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STINSON
LEONARD
STREET

November 1, 2016

Via Email
Ryan Dodge
lmbd@frontiernet.net

Re: Ryan Dodge Heirship Claim

Dear Mr. Dodge:

Thank you for submitting your response to the Request for Parentage Information.

With respect to the Protocol adopted by the Court, the Special Administrator's goal is to apply existing Minnesota law equally to all persons claiming to potentially be an heir of Prince Rogers Nelson (the "Decedent"). Such relevant law includes the Minnesota Probate Code (Minn. Stat. Ch. 524), the Minnesota Parentage Act (Minn. Stat. §§ 257.01 through 257.75) and Minnesota common law.

The materials you provided were not under oath, as required by the Protocol adopted by the Court. However, even if you had complied with the Protocol's requirements, the materials you provided do not establish a reasonable possibility that sexual contact occurred between your mother and the Decedent that would give rise to a claim that you are a child of the Decedent. Furthermore, your materials state that Jeffrey W. Dodge is your biological father.

Based on the facts you have alleged, there is insufficient competent evidence that the requisite sexual contact occurred between the Decedent and your mother around the time of your conception. In addition, Minnesota law conclusively recognizes Jeffrey W. Dodge to be your biological father. Under these circumstances and the Court's rulings as to other potential heirs (attached), it is the Special Administrator's determination that the evidence you have presented is insufficient to warrant genetic testing.

Very truly yours,

STINSON LEONARD STREET LLP

David R. Crosby

DRC:mp
Enclosure

STATE OF MINNESOTA

COUNTY OF CARVER

DISTRICT COURT

FIRST JUDICIAL DISTRICT
PROBATE DIVISION
Case Type: Special Administration

Court File No. 10-PR-16-46

In the Matter of the Estate of:

Prince Rogers Nelson,

Decedent.

AMENDED ORDER REGARDING GENETIC TESTING PROTOCOL AND HEIRSHIP CLAIMS FOLLOWING THE JUNE 27, 2016 HEARING AND JUDGMENT

The Court filed an ORDER REGARDING GENETIC TESTING PROTOCOL AND HEIRSHIP CLAIMS FOLLOWING THE JUNE 27, 2016 HEARING AND JUDGMENT on July 29, 2016. In that Order, the Court excluded a number of persons because they were claiming to be an heir of the Decedent who had a lower priority than a sibling or a half-sibling and, therefore, would be excluded as an heir as a matter of law. The Court erred in including Nicole White, Claire Boyd, Michael Darling and Maurice Soledad in the group of persons that were excluded as heirs.

Maurice Soledad has not claimed to be an heir of the Estate. Rather he claims a financial interest as a creditor based upon promises made by the Decedent. His claims are not ruled upon in this Order and will not be addressed at this time. The claims of Nicole White, Claire Boyd and Michael Darling will be addressed separately later in this Order. All other Findings, Conclusions and Orders remain the same and have not changed since the filing of the Order on July 29, 2016.

On May 6, 2016, this Court filed an Order Authorizing Genetic Testing of the Decedent's Blood. In a separate Order Regarding Claims Pursuant to the Parentage Act and Probate Code, filed May 18, 2016, the Court permitted the genetic testing of those claiming to be an heir of the Decedent, but subject to a genetic testing protocol that was to be developed by the Special

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Administrator. Finally, on June 6, 2016, the Court filed an Order Approving Protocol, where the Court approved the protocol for genetic testing. In both the May 18, 2016 and the June 6, 2016 Orders, the Court stated that any party wishing to bring a motion before the Court regarding, or wishing to object to, the Court's Order Regarding Claims Pursuant to the Parentage Act and Probate Code or the Order Approving Protocol could have those motions or objections heard before this Court on June 27, 2016 at 8:30 a.m.

