

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT

In Re the Estate of:

Court File No.: 10-PR-16-46

Judge Kevin W. Eide

Prince Rogers Nelson,

Decedent.

BARNES & THORNBURG LLP'S
MEMORANDUM OF LAW IN SUPPORT
OF APPLICATION OF ATTORNEY'S
LIEN AS FIRST PRIORITY

INTRODUCTION

Barnes & Thornburg, LLP ("BT") served as counsel of record for Tyka Nelson ("Tyka") after previous counsel was terminated. BT provided valuable legal services to or for benefit of Tyka and the estate for which were never paid. BT submits this memorandum in support of its Application for Determination of Attorney's Lien and Entry of Judgment for Lien Against Tyka's Interest in These Estate Proceedings and other compensation received by Tyka. BT's Application arises out of Minn.Stat. § 481.13, subd. 1(a)(1). Under this statute, BT lien attaches to Tyka's interest in this Estate upon the commencement of these proceedings and takes priority due to the untimely filing by previous counsel for Tyka.

FACTUAL BACKGROUND

In late 2017, Tyka retained BT to represent her in connection with the administration of the Estate of Prince Rogers Nelson ("Estate"). (Affidavit of Lee A. Hutton, III ("Hutton Aff.")). BT served as Tyka's counsel of record from January 19, 2018 until August 13, 2018 because of non-payment of fees. (Id.) Before and after its formal representation of Tyka ended, BT invested a substantial amount of attorney time and paid disbursements in connection with Estate related work.

In orders dated November 3, 2016 and March 10, 2017, the Court determined that much GPM's work benefitted the Estate as a whole, as opposed to Tyka individually, and approved payments from the Estate to GPM in the total amount of \$226,652.25. (See Shea Aff. ¶ 3.) As such, GPM has been paid some money. BT is not aware of any other orders directing payment to other firms. Unlike other firms, BT has been paid nothing to date despite the many appearances, mediations, contract corrections, fixing past problems, and has provided a lot of work that was not billed to the benefit of the client. (See Hutton Aff.).

At this time, BT requests that this court determine and establish as the amount of its lien against Tyka's interest in these proceedings, and to enter judgment accordingly pursuant to the lien amount filed on August 13, 2018. BT attorney's lien was filed prior to the attorney liens of all other counsel for Tyka.

ARGUMENT

The determination of lien and garnishment priorities is a question of law reviewed de novo. See Poured Concrete Found, Inc. v. Andron, Inc., 529 N.W.2d 506, 510 (Minn. App. 1995)(stating that, in the context of mechanic's liens, because determining lien priority depends on statutory interpretation, review is de novo, review denied (May 31, 1995).

An attorney has a lien on "the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed...as against third parties, from the time filing of the notice of the lien claim, as provided in this section." Minn. Stat. Section 481.13, subd. 1 (a)(2)(2010). See also, Roes v. Pierce, et. al., (Minn.App. A11-237). See (Hutton Aff.).

The case law is clear that the timing for priority is the filing of the notice of the lien claim in order to establish priority. Here, BT's lien claim proceeded all other lien claimants.

CONCLUSION

For the foregoing reasons, BT respectfully requests that the Court grant its Application, determine and establish its lien against Tyka's interest in these proceedings in the amount of \$21,816.50, and further determine that BT's lien takes priority over all third party claims, and enter judgment accordingly.

Respectfully submitted,

BARNES & THORNBURG LLP

Dated: December 26, 2018.

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