

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Court File No. 10-PR-16-46

In re Estate of Prince Rogers Nelson,
Decedent.EXHIBITS AFFIDAVIT OF
ANDREW M. LEHNERSTATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

Andrew M. Lehner, being duly sworn on oath depose and state:

I. I am an attorney at law, licensed to practice before the Court, and represent Corey Simmons in this matter. This affidavit is completed by me to provide documentary exhibits and other information, some of which was obtained from other parties during the course of discovery in this matter.

II. Because Corey Simmons has never been served with any notice of the commencement of these probate proceedings, my office filed motion on September 26, 2016, seeking to be included in the class of persons to undergo genetic testing pursuant to par. 3 of this Court's July 29th Order.

III. On October 3, 2016, this Court Amended its prior Scheduling Order expressly permitting his appearance as a party. On October 4, 2016, we then served and filed a Notice of Motion and Motion for Relief from this Court's July 29th Order, seeking genetic testing.

IV. On October 4, 2016 Corey Simmons also submitted his initial *prima facie* evidence of genetic relationship, as required by the Court-approved Protocol of the Special Administrator. He served the Special Administrator and filed with the Court an "Affidavit of Corey Simmons" (Simmons' Heirship Affidavit) supporting his claim. He also served an affidavit from Corey Simmons' mother, Carolyn Simmons. These documents were also filed with the Court. In addition, he served the Special Administrator a completed "REQUEST FOR PARENTAGE INFORMATION" as required by the Genetic Testing Protocol. Copies of these exhibits are now also presented as part of the *prima facie* evidence of a genetic relationship between Corey Simmons and Duane Nelson, order by this Court. See Exhibit 1 and Exhibit 17, attached.

V. As Ordered by this Court on October 26th, we now also submit the following *prima facie* evidence:

A. As to the genetic of relationship between the Decedent and John L. Nelson:

1. In the Court's July 29th Order, the Court found that Prince Rogers Nelson's Birth Certificate lists his parents as Mattie Della (Shaw) and John L. Nelson. See, July 29th Order, pp.1. Further the same Order finds "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." *Id.*, pp. 14-15.
2. On page 17 of the July 29th Order, the Court specifically finds that, "John L. Nelson is the presumed, genetic and adjudicated father of the Decedent." *Id.*
3. Lorna Nelson (now deceased) was the plaintiff in the Minneapolis Federal District Court case of *Nelson v. PRN Productions, Inc.* (Civ. Case No. 4-87-722)(reported in 873 F.2d 1141, 1141 (8th Cir. 1989)). In that case, she testified that John L. Nelson was her father in an Affidavit dated March 25, 1988. See Exhibit 2, par. 8, attached.
4. In the litigation pleadings in *Nelson v. PRN Productions, Inc.* Lorna Nelson again stated that John L. Nelson was her father and added that the Decedent Prince Rogers Nelson was the son of John L. Nelson, See Exhibit 3, attached, page marked Bates No. SABT001119, and Exhibit 4, attached, page marked Bates No. SABT001012.
5. Prince Rogers Nelson, appearing as a co-defendant in that same matter, submitted a responsive brief in which the father-son relationship of John L. Nelson and Prince Rogers Nelson was confirmed. See Exhibit 5, attached, pages marked Bates No. SABT001098-001099.
6. After the death of John L. Nelson, in 2001, Lorna Nelson filed an affidavit, in this District Court for Carver County, dated October 18, 2001, where John L. Nelson's estate was probated (File No.P1-01-1660). The affidavit identifies John L. Nelson as her father and as the father of Prince Rogers Nelson. See Exhibit 6, attached.

B. As to the genetic of relationship between John L. Nelson and Duane Nelson:

As Ordered by this Court on October 26th, we submit the following *prima facie* evidence as to the genetic of relationship between John L. Nelson and Duane Nelson:

1. Duane Nelson's Birth Certificate lists John L. Nelson as his father. July 29th Order, p.14. See also Exhibit 7, filed separately as a confidential document, incorporated herein by reference.
2. Duane Nelson's Death Certificate also lists John L. Nelson as his father. See Exhibit 8, filed separately as a confidential document, incorporated herein by reference.
3. Duane Nelson was identified as the son of John L. Nelson in Duane Nelson's own obituary. See Exhibit 9, attached.
4. In 1986, John L. Nelson executed a will which names Prince Rogers Nelson as his sole beneficiary and expressly disinherits all other heirs at law. Exhibit 10, attached.

5. Lorna Nelson testified that Duane Nelson was her brother in an affidavit, dated March 25, 1988, filed as the plaintiff in *Nelson v. PRN Productions, Inc.* referred to above. See Exhibit 2, par. 4.
6. Lorna Nelson listed Duane Nelson as her brother, and the Decedent Prince Rogers Nelson as the brother of Duane Nelson, in the litigation pleadings in that same case, *Nelson v. PRN Productions, Inc.* See Exhibit 3, page marked Bates No. SABT001119, and Exhibit 4, page marked Bates No. SABT001012, attached.
7. Prince Rogers Nelson, appearing as a co-defendant in that same matter, *Nelson v. PRN Productions, Inc.*, submitted a responsive brief that John L. Nelson was his father and that Duane Nelson was his brother. See Exhibit 5, pages marked Bates No. SABT001098-001099, attached.
8. In July, 1986, John L. Nelson executed a will which names Prince Rogers Nelson as his sole beneficiary and expressly disinherits all other heirs at law. Exhibit 10.
9. In June of 1989, attorney James Echtenkamp sent John L. Nelson a draft of a will, expressing John L. Nelson's directives to the attorney about his will. Exhibit 11, attached. Mr. Echtenkamp's notes in this regard are attached as Exhibit 12.

