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February 22, 2019

The Honorable Kevin W. Eide
Carver County Justice Center
604 East 4th Street
Chaska, Minnesota 55318

Via Email

Re: *In re the Estate of Prince Rogers Nelson*
Court File No. 10-PR-16-46

Dear Judge Eide,

We represent Michael Lythcott, regarding this Court's February 13, 2019 Order and Mr. Lythcott's alleged violation of the Estate's nondisclosure agreement ("NDA"). I write to inform the Court of our compliance with Your Honor's Order and to seek a hearing and possible briefing relating to the same.

I. The Court's February 13, 2019 Order

This Court's February 13, 2019 Order required Mr. Lythcott—and his business partner Gregg Walker—to “provide counsel for Comerica all communications and related documents with any third parties (including, but not limited to, the two entities referenced in the February 9, 2019 Letter filed by Alfred Jackson, Omarr Baker, and Tyka Nelson) that included confidential information that belongs to the Estate.” The Court also instructed Mr. Lythcott and Mr. Walker to provide documents related to the “pitch book” attached to a February 11, 2019 letter filed by the law firm of White Wiggins & Barns, LLP, as well as an access log to the data site referenced in the same letter.

Mr. Lythcott and I were introduced this week, and he signed a retainer agreement yesterday (February 21, 2019). Despite our nascent relationship, my firm has been working with two separate vendors on an expedited basis to obtain the information that is the subject of the Court's Order. The collection of these documents has been—and continues to be—time consuming given the volume of information. Nonetheless, I anticipate the “data room” and some email communications will be ready for production on a flash drive later today. Although Mr. Lythcott has provided us with full access to his email, the email communications that will be ready today are those identified by Mr. Lythcott and his assistant as responsive to the Court's Order. My firm and our vendor are in the process of conducting a more detailed analysis of Mr. Lythcott's emails using search terms, and I anticipate being able to produce the remaining documents on or before March 7.

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We do, however, respectfully request that we produce these documents only to Your Honor, *in camera*, and not to Comerica, for several reasons.

First, Mr. Lythcott is not a party to this action and Comerica has not served Mr. Lythcott with a subpoena under Rule 45 of the Minnesota Rules of Civil Procedure. Mr. Lythcott was not permitted to participate in the February 13, 2019 telephone conference with the Court and was similarly not afforded with the opportunity to have counsel participate on his behalf. This Court's subsequent Order, issued following the telephone conference and based on Comerica's representations to the Court only, allows only the Heirs or the Estate to request a hearing to vacate or amend the Order. In the absence of a subpoena—to which he could move to quash or otherwise formally object—Mr. Lythcott has no procedural mechanism to challenge the required disclosure of this information. *See* Minn. R. Civ. P. 45.03(b)(2) (stating that a person who is commanded to produce documents may object in writing to a subpoena within 14 days of service or before the time of compliance is required), (c) (providing standards to quash or modify a subpoena).

Second, because Mr. Lythcott is not a party to this matter, Comerica—as the party requesting the disclosure of information—must compensate Mr. Lythcott, *inter alia*, for his time in responding to its request. *See* Minn. R. Civ. P. 45.02(d) (“The party serving the subpoena shall make arrangements for reasonable compensation as required under Rule 45.03(d) prior to the time of commanded production.”); Minn. R. Civ. P. 45.03(d) (“[A] witness who is not a party to the action or an employee of a party . . . and who is required to . . . produce documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of activities in such profession, business, or trade, is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents.”). Here, Mr. Lythcott has devoted considerable time and effort

Responding to the Court's Order has likewise taken a significant amount of time and Mr. Lythcott should be compensated for his efforts and the ensuing fees associated with the same.