On June 27, 2016, the Court conducted the aforementioned hearing. Appearances were noted on the record. Prior to the hearing, the Court had received the Objection to proposed Order Regarding Claims Pursuant to the Parentage Act and Probate Code filed on May 17, 2016 by Darcell Gresham Johnston; the Objection to Order Regarding Claims Pursuant to the Parentage Act and Probate Code filed on May 18, 2016 by Carlin Q. Williams; the Objection to Special Administrator Request for Order Regarding Claims Pursuant to Parentage Act and Probate Code filed on May 23, 2016 by Brianna Nelson and V.N.; the Memorandum of Law in Support of Darcell Gresham Johnston's Objection to Protocol Prior to Genetic Testing filed on June 20, 2016; the Special Administrator's Memorandum of Law in Response to Darcell Gresham Johnston's Objection to Protocol Prior to Genetic Testing filed June 24, 2016; and Sharon Nelson, Norrine Nelson, and John Nelson's Joinder in Special Administrator's Response to Darcell Gresham Johnston's Objection to Protocol Prior to Genetic Testing filed June 24, 2016.

At the close of the June 27, 2016 hearing, the Court gave the parties until July 15, 2016 to submit any additional written argument. The Court received the Objections to the Protocol Prior to Potential Genetic Testing and the Special Administrator's Determination Pursuant thereto on the Claim of Estabon Bennermon filed on July 7, 2016. On July 15, 2016, the Court received the Supplemental Memorandum of Law in Support of Venita Jackson Leverette's Objection to

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Protocol Prior to Genetic Testing; the Special Administrator's Supplemental Memorandum of Law Regarding Protocol Prior to Genetic Testing and Affidavit of David R. Crosby Regarding Protocol Prior to Genetic Testing; the Supplemental Memorandum of Law in Support of Darcell Gresham Johnston's Objection to Protocol Prior to Genetic Testing and Affidavit of Cameron M. Parkhurst; the Petition Heirs' Joint Memorandum of Law in Response to Objections to Protocol Prior to Genetic Testing and Affidavit of Tyka Nelson Regarding Protocol Prior to Potential Genetic Testing; and the Supplemental Objection of Brianna Nelson and V.N. to the Protocol Prior to Potential Genetic Testing Proposed by the Special Administrator.

FACTUAL HISTORY

Prince Rogers Nelson was born on June 7, 1958. His Certificate of Birth lists his parents as Mattie Della (Shaw) and John L. Nelson. Mattie Della Shaw and John L. Nelson were married on August 31, 1957, and were divorced on September 24, 1968. In the Findings of Fact, Conclusions of Law and Order for Judgment in the marriage dissolution proceeding, Prince Rogers Nelson was adjudicated a child of Mattie Shaw and John L. Nelson. Tyka Nelson was also adjudicated a child of Mattie Shaw and John L. Nelson. John L. Nelson died on August 25, 2001. In the Estate of John L. Nelson, Prince Rogers Nelson was adjudicated a person of interest as an heir and was qualified to serve as the Personal Representative of the Estate. Probate records also identify Lorna Nelson, Sharon Blakely, Norrine Nelson, John R. Nelson and Tyka Nelson as the children of John L. Nelson.

The Petition for Formal Appointment of Special Administrator alleges that the following persons are the siblings or half-siblings of Prince Rogers Nelson: John Nelson, Norrine Nelson, Sharon Nelson, Alfred Jackson, Omar Baker, Lorna Nelson (predeceased, leaving no children) and

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Tyka Nelson. The Court is not aware of any objection or dispute with the statement that these persons are the siblings or half-siblings of Prince Rogers Nelson. This does not exclude the possibility that others may also be a sibling or half-sibling of Prince Rogers Nelson.

Several persons have come forward claiming to be a child of Prince Rogers Nelson.

Several persons have come forward claiming to be a sibling or half-sibling of Prince Rogers Nelson, claiming that John L. Nelson was not the genetic father of Prince Rogers Nelson and claiming that he or she (or his or her deceased parent) has a common father with Prince Rogers Nelson.

CASE LAW AND STAUTORY HISTORY

RELEVANT MINNESOTA STATUTES

524.1-201 GENERAL DEFINITIONS, provides in the relevant provisions:

Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in chapters 524 and 525:

(1) "Adoptee" means an individual who is adopted.

(5) "Birth mother" means a woman who gives birth to a child, including a woman who is the child's genetic mother and including a woman who gives birth to a child of assisted reproduction. "Birth mother" does not include a woman who gives birth pursuant to a gestational agreement.