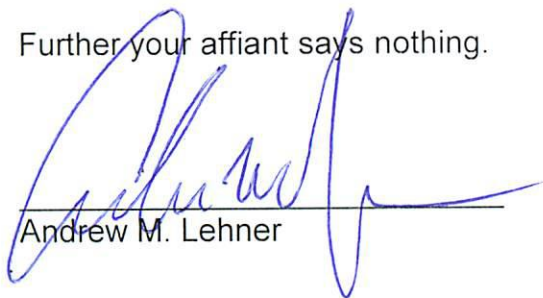
C. As to the genetic of relationship between Duane Nelson and Corey Simmons:

1. Carolyn Simmons has also testified in this case in a discovery deposition, supporting the facts asserted in her affidavit. She has testified that she and Duane Nelson met in 1976 while both were attending the University of Wisconsin, Milwaukee. The two dated exclusively during 1976 and 1977, during which time they were intimate. Ms. Simmons became pregnant. Corey D. Simmons was born in June 15, 1977. Ms. Simmons as not intimate with any other man during this time. See attached Exhibit 13 (Carolyn Simmons Deposition, pp. 12, line 22 through pp. 21, line 17)
2. During her pregnancy, Carolyn Simmons informed Duane Nelson of her pregnancy and of her intent to keep the baby. At one point, Duane Nelson introduced his sister, Norrine Nelson, to Ms. Simmons while Ms. Simmons was visibly pregnant. See attached, Exhibit 13 (Carolyn Simmons Deposition, pp. 23, line 9 through pp. 24, line 2; and pp. 26, line 21 through pp. 28, line 15; and pp. 35, line 16 through pp. 40, line 10)
3. One of Carolyn Simmons' close friends from college supports Carolyn's recollection. Notarized Statement of Valerie J. Brown, attached, Exhibit 14.
4. One of Duane Nelson's close friends from college supports Carolyn Simmons' recollection, and recalls Duane knowing that he was the father of Corey Simmons. Notarized Statement of Harrison D. Kern, attached, Exhibit 19.
5. Although Carolyn Simmons and Duane Nelson were no longer dating after Corey's birth, Duane Nelson periodically visited Corey during the early years of Corey's life. Duane Nelson would spend time with Corey, Carolyn and Carolyn's mother. See attached, Exhibit 13 (Carolyn Simmons Deposition, pp. 31, line 24 through pp. 32, line 18; and pp. 40, line 22 through pp. 41, line 4; and pp. 45, line 1 through pp. 63, line 17) See attached, Exhibit 15 (Corey Simmons Deposition, pp. 15, line 3 through pp. 16, line 1; and pp. 27, line 22 through pp. 28, line 16)

6. Duane carried photos of Corey in the briefcase that he carried daily. See attached, Exhibit 15 (Corey Simmons Deposition, pp. 32, line 1 through pp. 33, line 10)
7. Corey Simmons, knowing Duane Nelson to be his father, and knowing that his father and his uncle, Prince Rogers Nelson, worked closely together, made an effort to reconnect with his father in approximately 2008 or 2009. See attached, Exhibit 15 (Corey Simmons Deposition, pp. 16, line 6 through pp. 17, line 17)
8. Corey attended the memorial service for Duane Nelson in March of 2011. During that time, Corey was received by multiple family members, including Brianna Nelson, Norrine Nelson, and Sharon Nelson, as Duane's son. See attached, Exhibit 15 (Corey Simmons Deposition, pp. 29, line 11 through pp. 31, line 25)
9. Brianna Nelson has treated Corey as a brother since they first met in 2011. See, Exhibit 1, Exhibits F of Corey Simmons' Heirship Affidavit.
10. Brianna's mother, Carmen Weatherall, has acknowledged Duane as Corey's father, regretting to having previously trying to hide that fact. See, attached, Exhibit 16, Affidavit of Shalonda McKinney.
11. Norrine Nelson, half-sibling of Prince Rogers Nelson, has treated Corey as a nephew and has told Corey Simmons that Duane Nelson was his father. She advised Corey to obtain counsel to pursue his interests in this matter since the lawyers representing Norrine indicated there would be a conflict of interest in their representing him. See attached, Exhibit 15 (Corey Simmons Deposition, pp. 34, line 1 through pp. 36, line 1; and pp. 40, lines 5-24; and pp. 43, line 1 through pp. 46, line 18) and Exhibit 18 (Birthday Card from Norrine to Corey).
12. The Special Administrator's Protocol Prior to Potential Genetic Testing (Protocol) has been procedurally satisfied by Mr. Simmons and the Special Administrator. See, Exhibit 17, attached.

VI. Mr. Simmons' mother, Carolyn Simmons, is available and willing to participate.

Further your affiant says nothing.



Andrew M. Lehner

Sworn and signed before me this 17th day of November, 2016,
by Andrew M. Lehner.



Notary Public

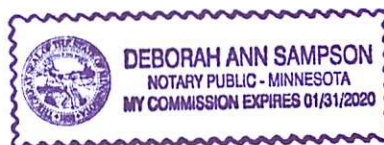


TABLE OF CONTENTS OF EXHIBITS
Affidavit of Andrew M. Lehner
Estate of Prince Rogers Nelson
Court File 10-PR-16-46

<u>Exhibit Number</u>	<u>.pdf page</u>
1	6
2	31
3	35
4	44
5	77
6	82
7	Filed separately as Confidential
8	Filed separately as Confidential
9	87
10	90
11	94
12	103
13	104
14	128
15	129
16	175
17	177
18	182
19	183

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Court File No. 10-PR-16-46

In re Estate of Prince Rogers Nelson,
Decedent.**NOTICE OF MOTION FOR RELIEF
FROM ORDER AND JUDGMENT OF COURT**

PLEASE TAKE NOTICE that on October 21, 2016 at 1:30 p.m., or as soon thereafter as counsel may be heard, the undersigned, on behalf of their client, Corey D. Simmons, will move for relief from the Court's *Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment*, which was filed July 29, 2016. Please also find attached and herewith served upon you a copy of this Court's Amended Scheduling Order Regarding the Claims of Brianna Nelson and V.N. and Corey Simmons To Be Heirs Of The Estate, which Orders a hearing upon this motion. The hearing on this matter will take place at Carver County Courthouse, 604 East 4th Street, in Chaska, Minnesota, before the Honorable Judge Kevin W. Eide
Dated October 4, 2016

Dammeyer Law Firm, P.A.