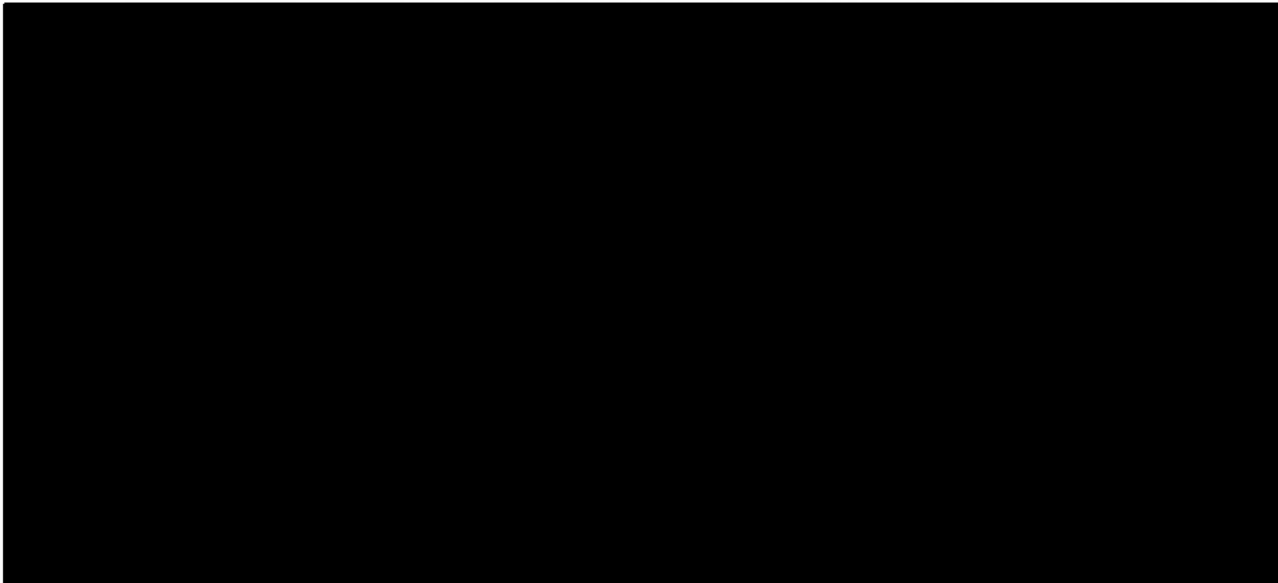
Third, Mr. Lythcott respectfully objects to providing the requested information to Comerica, and instead proposes providing the documents to the Court for *in camera* review.

Providing this confidential information to Comerica, with no limitations as to how Comerica may use this information, constitutes the disclosure of “confidential research, development, or commercial information.” *See* Minn. R. Civ. P. 45.03(c)(2)(A). A request for this type of disclosure falls squarely among the reasons a court may modify or quash a subpoena. *See id.* Mr. Lythcott asks that his provision of this information be protected from further disclosure. Alternatively, if the Court decides to release

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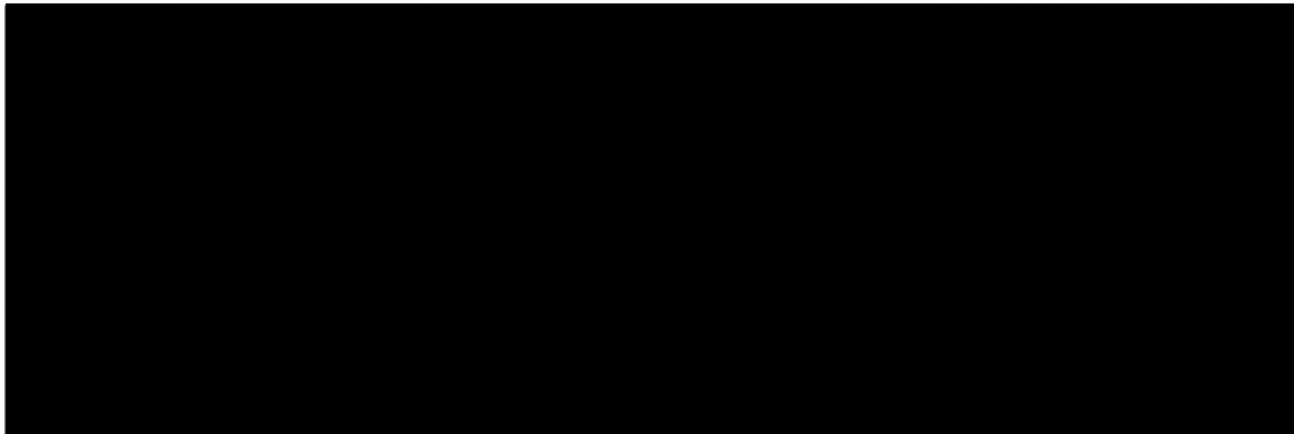
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the information we provide *in camera*, we respectfully request the Court limit its disclosure and use to “outside attorneys’ eyes only,” i.e., its disclosure should be limited to attorneys at Fredrikson & Byron representing Comerica. Further, if Mr. Lythcott is directed to provide these documents to Comerica, we request additional time to review the information we have collected for responsiveness and privilege.