(6) "Child" includes any individual entitled to take as a child under law by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

(22) "Genetic father" means the man whose sperm fertilized the egg of a child's genetic mother. If the father-child relationship is established under the presumption of paternity under chapter 257, "genetic father" means only the man for whom that relationship is established.

(23) "Genetic mother" means the woman whose egg was fertilized by the sperm of a child's genetic father.

(24) "Genetic parent" means a child's genetic father or genetic mother.

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524.2-103 SHARE OF HEIRS OTHER THAN SURVIVING SPOUSE, provides in the relevant provisions:

Any part of the intestate estate not passing to the decedent's surviving spouse under section 524.2-102, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated below who survive the decedent:

(1) to the decedent's descendants by representation;

(2) if there is no surviving descendant, to the decedent's parents equally if both survive, or to the surviving parent;

(3) if there is no surviving descendant or parent, to the descendants of the decedent's parents or either of them by representation;

Until its amendment in 2010, **524.2-114 MEANING OF CHILD AND RELATED TERMS,** provided in the relevant provisions:

If, for purposes of intestate succession, a relationship pf parent and child must be established to determine succession by, through, or from a person:

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 to 257.74.

In 2010, this language was deleted from the statute and no other language was added to assist the Court determining the existence of a parent child relationship under the probate code.

524.2-116 EFFECT OF PARENT-CHILD RELATIONSHIP, provides:

Except 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 a parent of the child and the child is a child of the parent for the purpose of intestate succession.

524.2-117 PARENT-CHILD RELATIONSHIP WITH GENETIC PARENTS, provides:

Except 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.

524.2-119 ADOPTEE AND ADOPTEE'S GENETIC PARENTS.

Subdivision 1.**Parent-child relationship between adoptee and genetic parents,** provides in the relevant provisions:

Except as otherwise provided in subdivisions 2 to 5, unless otherwise decreed, a parent-child relationship does not exist between an adoptee and the adoptee's genetic parents.

257.52 PARENT AND CHILD RELATIONSHIP DEFINED, provides:

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As used in sections 257.51 to 257.74, "parent and child relationship" means the legal relationship existing between a child and the child's biological or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

257.54 HOW PARENT AND CHILD RELATIONSHIP ESTABLISHED, provides:

The parent and child relationship between a child and:

(a) the biological mother may be established by proof of her having given birth to the child, or under sections 257.51 to 257.74 or 257.75;

(b) the biological father may be established under sections 257.51 to 257.74 or 257.75; or

(c) an adoptive parent may be established by proof of adoption.

257.55 PRESUMPTION OF PATERNITY, provides in the relevant provisions:

Subdivision 1.**Presumption.**

A man is presumed to be the biological father of a child if:

(a) he and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court. The presumption in this paragraph does not apply if the man has joined in a recognition of parentage recognizing another man as the biological father under section 257.75, subdivision 1a;

Subd. 2.**Rebuttal.**

A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

257.57 DETERMINATION OF FATHER AND CHILD RELATIONSHIP; WHO MAY BRING ACTION; WHEN ACTION MAY BE BROUGHT, provides in the relevant provisions:

Subdivision 1.**Actions under section 257.55, subdivision 1, paragraph (a), (b), or (c).**

A child, the child's biological mother, or a man presumed to be the child's father under section 257.55, subdivision 1, paragraph (a), (b), or (c) may bring an action:

(a) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c); or

(b) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c), only if the action is brought within two years after the person bringing the action has reason to believe that the presumed father is not the father of the child, but in no event later than three years after the child's birth. However, if the presumed father was divorced from the child's mother and if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until one year after the child reaches the age of majority or one year after the presumed father knows or reasonably should have known of the birth of the child, whichever is earlier. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Subd. 2.**Actions under other paragraphs of section 257.55, subdivision 1.**

The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under sections 257.55, subdivision 1, paragraph (d), (e), (g), or (h), and 257.62, subdivision 5, paragraph (b), or the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d);

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.62, subdivision 5, paragraph (b), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood or genetic test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Subd. 3.**Action regarding child with no presumed father under section 257.55.**

An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 257.55 may be brought by the child, the mother or

personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

Subd. 6.**Adopted child.**

If the child has been adopted, an action may not be brought.