Lehner Law Office, LLC

/s/ Eric C. Dammeyer

/s/ Andrew M. Lehner

Eric C. Dammeyer (#134375)
3800 American Blvd. West, Suite 1500
Bloomington, MN 55431
952.927.7060
eric@dammeyerlaw.com
Fax 952.232.6263

Andrew M. Lehner (#388061)
1069 S. Robert St, Suite 100
West St. Paul, MN 55118
651.222.9829
andy@lehnerlawoffice.com
Fax 651.222.1122

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Court File No. 10-PR-16-46

In re Estate of Prince Rogers Nelson,
Decedent.**MOTION FOR RELIEF FROM ORDER AND
JUDGMENT OF COURT (RULE 60.02)**Motion

Corey D. Simmons hereby moves for relief from the Court's *Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment*, which was filed July 29, 2016. Mr. Simmons respectfully requests that the Court amend that order to include him in the section entitled "Applications Based Upon Claims Of Being A Descendant of Duane Nelson".

Relationship to Decedent

Corey D. Simmons is a nephew of his uncle, Prince Rogers Nelson. He was born to Duane Joseph Nelson, Sr., who was his father, and Carolyn Renee Simmons, his mother. Accompanying the filing of this motion, Corey D. Simmons has also filed his fully prepared Court Ordered Protocol information form and two affidavits, one from himself and one from his mother to support his submission as an heir. He has also filed herewith a third affidavit from himself in support of this motion.

Carolyn Renee Simmons met Duane Joseph Nelson, Sr. when they were both attending college at University of Wisconsin Milwaukee. They began dating and became sexually intimate. Corey D. Simmons was conceived by that union with Duane Joseph Nelson, Sr. See, Affidavit of Carolyn Renee Simmons.

The situation became stressful for Duane Joseph Nelson, Sr. and his grades suffered, which resulted in him leaving college and going back to Minnesota when Ms. Simmons was five months pregnant. *Id.*

Ms. Simmons did not see Duane Joseph Nelson, Sr. again for three years. Three years later, Mr. Nelson returned to visit with Ms. Simmons and his son, Corey D. Simmons. He remarked how much his son resembled him. *Id.*

Mr. Nelson's involvement and relationship with Ms. Simmons and Corey D. Simmons became strained after that and inconsistent on his part, but there were more visits. He received pictures of his son which he kept in his wallet. After a year of visits, Mr. Nelson

again stopped connecting with them, for years. Thereafter, in 1989 he called Carolyn Renee Simmons indicating he was in rehabilitation in New York. This was the last contact with Mr. Nelson. *Id.*

When his father, Duane Joseph Nelson, Sr. died in 2011 Corey D. Simmons became introduced to his father's family, as a result of Mr. Nelson's death and funeral. For the first time Corey D. Simmons met his sister, Brianna Nelson, and aunts he had previously not met. His father's family remain connected to this day. His relationship with Brianna Nelson is a happy and affectionate one, in which Brianna Nelson acknowledges him as her brother. See, Affidavit of Corey D. Simmons.

After the death of Prince Rogers Nelson, Mr. Simmons again spent quality time with his family, including his sister Brianna and his aunts Norrine and Sharon during this last summer of 2016, particularly at the funeral and gathering of family and friends of Prince Rogers Nelson which was held on August 12, 2016. *Id.*

Mr. Simmons never received any correspondence or notice regarding the estate of his uncle, Prince Rogers Nelson. See, Affidavit of Corey Simmons Supporting Motion for Relief from Order and Judgment of Court (hereinafter "Affidavit of Corey Simmons Supporting Motion").

The Court record shows that he is not listed on the petition for Special Administration filed by Tyka Nelson, nor is his father listed in the petition.

Mr. Simmons knew of the estate proceedings unfolding in the last few months. Although he knew of the death of his uncle and the proceedings, he has never received notice of any hearings or other Court proceedings relating to the estate. Mr. Simmons thought the Special Administrator should be doing something about his rights to the estate of his uncle, Prince Rogers Nelson. Affidavit of Corey D. Simmons Supporting Motion. Then, after urgings from his family, Corey D. Simmons contacted attorneys for the Special Administrator and talked to attorney Lauren Routhier, at Stinson Leonard Street. She said that her firm only represented the Special Administrator and could not represent him. She also sent him a follow-up email, a copy of which is attached to his Affidavit of Corey D. Simmons Supporting Motion. Ms. Routhier also attached to her email the form for the Protocol and the Court's Order Approving the Protocol. She properly indicated that these documents should be reviewed and filed by an attorney of Mr. Simmons' choosing, thus inviting him to make his claim. *Id.*

However, she did not mention nor inform him of this Court's July 29th *Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment*. Mr. Simmons then promptly engaged the undersigned counsel.

Corey D. Simmons Affidavit establishes his relationship to his family among his father's children and siblings, including his sister Brianna Nelson, demonstrating that he was not an unknown son of Duane Joseph Nelson, Sr. He also establishes that he reached out to Tyka Nelson, the petitioner who knew of his claim to relationship with Prince Rogers Nelson and Duane Joseph Nelson, Sr.

