

STATE OF MINNESOTA  
COUNTY OF CARVER

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

In Re:

Estate of Prince Rogers Nelson,  
Decedent.

Case Type: Special Administration  
Court File No.: 10-PR-16-46  
Judge: Kevin W. Eide

**REDACTED**

**AFFIDAVIT OF THOMAS P. KANE IN  
SUPPORT OF OMARR BAKER'S  
MOTION FOR APPROVAL OF PAYMENT  
OF ATTORNEYS' FEES  
THROUGH JANUARY 31, 2017**

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

Thomas P. Kane, after being duly sworn, states:

1. I am an attorney duly licensed to practice and in good standing in the State of Minnesota. If called as a witness, I could and would competently testify to the facts stated here based on my own personal knowledge.
2. I am an attorney at Cozen O'Connor ("Cozen"), counsel of record for Omarr Baker. I make this affidavit in support of Omarr Baker's Motion for Approval of Payment Attorneys' Fees from Assets of the Estate.
3. Omarr Baker ("Baker") retained Cozen in June 2016 to provide legal services and specialized advice regarding the Estate of Prince Rogers Nelson (the "Estate"). Cozen formally appeared in the matter on June 23, 2016.
4. Since June 2016, in addition to its work on the entertainment aspects of the Estate, Cozen has spent significant time in other Estate related proceedings that have benefitted the Estate

and not Baker individually. This includes interviewing and selecting Comerica Bank & Trust N.A. (“Comerica”) a successor to replace Bremer Trust, National Association (“Bremer” or “Special Administrator”) (which announced its intention to resign as Special Administrator on September 27, 2016 and was replaced on February 1, 2017), assessing the Special Administrator’s request for costs and fees, and preparing for and attending the January 12, 2017 hearings.

5. Cozen was hired in part because of its expertise—both nationally and in Minnesota—in the areas of litigation, trusts and estates, and entertainment law. Cozen has received national rankings from the *U.S. News – Best Lawyers* “Best Law Firms” guide in Commercial Litigation, Corporate Law, and Trusts & Estates Law, among others. In addition, the “Best Law Firms” guide recognized Cozen as a leader in Trusts & Estates Law and Trusts & Estates Litigation in its regional offices. The members of Cozen O’Connor’s private client services group are among the most respected in their field and include four fellows of the invitation-only American College of Trust and Estate Counsel. Cozen attorneys also include a member of the Society of Trust and Estate Practitioners, two certified public accountants, and three attorneys with LL.M.s in tax law. Several senior Cozen attorneys regularly lecture and publish articles about trust and estate law and related tax issues.
6. I am a commercial trial lawyer with more than 40 years’ experience litigating in federal and state courts throughout the United States. I was selected as one of the “Leading American Attorneys” determined by a statewide survey of lawyers conducted by the American Research Corporation, a distinction limited to fewer than 6 percent of Minnesota lawyers. In May 2006 in the area of Commercial Litigation, I was selected as one of The

Best Lawyers in America, by Woodward/White, Inc., and subsequently as one of the “Best Lawyers in Minnesota,” as published in *Minnesota Monthly*. Since 2006, I have been named to the Super Lawyers by *Minnesota Law & Politics* magazine. In addition, I hold the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability. I am also a fellow of the prestigious American College of Trial Lawyers. My full biography, along with the biographies of the other attorney professionals who have worked on this matter, is attached as **Exhibit A**.

7. In providing legal services sought by this Motion, Cozen attorneys and paralegals have expended 800.90 hours from December 1, 2016 through January 31, 2017. *See* Exhibit A to the Affidavit of Steven H. Siltan. Cozen’s unredacted time records have been provided for the Court’s review. Based on my experience, and compared with the billing rates identified in prior submissions to the Court by other lawyers representing non-excluded heirs in this matter, Cozen’s billing rates are consistent with the rates charged by law firms in and around the Twin Cities metropolitan area with experience and sophistication sufficient to provide legal services on complex probate and entertainment matters.
8. From December 1, 2016 through January 31, 2017, attorneys at Cozen performed services that were reasonably and necessarily incurred to benefit the Estate. Such services performed by Cozen for the benefit of the Estate have included but not been limited to the following tasks:

#### **Finding a Personal Representative**

9. Following Bremer Trust’s notice of its intent to resign as Special Administrator, Baker and Cozen, directly alongside the other members of the family and their counsel, conducted an

exhaustive and comprehensive search process for a personal representative to replace Bremer Trust.