257.66 JUDGMENT OR ORDER, provides in the relevant provisions:

Subdivision 1.**Determinative.**

The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

CASE LAW

Several cases were decided by the Minnesota appellate courts under Minn. Stat. § 524-2-114 prior to its amendment in 2010.

In the *Estate of James A. Palmer*, the Decedent's wife sought a declaration of the court that Michael Smith was not the son and heir of the decedent because he was not a presumed parent under the Minnesota Parentage Act. *Estate of James A. Palmer*, 658 N.W. 2d 197, 198 (Minn. 2003). The Minnesota Supreme Court determined that paternity for intestate succession purposes can be established under the Minnesota Parentage Act or by clear and convincing evidence. *Id.* at 200.

In the *Estate of Adolph L. Martignacco*, the Respondent's birth certificate declared that a Harold Reed was his father. *Estate of Adolph L. Martignacco*, 689 N.W. 2d 262, 264 (Minn. Ct. App. 2004). The Respondent grew up believing this to be true until, after the death of Harold Reed, Respondent's mother told the Respondent that his real father was the Decedent Martignacco. *Id.* The Respondent did establish a relationship with the Decedent, but the Decedent never

formally declared the Respondent to be his son. *Id.* Notably, upon the filing of an affidavit of the Respondent's mother declaring that the Decedent Martignacco was the Respondent's father, the Court ordered genetic testing and the Respondent was determined to be the Decedent's son by a 99.99% degree of certainty. *Id.* at 265. The Minnesota Court of Appeals reaffirmed the ruling in *Palmer* and found that the presumption of paternity under the statute had been rebutted by clear and convincing evidence. *Id.* at 268.

In the *Trusteeship of Trust Created Under Trust Agreement dated December 31, 1974*, 674 N.W. 2d 222, 231 (Minn. Ct. App. 2004), the Minnesota Court of Appeals declared a judgment or order of the court determining the existence or non-existence of a parent and child relationship is "determinative for all purposes."

In the *Estate of Leonard Jotham*, Child A sought the declaration of the court that Child B was not the child and heir of the Decedent. *Estate of Leonard Jotham*, 722 N.W. 2d 447, 449 (Minn. 2006). The Decedent was the presumed father of Child B under Minn. Stat. § 257.55 because Child B was born 279 days after the divorce of the Decedent and the mother of Child A and Child B. *Id.* The Minnesota Supreme Court ruled that, when Child B sought to be determined to be a child and heir of the Decedent under the Minnesota Paternity Act (and not by the clear and convincing evidence standard), that presumption could be rebutted only by a person who met the standing and timeliness standard of the Minnesota Paternity Act in Minn. Stat. §257.57. *Id.* at 455.

Much of the appellate analysis in the decisions cited above centered on the permissive language of Minn. Stat. § 524.2-114(2) that existed within the former Probate Code. In 2010, however, that permissive language was eliminated as part of a larger revision of the Probate Code. A new section, 524.2-117, was added, providing that a parent-child relationship exists between a child and the child's "genetic parents." The new Probate Code defines a child's "genetic father"

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as the man whose sperm fertilized the egg of a child's genetic mother. Minn. Stat. § 524.1-201 (22). Importantly, the definition of "genetic father" continues by giving priority to any parent-child relationship established under the Parentage Act.

The Court will address the various applications being made by individuals claiming to be an heir of the Decedent.

CLAIMS BY APPLICANTS WHO ARE A DISTANT RELATIVE FOR THE PURPOSES OF DETERMINING INTESTATE SUCCESSION

There has been no credible, documented claim that any applicant is a surviving spouse of the Decedent. Assuming that there is no surviving spouse, the distribution of the Decedent's estate would be determined under the priority set forth in Minn. Stat. § 524.2-103. There are applicants who have claimed to be a child of the Decedent. Those claims will be addressed below. If there are no surviving children of the Decedent, or descendants of children that predeceased the Decedent, the estate would pass to the surviving siblings of the Decedent, or to the descendants of any predeceased siblings. The Petition for Formal Appointment of Special Administrator alleges that there are several siblings or half-siblings of the Decedent. No one has claimed that none of the siblings or half-siblings identified in the Petition are not a sibling or half-sibling of the Decedent. Therefore, pursuant to Minn. Stat. § 524.2-103, a person claiming to be an heir of the Decedent who has a lower priority than a sibling or a half-sibling would be excluded as an heir as a matter of law. Therefore, April Seward, Martha Samuels, James Womack, Priscilla Williams, Lorraine Huddleston, Dana Nettles, Jonette Carter, Michael Samuels and Mia Dragojevich are excluded as heirs of the Decedent's Estate as a matter of law.