Tyka Nelson's petition for the appointment of Special Administrator of April 26, 2016, does not list or refer to Duane Joseph Nelson, Sr., nor to any of his descendants. Although Corey D. Simmons was never given notice, he remains an interested person and an heir of Prince Rogers Nelson.

The July 29th Order Should Be Amended

This Court's *Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment*, of July 29, 2016 (hereinafter, the "Heirship Claims Order") should be amended. In the Heirship Claims Order, Corey D. Simmons would have been included in the class the Court referred to as "Applications Based Upon Claims Of Being A Descendant of Duane Nelson", beginning on page 13 of the Order – but only if the Court had known of his existence and had he had notice of the opportunity to submit his information for the Protocol. He would clearly qualify for the same analysis and treatment by the Court as Brianna Nelson and the child V.N., since he was also a descendant of Duane Joseph Nelson, Sr.

The Court ruled that Brianna Nelson and the child V.N. had made satisfactory *prima facie* showing that they were potential heirs of Prince Rogers Nelson. This could also apply then to Corey D. Simmons, had his application preceded the Heirship Claims Order.

Further, the Heirship Claims Order is silent as to limiting the time for the claims of any other persons as to heirship who had not yet appeared at the time the order was issued. Such a time limitation has not yet been Ordered by the Court nor is Corey D. Simmons' application precluded by any procedural court rule or statutory deadlines, the Heirship Claims Order which authorizes the testing of only Brianna Nelson and the child V.N. should now include Corey D. Simmons.

Rule 60.02 on Minnesota's Rules of Civil Procedure states:

On motion and upon such terms as are just, the court may relieve a party or the party's legal representatives from a final judgment (other than a marriage dissolution decree), order, or proceeding and may order a new trial or grant such other relief as may be just for the following reasons:

(a) Mistake, inadvertence, surprise, or excusable neglect;

(b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial pursuant to Rule 59.03;

(c) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(d) The judgment is void;

(e) The judgment has been satisfied, released, or discharged or a prior judgment upon which it is based has been reversed or otherwise vacated, **or it is no longer equitable that the judgment should have prospective application; or**

(f) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons (a), (b), and (c) not more than one year after the judgment, order, or proceeding was entered or taken. A Rule 60.02 motion does not affect the finality of a judgment or suspend its operation. **This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Rule 4.043, or to set aside a judgment for fraud upon the court.** Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action. [emphasis of pertinent provisions added]

Closest in logical application to this complex situation, Rule 60.02 should apply and the Court should grant Mr. Simmons the right to now be recognized and participate, primarily for the failure of the initial petition to properly identify him and secondarily because he was never legally served.

Minnesota's probate code requires notice on any petition to commence a probate estate to be given to all interested persons. Minn.Stat. §524.1-401. In this case, the initial petition of Tyka Nelson should have indicated the existence of descendants of Duane Joseph Nelson, Sr., a class now clearly identified by the Court. It would be clear that the heirs of Prince Rogers Nelson would include descendants of such predeceased sibling. Not only was the entire class of descendants of Duane Joseph Nelson, Sr. excluded from the petition, but investigation into the identity of his descendants has been dealt with only passively by the Special Administrator. The Order of the Court appointing the Special Administrator specifically charges them with finding and determining heirs of the estate. Parties known by the Special Administrator and by Tyka Nelson, knew or should have known of the existence and nature of the descendants of Duane Joseph Nelson,

Sr. They were apparently never questioned for the family branch of Duane Joseph Nelson, Sr. has been entirely cut off. Those members of that family who have spoken up on their own, without the benefit of the notices required by law, include Brianna Nelson and the mother of V.N. These are descendants of Duane Joseph Nelson, Sr. now identified by the Court. Tyka Nelson and the Special Administrator should have discovered this information and given legal notice.

Any Implied Limitation in the Heirship Claims Order Does Not Bind Corey D. Simmons
Minnesota's Probate Code says that interested persons who are not served legal notice may nonetheless be bound by subsequent orders *but only if*

"(a) The pleadings appropriately and reasonably identify affected interests by name or by class. Minn.Stat. §524.1-403(1);"

or

"(b) An unascertained person who is not otherwise represented to the extent that person's interests are adequately represented by another party having a substantially identical interest in the proceedings." Minn.Stat. §524.1-403(2)(iii).

The name or class related to Duane Joseph Nelson, Sr. was not appropriately or reasonably identified in Tyka Nelson's pleadings by name or by class. Rather, Duane Joseph Nelson, Sr. and his descendants were entirely omitted. Brianna Nelson and the child V.N. appeared as interested persons despite not being identified in the pleadings commencing this estate. The fact that Corey D. Simmons has not been adequately represented in this matter by any other party is demonstrated by the fact that his existence is not included in the July 29th Heirship Claims Order, nor in the Court records up until this filing. He is therefore not bound by the Heirship Claims Order under the foregoing statute provisions because (a) the pleadings did not appropriately nor reasonably identify his affected interests by name or by class and (b) his interests were not at all adequately represented by anyone else. It appears to the undersigned that no limitation of this class of heirs was intended by the Heirship Claims Order. Corey D. Simmons should now be allowed to participate in the process, step into the testing requirement, which is still underway, and proceed with those "Applications Based Upon Claims Of Being A Descendant of Duane Nelson".

Lack Of Due Process And Legal Notice Is Not Resolved By Actual Knowledge

As to lack of legal service of process and notice to Corey D. Simmons, no defense of *laches* or some other similar assertion asserting delay in this filing will stand, since the

statutory scheme in probate requires *actual legal notice*. Minn.Stat. §§524.1-401, 524.3-401, 524.3-403(a), and 524.3-614(2). The procedural history that has excluded Corey D. Simmons was fatally flawed by those who initiated it and by lack of a reasonably thorough investigation for heirs. Both the Minnesota Probate Code and Minnesota case law demonstrate that principles of due process and notice standards are strict and jurisdictional. Mr. Simmons' participation as an heir should not be precluded simply because he did not act prior to this current motion. This is not to say that the entire Heirship Claims Order is void, but rather that it does not yet bind him and that it is not equitable that the judgment should have prospective application. The situation and lack of notice justifies giving him relief from the operation of the Heirship Claims Order. It should be amended so that he would now be entitled to join in with his other family members in the process.