10. I, along with my colleagues Steve Siltan and Jeffrey Kolodny, vetted [REDACTED] national financial institutions, conducted several rounds of in-person interviews, and surveyed each institution's qualifications, staffing levels, and plans for administering this Estate in exhaustive detail.
11. To start the process, [REDACTED] financial institutions were identified as potential candidates and contacted. [REDACTED] other financial institutions were considered but rejected for a variety of reasons. From this group, counsel for the family conducted a series of meetings and interviews with [REDACTED]  
[REDACTED]  
Counsel for each of the heirs participated in numerous conference calls and written exchanges with all of these institutions as their qualifications, interest and fit for the estate were closely vetted and evaluated.
12. Counsel received, reviewed, and analyzed hundreds of pages of written proposals from the various institutions and prepared additional follow-up questions for the various institutions. My colleagues and I had numerous phone calls, hundreds of email exchanges, and other written correspondence with the various institutions and counsel for the other Non-Excluded Heirs over a period of months to determine their qualifications and each member of the family's respective reactions to the various institutions.
13. These efforts led to the identification of two potential successor candidates, including one that has the unanimous consent of the family, Comerica Bank & Trust N.A. ("Comerica")

14. Our office worked to file petitions to appoint Comerica as successor Special Administrator/Personal Representative. We also drafted petitions to appoint Anthony ‘Van’ Jones as co-personal representative. The Court subsequently appointed Comerica as Personal Representative, and as of February 1, 2017, Comerica is serving as Personal Representative. These efforts benefitted the Estate by ensuring an exceptionally qualified financial institution is administering the Estate that has a rapport with the family, and is capable of taking on the complex challenges this Estate has to offer.
15. In my opinion, the Cozen time sought for reimbursement for efforts related to the personal representative search is just and reasonable and commensurate with the benefit to the Estate.

**Assessing the Special Administrator’s Requests for Costs and Fees**

16. Although Bremer has stepped down as Special Administrator, Bremer had petitioned the Court for approval of its fees and costs and expenses (and those of its counsel) for the time spent working for the Estate, starting with its fees through June 30, 2016. With its first petition for fees, Bremer also sought establish a procedure to govern payment and approval of such fees and costs and expenses. In response to this first petition, Cozen conducted research and prepared briefing for the Non-Excluded Heirs’ response in opposition to the Special Administrator’s petition for fees. Subsequently, the Court issued its “Order Approving Fees and Costs and Expenses and Establishing Procedure for Review and Approval of Future Fees and Costs and Expenses” on October 28, 2016.
17. The October 28 Order approved the Special Administrator’s fees, but the Court recognized that the Non-Excluded Heirs were entitled to review the fees prior to approval and voice any issues. (*See* October 28 Order, p. 8.) Since the October 28 Order, Cozen and some of

the Non-Excluded Heirs have regularly reviewed and filed timely objections to Bremer's request for fees and costs, when appropriate. Cozen's efforts benefitted the Estate by providing a process for allowing the Non-Excluded Heirs to comment on the fees submitted by the Special Administrator. These efforts also ensured a proper vetting of the fees requested by the Special Administrator before they were removed from the Estate's resources.

18. In my opinion, the Cozen time is sought for reimbursement for efforts related to objecting to the Special Administrator's fee request is just and reasonable and commensurate with the benefit to the Estate.