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CLAIMS BY APPLICANTS BASED UPON AN ALLEGED ADOPTION BY THE DECEDENT

Pursuant to Minn. Stat. § 524.1-201(1) an adoptee is an individual who has been adopted. Minn. Stat. § 257.54 provides that a parent and child relationship between a child and an adoptive parent may be established by proof of adoption.

CHILD 1 claims to be a child of the Decedent by means of an adoption, but is unable to provide proof of the adoption. Because CHILD 1 has failed to provide proof of the alleged adoption, CHILD 1 has not established he has been adopted by the Decedent under the Minnesota Parentage Act or by clear and convincing evidence. As CHILD 1 is not able to meet the clear and convincing standard for proving that he is an heir of the Decedent, the Court determines as a matter of law that CHILD 1 is not an heir of the Decedent's estate. If CHILD 1 is able to provide further proof of the adoption, the Court may reconsider this Order.

APPLICATION BASED UPON BEING A GENETIC CHILD OF THE DECEDENT, THE DECEDENTS PARENTAL RIGHTS BEING TERMINATED AND THE CHILD BEING ADOPTED BY OTHER PARENTS

CHILD 2 claims that he was born as a result of a brief sexual relationship between his genetic mother and the Decedent. He further claims that the parental rights of his parents were terminated in a legal proceeding and he was then adopted by another family. Minn. Stat. § 524.2-119 clearly provides that a parent-child relationship does not exist between an adoptee and the adoptee's genetic parents for the purposes of intestate inheritance.

CHILD 2 has requested the Court order that genetic testing be initiated to see if he is the genetic child of the Decedent, and then stay certain proceedings to see if CHILD 2 can vacate the

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proceeding for the termination of his parental rights and his adoption. The Court declines to do so. CHILD 2 is clearly not an heir of the Decedent's estate currently under the Probate Code. There is no presumption of paternity under the Parentage Act. This Court has no jurisdiction or control over the proceedings in a foreign jurisdiction to address the termination of parental rights and adoption proceedings. CHILD 2 shall be excluded as an heir of the Decedent's estate as a matter of law.

Similarly, CHILD 3 claims that she was adopted and she has no knowledge of her biological parents, although she suspects that the Decedent is her father based upon the general description of the lifestyle of her biological parents, her fascination with the Decedent and physical similarities. As CHILD 3 has been adopted by other parents, she would no longer have a parent-child relationship with the Decedent for the purpose of intestate inheritance even if it were established that the Decedent were CHILD 3's genetic parent.

Based upon the documents submitted by CHILD 3, the Court will also find that she has not established a *prima facie* showing that she is a genetic child of the Decedent and shall be excluded as a matter of law as an heir of the Decedent's Estate.

OTHER PERSONS CLAIMING TO BE A CHILD OF THE DECEDENT

None of the other applicants claiming to be a child of the Decedent claim that there is a presumption of paternity under the Minnesota Parentage Act. The Court notes that in the *Estate of Adolph L. Martignacco,* the Decedent was not listed as the father on the applicant's birth certificate. Another person was the presumed father of the child as the child was born during the marriage of this other person and the applicant's mother. *Martignacco*, 689 N.W.2d at 264. *Id.* The Court allowed the matter to proceed to genetic testing based upon an affidavit of the mother

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of the applicant stating that Aldolph Martignacco was actually the applicant's father. *Id.* *Martignacco* is distinguishable from this case in that, in *Martignacco,* the decedent and the applicant did develop a relationship prior to the decedent's death. In the claims that have been made by CHILD 4 and CHILD 5, neither of the claimants allege a relationship with the Decedent during his lifetime.