Had he been served and had he an opportunity for counsel, he would have been a co-beneficiary of the Court's Heirship Claims Order and now proceeding towards genetic testing with his sister, Brianna Nelson and his niece, V.N. Rule 60.02 provides his right to request relief from the failure of other parties in identifying and serving him as required by these rules of law.

Analogous to this situation are cases regarding creditors' claims against estates, which can also only be precluded by prescribed procedural actions.

In *Estate of Kotowski*, 704 N.W.2d 522, 526 (Minn.App. 2005) the Minnesota Court of Appeals cited with approval the due process principle that actual knowledge of an estate, or of a proceeding in probate, does not itself supply sufficient notice to its creditors to preclude their claims under the Uniform Probate Code. Legal notice is required. *Citing, Armstrong v. Armstrong*, 130 F.R.D. 449, 453 (D.Colo.1990) and *Nat'l Bank of Commerce*, 606 N.W.2d at 756.

The Minnesota Court of Appeals, in *Estate of Thompson*, 484 N.W.2d 258, 261 has also held that the Due Process Clause of the United States Constitution requires the personal representative of an estate to provide legal notice of probate proceedings to known or reasonably ascertainable creditors. The mere publication of notice in a legal newspaper alone is not a constitutional basis to preclude such a claim. *Citing, Tulsa Professional Collection Servs., Inc. v. Pope*, 485 U.S. 478, 489-90, 108 S.Ct. 1340, 1347, 99 L.Ed.2d 565 (1988). The strict requirements of legal notice apply to creditors, how much more are they important and applicable to heirs at law?

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Court File No. 10-PR-16-46

In re Estate of Prince Rogers Nelson,
Decedent.

**AFFIDAVIT OF COREY D. SIMMONS
SUPPORTING MOTION FOR RELIEF FROM
ORDER AND JUDGMENT OF COURT (RULE 60.02)**

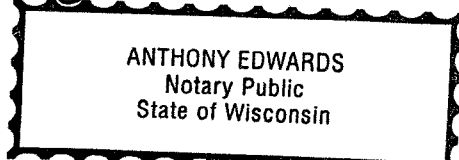
I, Corey D. Simmons, being first duly sworn, depose and state the following in support of my motion for relief from this Court's Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment of July 29, 2016:

1. I have never received any correspondence of notice regarding the estate of my uncle, Prince Rogers Nelson.
2. I knew of his death and of the estate proceedings in general, but was under the belief that the Special Administrator was advocating for the heirs, including myself.
3. I attended my uncle's funeral in 2016. I spent time with my family including my sister Brianna, aunt Norrine and aunt Sharon during the summer, including at the family and friends funeral held on August 12, 2016. Even still, I never received notice of any hearings or other Court proceedings related to the estate. Only on September 12 did I have communication from counsel for the Special Administrator regarding the administration of the estate.
4. On September 12, 2016, I contacted attorneys for the Special Administrator and talked to attorney Lauren Routhier, at Stinson Leonard Street. I thought the Special Administrator should be doing something about my rights to the estate of my uncle, Prince Rogers Nelson, but was informed that her firm represented only the Special Administrator. She said that her firm could not represent me. She sent me a follow-up email, a copy of which was attached. She attached the form for the Protocol and the Court's Order Approving the Protocol, inviting me to submit my claim. She indicated that these documents should be reviewed and filed by an attorney of my own choosing.
5. Neither Ms. Routhier, nor any other person, had notified me about this Court's *Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment of July 29, 2016*.
6. I promptly found and retained Mr. Lehner to help submit my claim.

Subscribed and sworn before me
this 23 day of September, 2016.

Anthony Edwards
Notary Public

Corey D. Simmons
Corey D. Simmons



Fwd: Corey Simmons: Prince R. Nelson Heirship claim

Begin forwarded message:

From: "Routhier, Lauren" <lauren.routhier@stinson.com>
Date: September 12, 2016 at 10:10:46 AM CDT
To: "coreydsimmons@gmail.com" <coreydsimmons@gmail.com>
Cc: "Halferty, Laura" <laura.halferty@stinson.com>, "Crosby, David" <david.crosby@stinson.com>
Subject: **Corey Simmons: Prince R. Nelson Heirship claim**

Dear Mr. Simmons,

As a follow up to our telephone call this morning, I attach the Order approving the attached Protocol Prior to Potential Genetic Testing which applies to your claim.

Please note that we represent Bremer Trust, N.A. as the Special Administrator of the Estate of Prince Rogers Nelson. Stinson Leonard Street does not and cannot represent you in this matter. Your claimed relationship to Mr. Nelson involves significant legal rights, and we recommend that you engage your own attorney to represent you regarding these rights.

If you have any questions regarding the attached protocol, please contact Laura Halferty at 612-335-1763 or David Crosby at 612-335-1627.

Best,
Lauren

Lauren Routhier | Attorney | Stinson Leonard Street LLP
150 South Fifth Street, Suite 2300 | Minneapolis, MN 55402
T: [612.335.1440](tel:612.335.1440) | F: [612.335.1657](tel:612.335.1657)
lauren.routhier@stinson.com | www.stinson.com
Legal Administrative Assistant: Charlene Hegre | [612.335.1963](tel:612.335.1963) | charlene.hegre@stinson.com

This communication (including any attachments) is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

Exhibit 1 Lehner Affidavit p. 10

2 attachments

 **0124 Protocol Prior to Potential Genetic Testing.pdf**
245K

 **0135 Order Approving Protocol.pdf**
48K

I, Carolyn Renee Simmons, first duly sworn, depose and state the following, I am the mother of Corey D'Andrea Simmons and the late Duane Joseph Nelson is Corey's father.