**Preparing for and Attending the January 12, 2017 Hearing**

19. On January 12, 2017, the Court held a hearing to determine a successor to the Special Administrator and to address Bremer's submitted accounting and request for discharge.
20. In advance of and following the January 12 Hearing, Cozen researched extensively Minnesota probate law regarding appointing a personal representative and requirements for the accounting. Cozen reviewed the accounting Bremer filed on short notice prior to the January 12 Hearing. Cozen also drafted the following documents which aided the Court in its decision to appoint Comerica as personal representative and to fully consider Bremer's submitted accounting:
  - A. Objections to the Special Administrator's Final Account Through 11/30/16, Final Account from 12/1/16 through 12/31/16, and Petition for Order Approving Accounting, Distribution of Assets, and Discharge of Special Administrator;
  - B. Motion for the Court to compel Entertainment Advisor L. Londell McMillan to produce information necessary to determine his suitability to serve as co-personal representative;
  - C. Memorandum in Opposition to Petition for Formal Adjudication of Intestacy, Determination of Heirs and Appointment of L. Londell McMillan as co-personal representative; and

- D. Memorandum in Support of Petition for Formal Adjudication of Intestacy, Determination of Heirs and Appointment of Van Jones as co-personal representative.
21. Before the January 12 Hearing, Cozen attorneys met and conferred with other counsel and prepared direct and cross examination of the proposed co-personal representatives. At the January 12 Hearing, Cozen attorneys argued on behalf of some of the Non-Excluded Heirs. Cozen's efforts benefitted the Estate by providing a full and careful review of the Special Administrator's submitted accounting and requested discharge, as well as the benefits and detriments of proposed co-personal representatives.
  22. In my opinion, the Cozen time is sought for reimbursement for efforts related to the January 12 Hearing is just and reasonable and commensurate with the benefit to the Estate.
  23. Cozen's legal fees are in the total amount of \$354,258.00 for services sought by this Motion. I and other attorneys at Cozen have reviewed the original time entries for the legal fees submitted by Cozen and affirm that the work was actually performed for the benefit of the Estate, was necessary for the proper administration of the Estate, and that the fees are reasonable given (1) the time and labor required; (2) the complexity and novelty of the transactions involved; and (3) the extent of the responsibilities assumed and the results obtained. The coordination of work required over several sophisticated and complex disciplines, and the time demands require finds the pending fee request reasonable under these unique circumstances. Furthermore, our firm's hourly rates and overall charges are fair when compared against the fees charged for comparable work for similar firms in other major metropolitan areas.
  24. Given the complexity of the litigation, the entertainment deals the Estate is negotiating, and the results achieved, \$354,258.00 is a just and reasonable amount to request.
  25. Costs advanced to be reimbursed total \$15,857.61.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated: March 3, 2017

/s/ Thomas P. Kane

Thomas P. Kane

Subscribed and sworn to before me  
this 3rd day of March, 2017.

/s/ Amy E. Kulbeik

Notary Public



# EXHIBIT A



## Steven H. Silton

Member

Minneapolis

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Steve focuses his practice on sales and purchases of businesses, financing, securities placements and related work for mid-sized corporations, banks, credit unions, financial groups and professional athletes and sports franchises. He also works with distressed businesses in their reorganization efforts. Steve serves on the firm's board of directors.

Steve counsels his clients on purchase and sale of businesses, secured financing transactions, securities placements and negotiation of corporate documents. He often consults and/or associates with lawyers regarding their financially distressed business clients, has been instrumental in the reorganization of a number of businesses and has been appointed as counsel for creditor committees. Steve also applies his corporate experience in the representation of professional athletes, agents and franchises, documenting everything from endorsement contracts to secured financing deals.

Steve is a frequent author and lecturer and most recently taught a class at the University of Miami Law School called 'Representing a Professional Sports Franchise'. His co-instructors included Danna Haydar, Associate General Counsel at the Tampa Bay Lightning and Kevin Warren, COO of the NFL's Minnesota Vikings. Additionally, Steve serves as an Advisory Board member of the University of Miami School Sports and Entertainment Law LLM. The firm is nationally recognized for its work in sports law and was recently recognized by Holt Hackney Publications as one of the Top 20 Law Firms in the Professional Sports Team Industry.