Further, neither CHILD 4 nor CHILD 5 have provided an affidavit from their mother indicating that the mother had a sexual relationship with the Decedent which resulted in their birth. They have, instead, relied on speculation or third-party conjecture as a basis for their claims. CHILD 4 refers to a statement made by a friend of his presumed father (the friend is not even identified) through which he "**inferred** from these conversations that my mother had sex with Prince." *Emphasis added.*

CHILD 5 claims that his mother told him, at age 28, that his father "was very smart and intelligent." No other information was provided. CHILD 5 finally claims that "[i]n late 2010, at my grandmother's funeral, I was told by my mother's best friend my name was French for Young Prince and Mr. Nelson was the reason."

Based upon the information provided, neither CHILD 4 or CHILD 5 have established a *prima facie* showing that they are the children of the Decedent and both shall be excluded as a matter of law as heirs of the Decedent.

APPLICATIONS BASED UPON A CLAIM OF BEING A DESCENDANT OF DUANE NELSON

Brianna Nelson and V.N. allege they are the niece and grandniece, respectively, of the Decedent and are the daughter and granddaughter, respectively, of Duane J. Nelson. They allege

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that Duane J. Nelson is the half-sibling of the Decedent. Duane J. Nelson's birth certificate indicates that John L. Nelson is his birth father and Vivian Nelson is his birth mother. If this is true, Duane J. Nelson would be a full sibling of John Nelson, Norrine Nelson and Sharon Nelson, and a half-sibling of Tyka Nelson and the Decedent.

Brianna Nelson and V.N. allege that John L. Nelson held himself out to be Duane J. Nelson's father during his lifetime, was supportive of Duane's athletic accomplishments, and visited Duane a number of times in Milwaukee. It is further alleged that Duane J. Nelson was identified as the son of John L. Nelson in his own obituary, as well as the obituary of Lorna Nelson. Lorna Nelson listed Duane J. Nelson as her half-brother in pleadings in *Nelson v. PRN Productions, Inc.* 873 F.2d 1141, 1141 (8th Cir. 1989).

Brianna Nelson and V.N. allege that Duane J. Nelson had a close relationship with the Decedent during junior high school and high school. Later, it is alleged that the Decedent put Duane J. Nelson in charge of his personal security. It is alleged that Duane J. Nelson worked with the Decedent when he was at Paisley Park and when the Decedent was traveling.

The Court is satisfied that Brianna Nelson and V.N. have made a prima facie showing that they are potential heirs of the Decedent. Therefore, the Court will order the genetic testing of Brianna Nelson, V.N., John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson.

APPLICATIONS BASED UPON A CLAIM OF BEING A DESCENDANT OF THE FATHER OF THE DECEDENT AND ALLEGING THAT A PERSON OTHER THAN JOHN L. NELSON IS THE FATHER OF THE DECEDENT.

Various applicants claim that they are a descendant of Loyal James Gresham, Jr., Paul Leonard Newman, Haywood Nelson, Sr., or Alfred Jackson, Sr.; and further allege that one of those persons is, in fact, the father of the Decedent.

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John L. Nelson is the father listed on the Decedent's birth certificate and the Decedent was born during the marriage of John L. Nelson and Mattie Della (Shaw). John L. Nelson is the presumptive father of the Decedent. Minn. Stat. § 257.55 (2015). Pursuant to the Minnesota Probate Code, if the father-child relationship is established under the presumption of paternity under chapter 257, "genetic father" means only the man for whom that relationship is established. *See* Minn. Stat. §§ 524.1-201(22), 524.2-116 and 524.2-117. Therefore, John L. Nelson is also the genetic father of the Decedent. The Decedent was adjudicated the child of John L. Nelson and Mattie Della (Shaw) in their divorce decree. The Decedent was adjudicated an interested person in the Estate of John L. Nelson as an heir and served as Personal Representative of the Estate of John L. Nelson. John L. Nelson is the presumptive father, the genetic father and the adjudicated father of the Decedent.

These applicants argue rightfully that, under some circumstances in probate proceedings, a presumption under the Parentage Act can be rebutted, and paternity can be established, by clear and convincing evidence separately from the Parentage Act. See *In Re the Estate of James A. Palmer*, 658 N.W. 2d 197 (Minn. 2003) and *Estate of Adolph L. Martignacco*, 689 N.W. 2d 262 (Minn. Ct. App. 2004).