I met Duane J. Nelson at the University of Wisconsin Milwaukee where we both attended college. I was assigned to work in the cafeteria as a part of my work study program. While working Duane introduced himself and asked if he could have my telephone number. We began conversing on a regular basis and eventually began dating.

During our courtship Duane often invited me to his dorm at Sandburg Hall Dormitory and during those visits we were intimate. I soon became pregnant and informed Duane that I was pregnant and that I was keeping the baby. This time became stressful, Duane's grades suffered, he had other issues that impacted his schooling and he left school and moved back to Minnesota when I was approximately five months pregnant. I did not see Duane again until Corey was approximately three years old; He was smitten by how much Corey resembled him. During his visits he would spend time with me, my mother and Corey. My mother questioned why he wasn't consistent in Corey's life and he told my mother that I would not let him see Corey and that was absolutely false. Duane's visits and calls were sporadic making it difficult to maintain a relationship with him.

He was in and out of our lives and never consistent with his interactions, so I learned to make the best out of the time we had when he was around. While working at Wonder Bread he would visit Corey and at that time I would give him pictures of Corey.

Those interactions lasted about a year and then he disappeared again and I did not hear from him or know of his whereabouts.

Years had past and while I was at a friends home I called a cab to pick me up, when the cab arrived the driver was Duane. Rather than resume working Duane decided to turn off the cab and we stayed at my friends house and talked for hours. We talked about how Corey was doing and what was going on in both of our lives. He later dropped me off to my mothers house and I never physically saw him again.

I received a call from Duane in the winter of 1989 and he indicated that he was in a Rehabilitation Center in New York, I never heard from him after that. In March of 2011, I received a call from Corey informing me that his father had died.

Duane acknowledged Corey as his son but did not provide financial support and I was not able to find him to pursue child support. I became tired and stressed out about trying to find Duane and eventually decided I had to be the sole provider and protect my son from the negativity and the effects of his fathers absence.

Carolyn R. Simmons
Carolyn R. Simmons

Sept. 17th, 2016
Date

JURAT WITH AFFIANT STATEMENT

State of WISCONSIN } ss.
County of MILWAUKEE

- See Attached Document (Notary to cross out lines 1-7 below)
- See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 _____
 2 _____
 3 _____
 4 _____
 5 _____
 6 _____
 7 _____

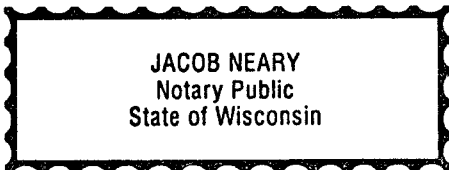
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

Subscribed and sworn to (or affirmed) before me

this 17th day of SEPTEMBER, 2016, by
Date Month Year

CAROLYN R. SIMMONS
Name of Signer No. 1



Place Notary Seal/Stamp Above

Name of Signer No. 2 (if any)

Jacob Neary
Signature of Notary Public

Exp. 06/02/2018

Any Other Required Information
(Residence, Expiration Date, etc.)

OPTIONAL

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF CARVER****FIRST JUDICIAL DISTRICT****Court File No. 10-PR-16-46****In re Estate of Prince Rogers Nelson,
Decedent.****AFFIDAVIT OF COREY D. SIMMONS**

I, Corey D. Simmons, being first duly sworn, depose and state the following in support of my claim to be an heir of Prince Rogers Nelson:

1. My name is Corey D. Simmons. I am over twenty-one (21) years of age and am making this Affidavit based upon my own personal knowledge.
2. According to the birth and death certificates of Duane Nelson Sr., John Lewis Nelson was his father.
3. John Lewis Nelson was also the father of the Decedent by Vivian Howard, making my father, Duane Nelson Sr., the half-brother of the Decedent, Prince Rogers Nelson.
4. Duane Joseph Nelson, Sr. is my father. He died on March 4, 2011.
5. I am the nephew and heir of Prince Rogers Nelson ("Decedent").
6. Duane Nelson Sr. fathered me out of wedlock, prior to fathering his other two children: Brianna Nelson and the late Duane J. Nelson, Jr.
7. Duane Joseph Nelson received me into his home and acknowledged me as his son. According to my mother, Carolyn Simmons, he visited me often until I was age 4. He relocated back to Minnesota, but periodically visited back and forth to Milwaukee to see me thereafter.
8. During my teenage years, I lost all contact and whereabouts of him until his passing on March 4, 2011. I was notified by various family members of his passing and reached out to Tyka Nelson, requesting information regarding the funeral arrangements.
9. At the Park Avenue Methodist Church located at 3400 Park Avenue South, in Minneapolis, I attended my father's funeral on March 18, 2011. While attending that funeral I first met my sister Brianna Nelson, my two aunts Norrine and Tyka Nelson, along with a few others. I have since established numerous other relationships and had reunions with other family members to date. In addition, I have been informed and shown by my sister Brianna that my dad carried pictures of me with him every day along with my aunt Norrine.

10. I attach a number of photographs as exhibits. They are:

Exhibit A. My father, Duane Joseph Nelson, Sr. (Right), and myself (Left).

Exhibit B. My sister, Brianna Nelson, at the family plot of our father.