The firm held its third Sports Law CLE and Players Panel with representatives from professional and amateur sports, owners and executives, agents and agencies, athletes, venues and arena management companies, corporate sponsors and sporting equipment manufacturers attending. Steve led the programming for this day long CLE event featuring speakers from all facets of pro and amateur sports including the Olympics, college & university programs and the major leagues.

Steve is an adjunct professor at his alma mater, William Mitchell College of Law. In the spring of 2009, Steven and Thomas G. Wallrich launched the Bankruptcy Clinic at the University of St. Thomas Law School in conjunction with the University's School of Psychology and Social Work. The clinic provides pro bono bankruptcy services as well as counseling to indigent people.

Steve's professional memberships include the Hennepin County Bar Association, Minnesota State Bar Association, State Bar of Wisconsin, The Florida Bar, The Association of Trial Lawyers of America and Turnaround Management Association. Steve has been rated by Martindale-Hubbell for ethics and legal ability, and was named to the Rising Star list in 1999 by *Law & Politics* magazine and published in *Minneapolis-St. Paul* magazine. In 2011, Steve was included on *Minnesota Super Lawyers* magazine's list of the "Top 100 Minnesota 'Super Lawyers.'" Since 2002, he has been named to the "Super Lawyers" list by *Minnesota Super Lawyers* magazine and published in *Minneapolis-St. Paul* magazine.

Steve is active in the community serving on the board of Bolder Options and the Jack Brewer Foundation, in addition to a committee at the University of Minnesota. He is board chairman of the Sanneh Foundation, an academic enrichment program that is in all of the St. Paul schools, as well as some in Minneapolis. More than 6,000 children go through their program annually.

### Practice Areas

- Bankruptcy, Insolvency & Restructuring
- Corporate
- International Arbitration

### Industry Sectors

- Media & Entertainment
- Real Estate & Construction
- Sports

### Education

- William Mitchell College of Law, J.D., 1995
- University of Wisconsin, B.A., 1991

### Bar Admissions

- Minnesota
- Wisconsin
- Florida

### Court Admissions

- U.S. District Court - District of Minnesota
- U.S. District Court -- Western District of Michigan
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Supreme Court

Steven H. Silton

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## Thomas P. Kane

Senior Counsel

Minneapolis

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Thomas P. Kane is a commercial trial lawyer with a focus on insurance coverage litigation, the representation of employers in all employment disputes, employment class actions and major commercial litigation including subrogation. Some examples of the commercial litigation he has been involved with recently involve the representation of banks, real estate lenders and developers, and professionals such as lawyers and accountants.

Tom has represented employers for over 40 years in disputes with insureds and other insurance companies in federal and state courts throughout the United States. Tom has also been lead trial counsel in many employment class actions on behalf of Fortune 500 companies, trying some of them to conclusion and resolving others by summary judgment or by settlement satisfactory to the client. In addition to defending class actions alleging race, gender and disability claims, Tom has represented clients in the trial of individual race, national origin, gender, religious disability, and marital status cases. These cases were tried before juries and judges in both state and federal court.

Tom has received significant professional recognition for his law practice. He was selected as one of the "Leading American Attorneys" determined by a statewide survey of lawyers conducted by the American Research Corporation, a distinction limited to fewer than 6 percent of Minnesota lawyers. In May 2006 in the area of Commercial Litigation, Tom was selected as one of The Best Lawyers in America, by Woodward/White, Inc., and subsequently as one of the "Best Lawyers in Minnesota," as published in *Minnesota Monthly*. Since 2006, Tom has been named to the Super Lawyers list in the areas of Employment & Labor and/or Professional Liability: Defense by *Minnesota Law & Politics* magazine. In addition, he holds the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability. He is also a fellow of the prestigious American College of Trial Lawyers.