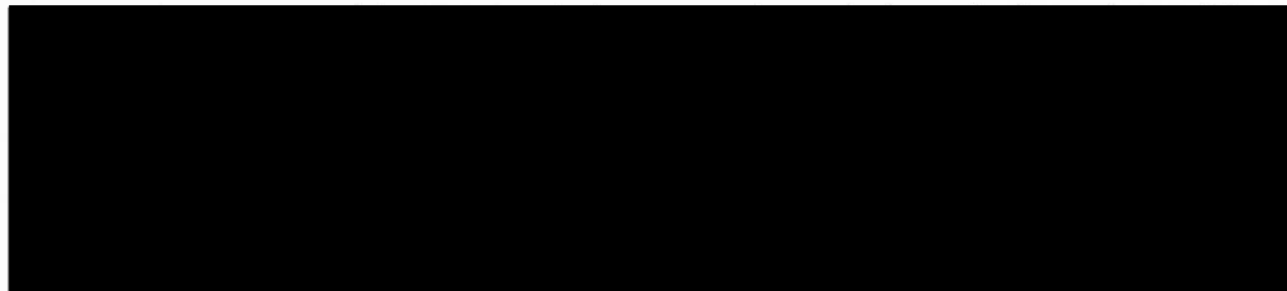
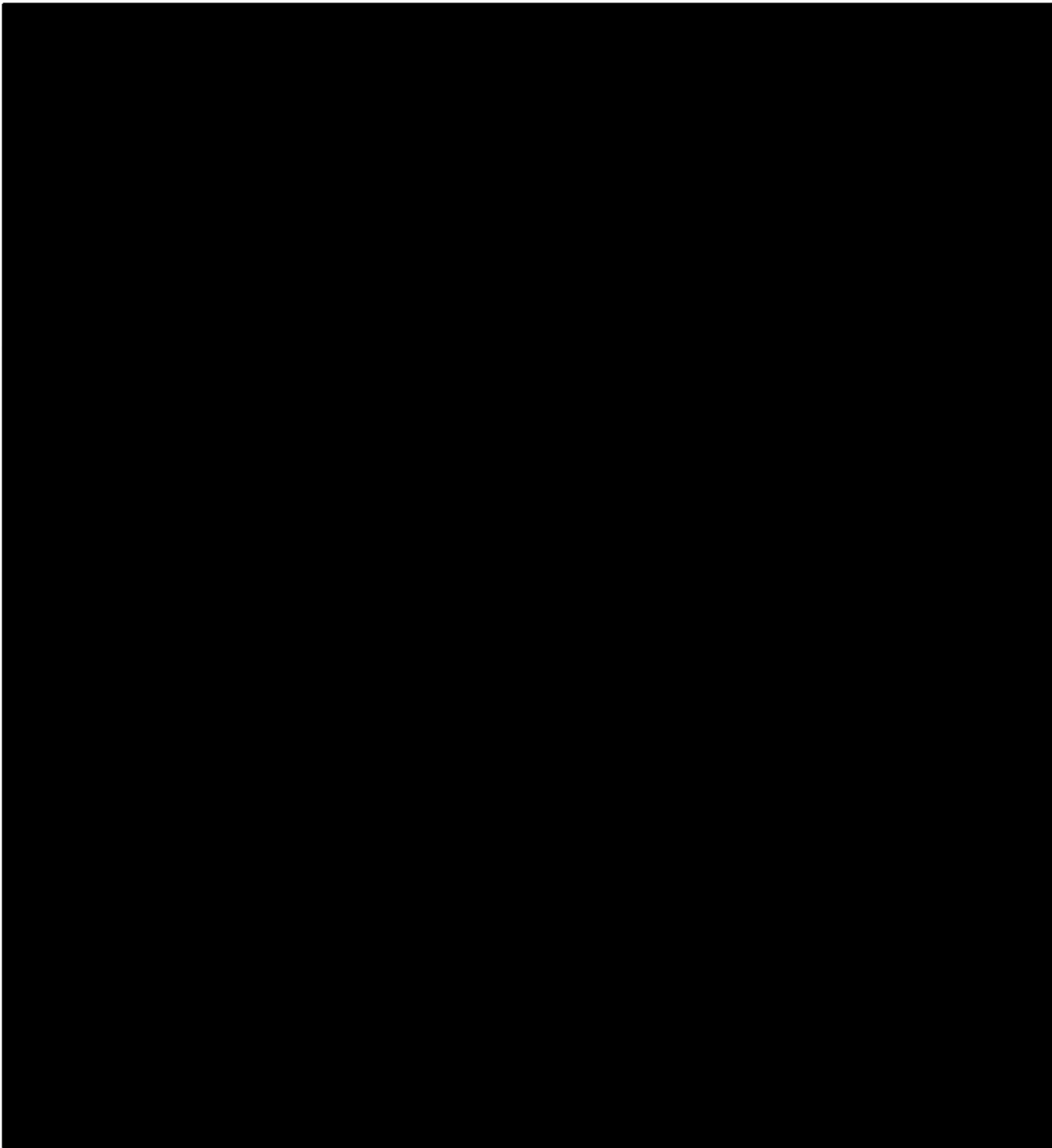
For the foregoing reasons, we respectfully request that we be allowed to present a written response to Comerica’s request that led to this Court’s February 13, 2019 order and that a hearing be scheduled to determine this issue. In the interim, we are prepared to produce to the Court for *in camera* review the documents requested in the February 13 Order as they are available, and we will begin to do so today.