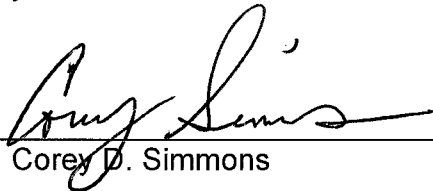
Exhibit C. My sister, Brianna Nelson, and my wife, Tanya, together at a seminar for women where my wife was a speaker.

Exhibit D. (Left to Right), my aunt Norrine, myself, my aunt Sharon, and a cousin at a family gathering.


Exhibit E. (Left to Right), two of my cousins, my aunt Norrine, myself, two of my daughters, and my wife, Tanya.

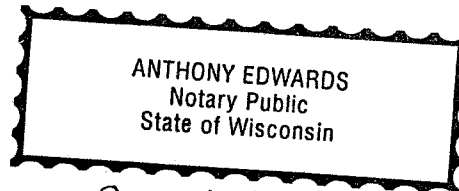
Exhibit F. Screenshots of text messages between myself and Brianna, in which she affectionately refers to me and calls me her brother.

Exhibit G. My father (back row, third from the right - #21) and Prince Rogers Nelson (front row, far right - #3) on the same basketball team in their junior high school years.


Corey D. Simmons

Subscribed and sworn before me
this 23 day of September, 2016.


Notary Public



Commission Expires: 5/13/2020

EXHIBIT A



EXHIBIT B

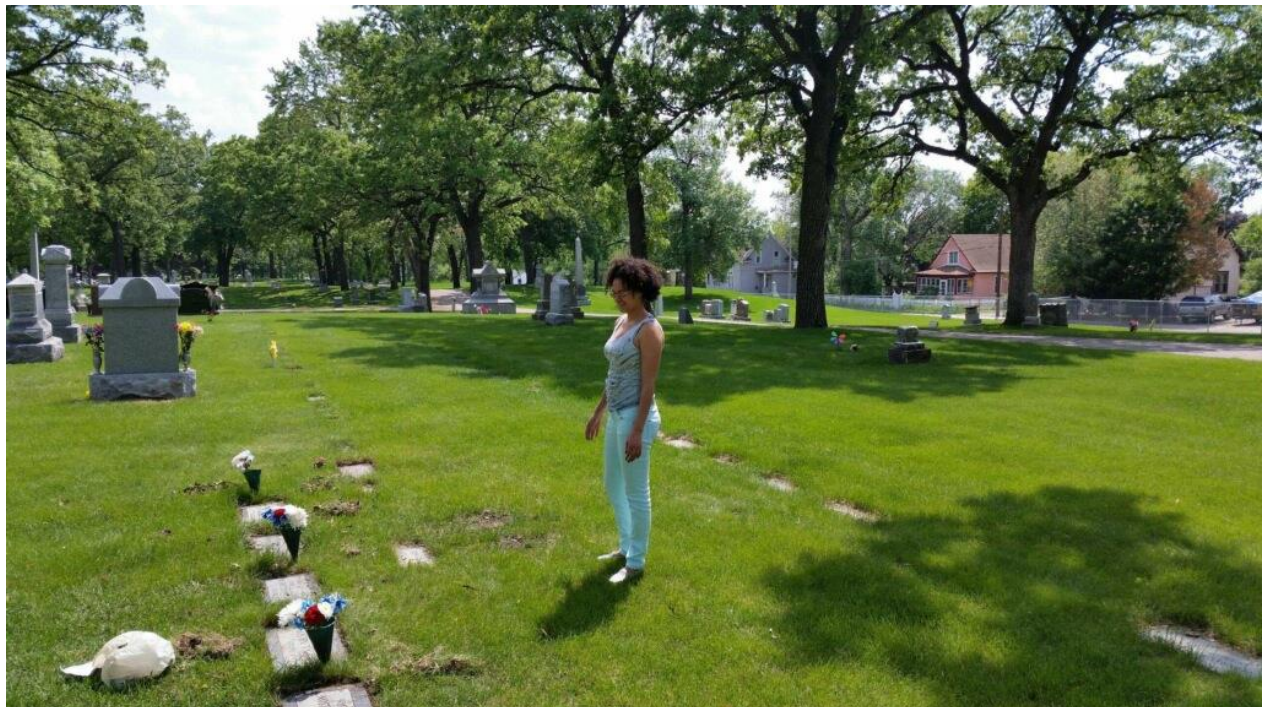


EXHIBIT C



EXHIBIT D



EXHIBIT E



EXHIBIT F

<p style="text-align: center;">F1</p> <p style="text-align: center;">< Messages Brianna Nelson - Sister Details</p> <p style="text-align: center;">Text Message Thu, Oct 29, 10:27 AM</p> <p>Brother? I love you!</p> <p style="text-align: center;">Thu, Oct 29, 12:28 PM</p> <p>Love you too</p> <p>:)</p> <p style="text-align: center;">Mon, Dec 14, 4:13 PM</p> <p>Happy Birthday !!! I texted you Ja'Cey's schedule</p> <p style="text-align: center;">Mon, Dec 14, 9:30 PM</p> <p>Thank you! I didn't get the schedule..</p> <p style="text-align: center;">Tue, Dec 15, 2:31 PM</p> <p>Text Message Send</p>	<p style="text-align: center;">F2</p> <p style="text-align: center;">< Messages Brianna Nelson - Sister Details</p> <p>4365 n 29th between congress & Roosevelt</p> <p style="text-align: center;">Fri, Jan 1, 12:10 AM</p> <p>Happy New Years !!!</p> <p>HAPPY 2016!</p> <p style="text-align: center;">Sun, Jan 10, 10:37 AM</p> <p>Can't talk right now...what's up?</p> <p style="text-align: center;">Thu, Jan 14, 10:08 AM</p> <p>I love you!</p> <p>Love you too!!! You good</p> <p>I'm great!</p> <p style="text-align: center;">Mon, Feb 15, 1:24 PM</p> <p>Text Message Send</p>
<p style="text-align: center;">F3</p> <p style="text-align: center;">< Messages Brianna Nelson - Sister Details</p> <p>Right</p> <p>I'm on one. Been on it since Valentine's day.</p> <p>Awesome!!! What else going on ...</p> <p>Y'all do prayer <u>at 3pm</u> everyday</p> <p>Nothing up jus getting used to 3rd shift. Keeping the enemy under my feet. I brought some food home from golden gate. My mom said that the most fresh Chinese food in town. She said she hasn't had Chinese food that fresh since we went to daddy's favorite restaurant in Minneapolis.</p> <p>Text Message Send</p>	<p style="text-align: center;">F4</p> <p style="text-align: center;">< Messages Brianna Nelson - Sister Details</p> <p>fresh Chinese food in town. She said she hasn't had Chinese food that fresh since we went to daddy's favorite restaurant in Minneapolis. Yes 3 everyday.</p> <p>Oh ok... 3 to what ?</p> <p style="text-align: center;">Thu, Feb 25, 8:24 PM</p> <p>Sorry I was taking a nap b4 work. Prayer is usually an hour. Sometimes an hour and a half or 2 depending on how the Spirit moves! I love u! Talk to u soon!</p> <p>Love you too... You be at work listening to prayer</p> <p>Text Message Send</p>