### Experience

Won a motion to dismiss all claims brought by the purchaser of certain trademarks against our client, a secured creditor with a blanket security interest. The complaint, filed in the U.S. District Court for the District of Minnesota, sought a declaration that the secured creditor had no interest in various trademark applications and registrations, and an injunction barring the creditor from interfering with the purchaser's rights in the trademarks. In granting the motion, the court accepted our argument that the plaintiff had not stated any basis for challenging the secured creditor's interest in the trademarks under Article 9 of the Uniform Commercial Code, failed to allege an actual case or controversy and, in effect, sought an improper advisory opinion.

#### Practice Areas

- Commercial Litigation
- International Arbitration
- Labor & Employment
- Litigation

#### Education

- William Mitchell College of Law, J.D., 1968
- University of Minnesota at Minneapolis, B.A., 1964

#### Bar Admissions

- Minnesota

#### Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Tenth Circuit

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## Jeffrey B. Kolodny

Member

New York

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Jeff concentrates his practice on complex international and domestic estate planning and administration, with a focus on wealth preservation through effective tax planning, structuring, and personal planning for high net worth individuals and multinational families.

Jeff handles a wide range of estate planning, tax, and other legal matters for international and domestic clients. He frequently advises clients with respect to their wealth transfer and tax planning, obligations as fiduciaries, and rights as beneficiaries of estates and trusts. For international clients, he often creates plans and structures that achieve wealth transfer and other objectives while minimizing taxes when multiple legal and tax systems apply. Jeff frequently represents foreign individuals acquiring or owning U.S. property, individuals and fiduciaries with assets in multiple jurisdictions, and U.S. nationals with assets abroad. He has counseled several individuals in connection with their participation in the Internal Revenue Service's voluntary disclosure program (and similar state and local programs) and the domestication of their offshore holdings.

Jeff also represents fiduciaries and beneficiaries in accounting proceedings, will contests, and other Surrogate's Court proceedings. He frequently counsels family-owned businesses regarding the development and implementation of business succession plans.

Jeff is a member of the New York Chapter of the Society of Trust and Estate Practitioners (STEP); full members of STEP are the most experienced and senior practitioners in the field of trusts and estates. He is currently serving as a member of the Trusts, Estates and Surrogate's Court Committee of the Association of the Bar of the City of New York. He is a frequent contributor to "The CPA Report," continuing professional education seminars for accountants.

Jeff earned his undergraduate degree from SUNY-Albany in 1989. He then earned both his J.D. and LL.M. (in taxation) from New York University School of Law in 1995 and 1998, respectively.

### Practice Areas

- Private Client Services
- Tax
- International

### Education

- New York University School of Law, J.D., 1995
- New York University School of Law, L.L.M., 1998
- SUNY-Albany, B.S., 1989

### Bar Admissions

- New York

### Court Admissions

- New York Supreme Court
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Southern District of New York
- U.S. Supreme Court
- U.S. Tax Court

### Affiliations

- New York City Bar Association
- New York State Bar Association
- STEP: Society of Trust and Estate Practitioners

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## MICHELLE C. MALLOL

Associate

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OVERVIEW

PUBLICATIONS

# Michelle C. Mallol

Michelle Collins Mallol focuses her practice in the estate planning area, particularly tax planning, estate and trust administration, and business succession planning for ultra-high net worth individuals and families.

Michelle is an experienced transaction attorney, providing advice on and preparing estate planning instruments, including wills, trusts (revocable trusts, grantor trusts, dynasty trusts, non-reciprocal trusts, joint trusts, qualified personal residence trusts, grantor retained annuity trusts and charitable trusts), family corporations, non-profit corporations and marital agreements. She has maintained ongoing administration of estate planning entities and acted as a supervising attorney in planning meetings and document executions for select clients.

Michelle earned her law degree from Columbia University School of Law and was the reference editor of the *Columbia Law Review*. She was also a James Kent Scholar and won the best in class prize for corporate taxation. She graduated *magna cum laude* from Vanderbilt University with a degree in anthropology and French.

## PUBLICATIONS

### New York State Legislation Alert: April 2014 [Private Client Services Alert]

APRIL 18, 2014

New York's recently passed legislation, effective April 1, 2014, significantly changes its estate tax regime and the income tax regime for certain trusts. This Alert discusses the implications of this legislation.