Finally, we respectfully request that this Court formalize a notification process for submissions and orders related to my client. Because Mr. Lythcott is not a party to this case and because this Court’s February 13 Order temporarily revoked prior orders appointing Mr. Lythcott as the Heirs’ representative, my client currently has no procedural mechanism to be formally notified of activity in this case. We respectfully request you order counsel for the Estate to promptly notify me of all relevant activity via email, as well as my partners Jennifer Robbins (jrobbins@madellaw.com) and Ellen Ahrens (eahrens@madellaw.com).



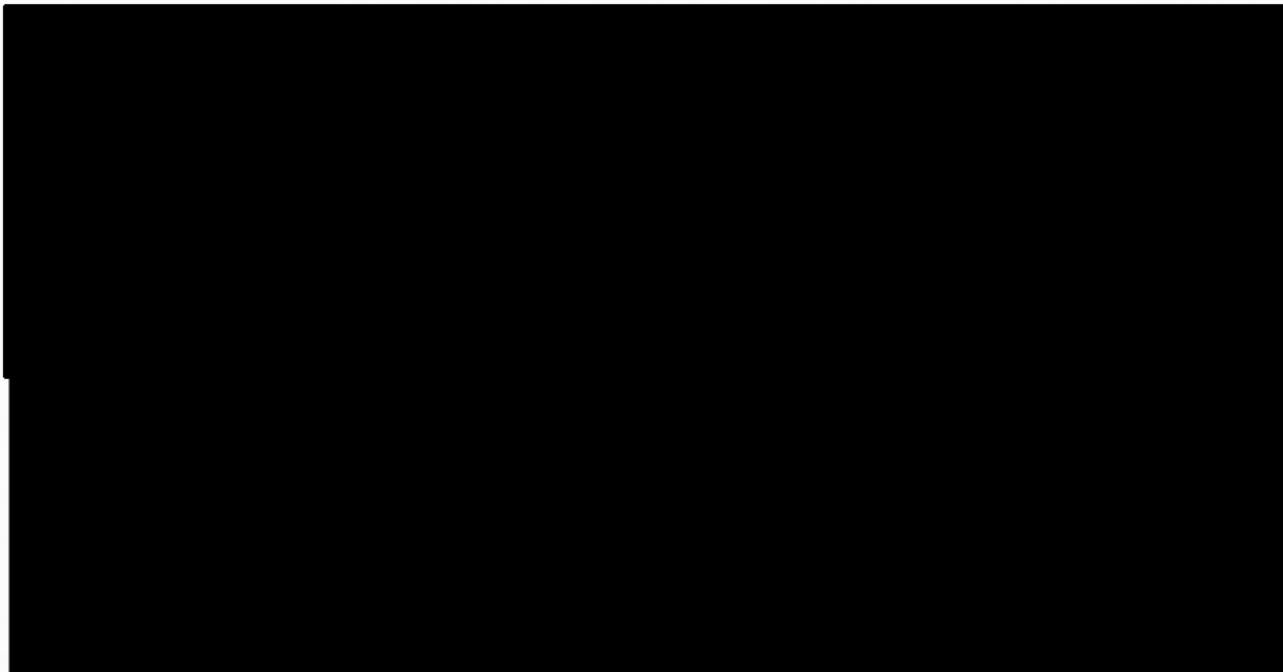
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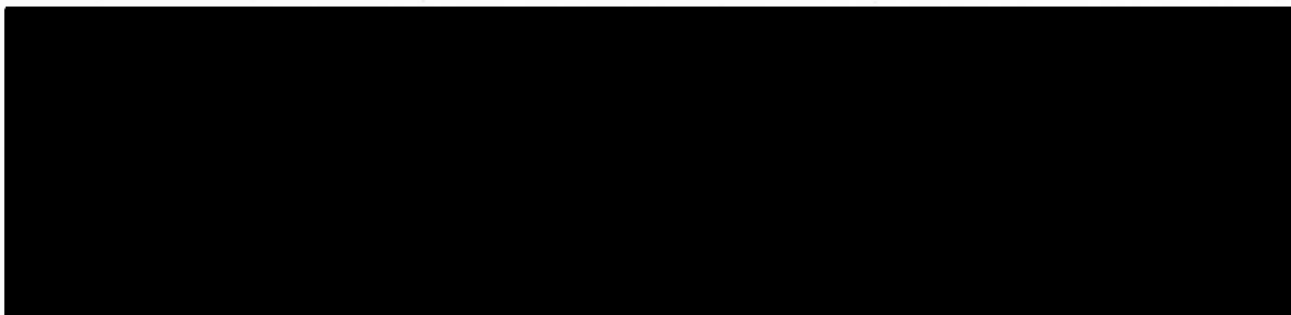


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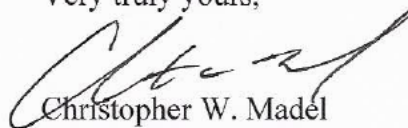
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I fear that the Estate is taking advantage of the complex nature of the Estate and the number of parties involved to prevent a timely resolution of the probate proceedings. My fear is based upon, *inter alia*, Comerica's refusal to participate in any mediation with Justice Gilbert (who I personally believe is one of the best mediators in our country). My additional concern, borne from some of the facts stated above, is that Your Honor is not being provided with all pertinent facts pursuant to an undisclosed agenda.



Very truly yours,



Christopher W. Madel

CC: All Counsel of Record
Steven Silton
The Honorable James Gilbert (ret.)

EXHIBIT A

EXHIBIT B

