language stating "the parent and child relationship may be established" under the Parentage Act, sections 257.51 to 257.74."[1]

The issue before the court in Palmer was "whether parentage for the purposes of intestate succession may be established by clear and convincing evidence apart from the Parentage Act and its time limitation on bringing actions to determine paternity." Palmer, 658 N.W.2d at 197. Examining the language of the statute, the court noted that the use of the word "may" in the statute was permissive and found that "the probate code through the use of the term "may" explicitly provides that the Parentage Act is not the exclusive means of determining parentage for the purposes of intestate succession." Id. at 199-200.

Although the statute in question in Palmer no longer exists, the dicta of the case is instructive. Examining a decision by the New Jersey Supreme Court on the topic of proving parentage for purposes of intestate succession, the Minnesota Supreme Court found the rationale applicable to Minnesota law. Id. at 200. Quoting the section of the decision explaining the differences between the New Jersey Parentage Act and Probate Code, the Minnesota Supreme Court in Palmer noted:

> The Parentage Act and the Probate Code are independent statutes designed to address different primary rights. The purpose of the Parentage Act is to establish "the legal relationship * * * between a child and the child's natural or adoptive parents, incident to which the law confers or imposes rights, privileges, duties, and obligations." Child support is the major concern under the Parentage Act. The purpose of the Probate Code, on the other hand, is to determine the devolution of a decedent's real and personal property.

Id. *quoting* Wingate v. Estate of Ryan, 149 N.J. 227, 693 A.2d 457 (N.J.1997).

Palmer further states that the separate purposes of probate and family law justify a

[1] See earlier iterations of Minn. Stat. 524.2-114 from 1994, 2005, and 2008.

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decision by the legislature *not* making the Parentage Act the sole method to establish paternity for probate matters. Palmer, 658 N.W.2d at 200 (emphasis added). The guidance Palmer gives to future determinations of heirship is this: under the Probate Code, parentage for purposes of intestate succession may be established by clear and convincing evidence and use of the Parentage Act to do so is permissive at best.

In Martignacco the Minnesota Court of Appeals examined the question of intestate succession. The decision of that Court relied upon and reinforced the Palmer holding. In Martignacco the District Court applied the clear and convincing evidence standard from Palmer, and determined the respondent to be the decedent's sole heir. Martignacco, 689 N.W.2d at 266. On appeal, the appellant claimed the District Court erred by failing to apply the time limitations of the Parentage Act. The Court of Appeals disagreed and upheld the decision of the District Court. Id. at 267-68.

The Martignacco Court also examined Minn. Stat. § 524.2-114 and relying upon Palmer found that the permissive nature of the word "may" in the Probate Code means that the District Court did not err by applying the clear and convincing evidence standard to determine that respondent is the sole heir of the decedent. Id.

Finally, in Jotham the Minnesota Supreme Court refined its interpretation of Minn. Stat. 524.2-114 and restricted the factual circumstances that will allow the use of the Parentage Act to determine heirs in a probate matter. Jotham's widow identified Nelson and Barnett as his daughters in a Petition for Formal Adjudication of Intestacy, Determination of Heirs, and Appointment of Administrator. Jotham, 722 N.W.2d at 449. Nelson was born to Jotham's wife Margaret during their marriage. Id. Barnett was born to Margaret 279 days after judgment of divorce was entered dissolving Jotham and Margaret's marriage. Id. Both Nelson and Barnett

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benefitted from a presumption of paternity found in the Parentage Act. Id. at 449-50. However, Nelson objected to the identification of Barnett as Jotham's child and sought to introduce evidence that Jotham was not Barnett's father. Id. at 449.

Taking the opportunity to clarify when it is appropriate to use either a Parentage Act presumption or the clear and convincing evidence standard stated by Palmer, the Court found that in a situation where a party benefits from a Parentage Act presumption of paternity, and relies upon that presumption in a probate proceeding, the party has made a decision to establish paternity under the Parentage Act as permitted by statute and common law. Id. at 452. Also, in that situation "the provisions of the Parentage Act must apply in their entirety." The Court stated:

> Our holding in Palmer thus does not give probate courts license to pick and choose among the provisions of the Parentage Act when ascertaining parentage for probate purposes. Accordingly, we conclude that when a party benefits from a presumption of paternity found in the Parentage Act and relies on that presumption to establish paternity in a probate proceeding, the probate court must apply the Parentage Act in its entirety to determine paternity for purposes of intestate succession.