[MORE](#)

### Practice Areas

[Private Client Services](#)

### Education

Columbia University School of Law, J.D., 2011



## Armeen F. Mistry

Associate

Minneapolis

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Armeen F. Mistry is an associate in the firm's Commercial Litigation Practice.

Armeen earned her law degree from the University of Minnesota Law School, where she was managing editor of the *ABA Journal of Labor & Employment Law*. During law school, Armeen interned in the civil rights division of the U.S. Attorney's Office for the District of Minnesota and was a judicial extern to the Hon. Hildy Bowbeer of the U.S. District Court for the District of Minnesota. Armeen received a Bachelor of Journalism and a Bachelor of Arts in Economics from the University of Missouri.

### Practice Areas

- Commercial Litigation
- Complex Litigation
- Litigation

### Education

- University of Minnesota Law School, J.D., *cum laude*, 2015
- University of Missouri, B.A., *magna cum laude*, 2012

### Bar Admissions

- Minnesota

### Court Admissions

- U.S. District Court -- Minnesota
- U.S. Bankruptcy Court -- Minnesota

### Affiliations

American Bar Association

Minnesota State Bar Association

Minnesota Women Lawyers

Minnesota Asian Pacific American Bar Association

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#### Practice Areas

- Business/Corporate
- Corporate

#### Education

- Chicago-Kent College of Law, J.D., 2008
- University of Wisconsin, B.S., 2002

#### Bar Admissions

- Minnesota
- Illinois

## Edgar G. Rapoport

Attorney

Minneapolis

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Edgar Rapoport is a former general counsel who brings an insider's view and broad experience to his corporate practice. He regularly guides clients through a range of transactional matters, including entity formation, corporate governance, customer and vendor agreements, regulatory compliance, financing, acquisitions and the sale or lease of real estate.

Edgar is also an experienced commercial litigator and trial lawyer. He has successfully defended claims made against businesses that alleged breach of contract, employment discrimination and vicarious liability. In his corporate practice, Edgar strives to negotiate and draft defensible contracts to reduce the risk of litigation for his clients.

Edgar is uniquely able to understand his clients' needs because he walked in their shoes. Before joining Cozen O'Connor, Edgar served as general counsel of Flash Cab Company in Chicago, where he personally handled the gamut of legal matters and oversaw the work of outside counsel. Having learned the day-to-day challenges of a business first-hand, Edgar is prepared to deliver the services his clients need and expect from their outside counsel.

### Experience

Represented Spell Capital Partners, LLC in its acquisition of Viking Plastics, a leading manufacturer of tight-tolerance proprietary and custom injection molded products and assemblies for the automotive, HVAC, and industrial markets.

Represented Prizelogic LLC, which develops and executes digital promotions for large consumer brands and retailers, in connection with the company's recapitalization by Pamlico Capital.

Represented NewSpring Capital in connection with a co-investment, along with Revolution Growth and Comcast Ventures, of \$56 million in Interactions, LLC, a leader in speech and natural language technology solutions.

Represented Cornerstone Bank in its purchase of the Sioux Falls, S.D., mortgage business of First Interstate Bank.

Represented a taxicab company, which oversaw approximately 1,500 taxi drivers in Chicago, in connection with the acquisition of several competing taxicab affiliations through asset purchases, and negotiated joint venture agreements and contribution agreements on behalf of that client.

Won a directed verdict in a case tried in Illinois state court in which the state attorney general brought a claim against the client after an independent contractor claimed to have performed uncompensated sales work.

Successfully moved to dismiss a complaint in which the plaintiff alleged that a cab company violated Title III of the Americans with Disabilities Act and 775 ILCS 30/3 (the "White Cane Law"), was negligent, and should be held accountable for the actions of an employee under a theory of *respondeat superior*. In granting the motion to dismiss, the court accepted the argument that a longer-than-desired wait time does not constitute discrimination or denial of service.

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