In the Estate of Leonard Jotham is also instructive. In *Jotham*, Child A sought a declaration of the court that Child B was not the child and heir of the Decedent. *Estate of Leonard Jotham*, 722 N.W. 2d 447, 449 (Minn. 2006). The Decedent was the presumed father of Child B under Minnesota Law (see additional facts from the case above). The Minnesota Supreme Court ruled that the presumption could be rebutted only by a person who met the standing and timeliness standard of the Minnesota Paternity Act in Minn. Stat. § 257.57. *Id.* at 455.

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In this proceeding, John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson seek to be determined siblings or half-siblings of the Decedent because they have a common presumptive father in John L. Nelson. If another person sought to be determined to be an heir of the Estate through an alleged father other than John L. Nelson, the Court would need to determine that the Decedent had two fathers, or that John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson are not heirs of the Estate.

If it is an applicant's intent that persons claiming to be the descendants of John L. Nelson and one of the other alleged fathers would all be deemed heirs to the Estate, the Court would need to find that the Decedent had a presumptive and genetic father (John L. Nelson) and a second, biological father. The Court first finds that to declare the Decedent has two fathers would be intellectually unsatisfying. Secondly, the term biological father, or something similar to it, is not defined in the Probate Code. There is no such person. The Court acknowledges that the Minnesota Probate Code is not entirely consistent with reference to the terms father, parent, genetic father or genetic parent. However, Minn. Stat. §§ 524.1-201 and 524.2-103 regarding definitions and intestate succession reference a father or parent in singular terms.

If, however, it is the applicant's intent to establish that a person other than John L. Nelson is the Decedent's father, to the exclusion of all other alleged fathers including John L. Nelson, the necessary result is that John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson would not inherit from the Estate. This places this proceeding directly in line with *Jotham,* which requires that a presumption of paternity (that John L. Nelson is the father of the Decedent, John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson) may be rebutted only by a person who met the standing and timeliness standards of the Minnesota Paternity Act in Minn. Stat. §257.57.

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Pursuant to Minn. Stat. § 257.57, Subd. 1, an action to declare the non-existence of the father and child relationship may only be brought by the child (here the Decedent), the child's biological mother, or the man presumed to be the father. The applicants claiming to be an heir based upon someone other than the presumed father being the actual father would not have standing to seek a declaration that John L. Nelson is not the Decedent's father.

Further, pursuant to Minn. Stat. § 257.57, the action to declare the non-existence of the parent child relationship would have to have been initiated within two years after the person bringing the action has reason to believe that the presumed father is not the father of the child, but in no event later than three years after the child's birth.

As John L. Nelson is the presumed, genetic and adjudicated father of the Decedent and, as the applicants have neither met the standing or timeliness requirements to rebut the presumption of paternity, the Court determines that Loyal James Gresham, Jr., Loya Wilson, Loyal James Gresham III, Darcell Johnston, Orrine Gresham, Paul Leonard Newman, Regina Sorenson, Haywood Nelson, Sr., Roskco Motes, Alfred Jackson, Sr. and Venita Jackson-Leverette are not, as a matter of law, intestate heirs of the Decedent.

APPLICATION OF NICOLE WHITE

On June 14, 2016, Nicole White filed a Written Statement of Claim stating, "The nature of the claim is: determine (dna) relationship I would like to be included in the official DNA testing I will be obtaining legal counsel + representation." Ms. White has not provided further information to the Court to explain her alleged genetic relationship with the Decedent, nor has any information provided to the Special Administrator been sufficient to warrant testing under the Protocol.

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Based upon the information provided, Nicole White has not established a *prima facie* showing that she is a genetic or adopted relative of the Decedent and shall be excluded as a matter of law as an heir of the Decedent.

APPLICATION OF MICHAEL JOHN DARLING

On June 21, 2016, Michael John Darling filed a document he entitled Petition for Application of Potential Heirship. In that Petition, Mr. Darling claims to have been an acquaintance of the Decedent and he seeks to put the Estate on notice of possible other names by which he has been known and his address in case he is an heir listed in a Last Will and Testament.

As no will has been found, and Mr. Darling does not claim that he is a genetic or adopted relative of the Decedent, he shall be excluded as a matter of law as an heir of the Decedent.