Id. at 452-53.

Jotham does not support a conclusion that the Parentage Act is to be applied to the claims of heirship asserted by Estabon. Jotham only refines the application of the Palmer clear and convincing evidence standard, and restricts the use of the Parentage Act in intestate succession matters to situations where a party claiming to be an heir benefits from a presumption of paternity found in the Parentage Act, including limitations on the time an action could have been brought challenging a presumption of paternity.

The Minnesota Probate Code provides that "[e]xcept as otherwise provided in section 524.2-114, 524.2-119, or 524.2-120, a parent-child relationship exists between a child and the child's genetic parents, *regardless* of the parents' marital status." Minn. Stat. § 524.2-117

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(emphasis added).[2] Also, the effect of a parent-child relationship means that "[e]xcept as otherwise provided in section 524.2-119, subdivisions 2 to 5, if a parent-child relationship exists or is established *under this part*, the parent is the parent of the child and the child is a child of the parent for the purpose of intestate succession." Minn. Stat. § 524.2-116 (emphasis added).

No provision of the Probate Code mandates the use of the Parentage Act to determine heirs in an intestate probate proceeding. The Parentage Act serves as the basis for a number of family rights, such as child support obligations and custody. The Probate Code is solely concerned with rights of inheritance.

Estabon's claim of heirship is not based upon a presumption of paternity under the Parentage Act and it must be subjected to the clear and convincing evidence standard set forth in Palmer and upheld in Martignacco. DNA testing is the first step in meeting this standard. In the case of a lineal descendant, such as a child, it is also the final step.

POINT V

DISCRIMINATION AGAINST ESTABON AS AN ILLEGITIMATE AND ADOPTED FOSTER CHILD IS A VIOLATION OF THE EQUAL PROTECTION CLAUSES OF THE MINNESOTA AND UNITED STATES CONSTITUTIONS

Bremer's July 1, 2016 letter response to the Estabon Affidavit operates to infringe Estabon's constitutional rights. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution will be violated if this Court finds either the Minnesota Parentage Act (Minn. Stat. §§ 257.01 through 257.75) or Minn. Stat. §259.59 to be applicable in regard to Estabon. The United States Supreme Court has long held that statutes that deny illegitimate children inheritance rights are unconstitutional. Adopted foster children with unrecognized

[2] Minn. Stat. § 524.2-114, 524.2-119, or 524.2-120 concern individuals related through two lines of relationship, adopted children, and adopted children's genetic parents.

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parentage are in no different circumstances. In Trimble v. Gordon, the United States Supreme Court found an Illinois statute unconstitutional as a denial of equal protection because the statute "invidiously" discriminated on the basis of illegitimacy and sex in denying an illegitimate child an inheritance interest from the child's father. In Trimble, the Supreme Court reasoned:

> Appellees characterize the Illinois intestate succession law as a "statutory will." Because intent is a central ingredient in the disposition of property by will, the theory that intestate succession laws are "statutory wills" based on the "presumed intent" of the citizens of the State may have some superficial appeal. The theory proceeds from the initial premise that an individual could, if he wished, disinherit his illegitimate children in his will. Because the statute merely reflects the intent of those citizens who failed to make a will, discrimination against illegitimate children in intestate succession laws is said to be equally permissible. The term "statutory will," however, cannot blind us to the fact that intestate succession laws are acts of States, not of individuals. Under the Fourteenth Amendment this is a fundamental difference.
>
> Even if one assumed that a majority of the citizens of the State preferred to discriminate against their illegitimate children, the sentiment hardly would be unanimous. With respect to any individual, the argument of knowledge and approval of the state law is sheer fiction. The issue therefore becomes where the burden of inertia in writing a will is to fall. *At least when the disadvantaged group has been a frequent target of discrimination, as illegitimates have, we doubt that a State constitutionally may place the burden on that group by invoking the theory of "presumed intent."*

Id. at 775 (citations omitted) (emphasis added).

Likewise, Estabon's equal protection rights will be violated if the Court applies the Parentage Act. Permitting the Parentage Act to apply would be a violation of the Minnesota Constitution, Article 1, Sec. 2. Rights and Privileges, due to the Parentage Act's discriminatory nature which applies standards found in the laws of paternity and seeks to apply that treatment of illegitimates to intestate succession.

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Estabon as the genetic child of Prince must take whatever steps are necessary to vindicate his rights. Should he be confronted by the obstacle to this presented by Minn. Stat. §§ 524.2-119 and Minn. Stat. § 259.59 because he was adopted by foster parents while a minor, he must challenge the statutes on constitutional grounds. Because of the clarity of DNA testing, it will be factually accurate to say that the illegitimate children of decedents are being discriminated against when their rights of inheritance are terminated and replaced with rights of inheritance from their adopting parents. Since the legislature has prescribed a method of distribution of estates in the absence of a will, there is no reason why this scheme should not be followed when there is an adoption. If the legislature chooses to allow inheritance from and through his adopted family, that is all well and good. However, to remove the rights of inheritance that other illegitimate children have because of adoption constitutes a classification that invidiously discriminates against those who are adopted. In Trimble, the Illinois state legislature intended to remedy the complete bar against an inheritance by illegitimate children by permitting inheritance from the mother, where there is no issue of parentage. See also, In re Cherkas, 506 A.2d 1029 (RI 1986); Estate of Maislin, 181 N.J. Super. 14 (App.Div.1981). Presumably because of the fact that proof of parentage from the father was problematic, a distinction was made between children born out of wedlock and those born of married parents that the court struck it down.

Of course, difficulties of proof remained after Trimble. With DNA testing so reliable in the case of a parent and child, any reservations with regard to parentage are laid to rest. Thus, a constitutional attack on the policy of removing rights of inheritance from intestate decedents in the case of children is ripe. In fact, Minnesota, and many other jurisdictions have incorporated an exception to the general rule whereby illegitimate offspring can inherit from their genetic parents as well as by and through stepparents who adopt them. Consequently, there is a class of natural

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born children who receive preferential treatment over those who are adopted by married couples neither of whom are natural parents of the child. There is no rational basis for preserving rights of inheritance from and through both natural parents and also conferring rights to inherit from and through the stepparent who adopts, while not preserving those rights when both of the adopting parents are not natural parents. This being the case, the exception fails the constitutional test as must the entire statutory scheme of shifting rights from the genetic parents to the adopting parents. Whether his status as the child of Prince is established now or after these issues are determined by the courts, Estabon will be obliged to litigate these issues.

As demonstrated above, the Minnesota Probate Code (Minn Stat. §§ 524.2-119) and the Minnesota Adoption Statute (Minn. Stat. § 259.59) violate Estabon's equal protection rights, as they discriminate against adopted children by removing any legal relationship they have with their birth parents without recognition of the child or an unnoticed parent's wishes, desires or, in the case of the unrecognized parent -- obligations. Subdivision 2 of Minn Stat. §§ 524.2-119 and Subdivision 1a. of Minn. Stat. § 259.59 specifically provides for a parent-child relationship to exist with stepparents who have adopted their stepchildren and also both biological parents, where one not married to another parent is deceased. However, adopted children adopted by anyone other than a stepparent do not have this right. As Estabon likens the relationship he has as an adopted foster child with that of stepchildren and their birth parents, Estabon's situation constitutionally mandates that adopted children and especially adopted foster children should be given the same right as stepchildren to continue the legal relationship with their birth parents for purposes of intestate succession.

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CONCLUSION

Estabon should be permitted to submit to DNA testing now. Permitting him to have DNA testing done now will resolve the question of his paternity, and may save several years of litigation. It would be absurd and expensive to proceed through lengthy probate proceedings and appeals without knowing whether Estabon is in fact the birth child of Prince. The Minnesota Probate Code does not mandate the use of the Parentage Act as a tool to determine heirs in a probate proceeding. Furthermore, the issues related to adoption, involving constitutional issues, factual issues, matters of statutory construction and effective dates, procedural defects in the adoption proceeding and matters relating to conflict of laws can go on for years. This would be pointless if at the end of all that effort and Estabon's good faith belief in his parentage is conclusively disproved by genetic testing. On the other hand, if Prince is his birth parent, those issues should and must be addressed in the interests of justice.

Estabon requests, in the interests of justice, that the Court issue an Order stating that the Parentage Act does not apply to the determination of heirs in this matter, that Bremer shall revise the Protocol to apply the clear and convincing evidence standard from Palmer, and that Estabon be permitted to have the benefit of genetic testing performed immediately.

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