APPLICATION OF CLAIRE BOYD, ALSO KNOWN AS CLAIRE ELIZABETH ELLIOT AND CLAIRE ELIZABETH NELSON

Claire Boyd states that she has also been known as Claire Elizabeth Elliot and Claire Elizabeth Nelson. In this Order she shall be referred to as Claire Boyd; however, the Court's ruling herein regarding her application applies to the person known by all of these names.

On July 4, 2016, Claire Boyd filed the AFFIDAVIT OF HEIRSHIP OF CLAIRE BOYD, A/K/A Claire Elizabeth Elliot, a/k/a Claire Elizabeth Nelson, etc. In that Affidavit, Ms. Boyd claims that she was secretly married to the Decedent in a ceremony on January 14, 2002 in Las Vegas, Nevada. She also claimed that the person presiding over the wedding, Ross Dreiblatt, who is also a lawyer, also prepared a secret will for the Decedent, leaving Ms. Boyd as the sole heir of the Decedent. Ms. Boyd has not been able to provide a copy, or other evidence, of the marriage or the will, claiming that these documents are in the possession of Mr. Dreiblatt. She has not

provided any public record of the marriage on file with the State of Nevada. Ms. Boyd further claims that Mr. Dreiblatt lives somewhere near San Fransisco, California and that she has not been allowed to have contact with Mr. Dreiblatt. Without further evidence of a valid marriage or a valid will, the Court finds that Claire Boyd, also known as Claire Elizabeth Elliot and Claire Elizabeth Nelson, has not established a *prima facie* showing that she is the wife of the Decedent or an heir under a will and shall be excluded as a matter of law as an heir of the Decedent. If Ms. Boyd is able to provide further proof of the marriage or the will, the Court may reconsider this Order.

Accordingly, based upon the record, the Court hereby makes the following:

ORDER

1. April Seward, Martha Samuels, James Womack, Priscilla Williams, Lorraine Huddleston, Dana Nettles, Jonette Carter, Michael Samuels, Nicole White, Michael Darling, Mia Dragojevich, and Claire Boyd, also known as Claire Elizabeth Elliot and Claire Elizabeth Nelson, are excluded as heirs of the Decedent's Estate as a matter of law. If Ms. Boyd is able to provide further proof of the marriage or the will, the Court may reconsider this Order.

2. The following persons claiming to be a child of the Decedent are excluded as heirs of the Decedent's estate as a matter of law: CHILD 1, CHILD 2, CHILD 3, CHILD 4 and CHILD 5. If CHILD 1 is able to provide further proof of the adoption, the Court may reconsider this Order.

3. Brianna Nelson, V.N., John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson shall undergo genetic testing pursuant to the terms of the Genetic Testing Protocol.

4. The following persons claiming to be the father of the Decedent, or the descendant of the father of the Decedent, and that the father of the Decedent is someone other than John L.

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Nelson, are excluded as heirs of the Decedent as a matter of law: Loyal James Gresham, Jr., Loya Wilson, Loyal James Gresham III, Darcell Johnston, Orrine Gresham, Paul Leonard Newman, Regina Sorenson, Haywood Nelson, Sr., Roskco Motes, Alfred Jackson, Sr. and Venita Jackson-Leverette.

5. If an applicant's affidavit and the response of the Special Administrator has been sealed (applicable if the applicant has sought to be determined a child of the Decedent), and that applicant has been excluded as an heir of the Decedent as a matter of law in this Order, the affidavit and response as to that applicant shall be unsealed within twenty days of the filing of this Order unless the applicant can establish legal authority for the continued sealing of the documents.

6. As to the applicants who are hereby excluded as an heir of the Decedent as a matter of law, this Order shall be deemed a final determination on the merits of their claims. The identities of alleged children (Child 1 – Child 5) of the Decedent are identified separately in confidential addenda attached hereto.

LET JUDGMENT BE ENTERED FORTHWITH.

Dated: August 12, 2016

Kevin W. Eide
Judge of District Court

I do hereby certify that the foregoing order constitutes the judgment of this court.

Kristen Trebil-Halbersma
Court Administrator, Carver County, MN

Date: 8.12.16

Deputy