EXHIBIT F
(continued)

<p style="text-align: center;">F5</p> <p>< Messages Brianna Nelson - Sister Details</p> <p>No I get up from my morning sleep around 2 and go back to sleep after. Or sometimes I call and lay the phone down on mute. And relax while they pray.</p> <p style="text-align: center;">Fri, Feb 26, 3:37 PM</p> <p>Looking at a house call you later</p> <p style="text-align: center;">Sat, Mar 19, 11:32 AM</p> <p>Brother?</p> <p>Hey Bri!!!!!!!</p> <p>Hey! What are u doing? I'm off next week. Wanted to see you for Easter.</p> <p>Text Message Send</p>	<p style="text-align: center;">F6</p> <p>< Messages Brianna Nelson - Sister Details</p> <p>At the dealership... Let's make it happen</p> <p>Ok! Your mom cooking? Or are we going out to eat? I get out of church at 1pm on Sunday. Tell me the plans when u know.</p> <p>Ok...</p> <p>Love you! Ttyl</p> <p>Love you too</p> <p style="text-align: center;">Sun, Mar 27, 11:12 AM</p> <p>Happy Easter!!! We going to brunch! Call when you out of church</p> <p>Ok. Where?</p> <p>Cheesecake</p> <p>Text Message Send</p>
<p style="text-align: center;">F7</p> <p>< Messages Brianna Nelson - Sister Details</p> <p>Untee always told me that Mr Nelson was not on daddy's birth certificate. He is I went to Minnesota and got daddy's birth certificate. She is going to be so mad at me. More than she already is. She made me feel like crap for asking if we could be a part of inheriting the estate. I haven't talk to her for a week. Please keep this between us.</p> <p>I rather had told you before you saw it on social media. Sometimes I don't know the right decision to make I pray this is the best one. Talk to you soon. I love you too!</p> <p>Text Message Send</p>	

Exhibit G





ORIGINAL CERTIFICATE OF LIVE BIRTH

STATE FILE NUMBER: 1977052450
LEGACY STATE FILE NUMBER: 148-0000301786

FILE DATE: JUNE 24, 1977

Child's Name:

COREY DANDREA SIMMONS

Sex:

MALE JUNE 15, 1977

Birth Occurred Inside City, Village, Township:

WAUWATOSA

County of Birth:

MILWAUKEE

Mother's Birth Name:

CAROLYN R SIMMONS



I certify that this document contains a true and correct reproduction of facts on file with the Wisconsin Vital Records Office.

John La Fave
JOHN LA FAVE
MILWAUKEE COUNTY REGISTER OF DEEDS

15815914 Date Issued: SEPTEMBER 13, 2016



DAMMEYER LAW FIRM, P.A.

3800 American Blvd. West #1500, Bloomington, MN 55431
T 952.927.7060 F 952.232.6263 Email eric@dammeyerlaw.com
Eric C. Dammeyer, Attorney at Law

September 26, 2016
eFile Only

District Court
Carver County Justice Center
604 East 4th Street
Chaska, MN 55318

Dear Clerk of Court

With the eFiling today by Mr. Lehner and I, we are appearing for Corey D. Simmons, a nephew of Prince Rogers Nelson.

Unless the Court grants our request and supplements or amends its July 29th Order, and there must be a hearing on our motion, we are requesting to have that consolidated with the other matters scheduled for October 21st. Please advise if the matter will be heard telephonically or require in-person appearances.

Please also advise if we should file any other documents the Court requires.

Sincerely,
Dammeyer Law Firm, P.A.

/s/ Eric C. Dammeyer

Eric C. Dammeyer, Attorney
encl.
ec: Andrew M. Lehner

simmons nelson estate\motion sept 2016\ltr to court ecd 09 26 16.docx

the contents of this lyric to Prince Rogers Nelson and PRN Productions, Inc.

4. That during the years 1958 through 1977, and after Affiant's mother died in 1973, Affiant was involved in the rearing and care of her brother, Defendant Duane J. Nelson. Defendant Duane J. Nelson frequently visited Affiant's residence from 1982 through the Spring of 1987. The purpose of these frequent visits by Defendant Duane J. Nelson to Affiant's residence was in no way related to Affiant's unpublished lyrics, and, on information and belief, the visits were made as a result of the close familial relationship between Affiant and Defendant Duane J. Nelson.

5. That, on information and belief, Affiant does not believe that Defendant Duane J. Nelson has ever written lyrics for any music, including rock music and rhythm and blues.

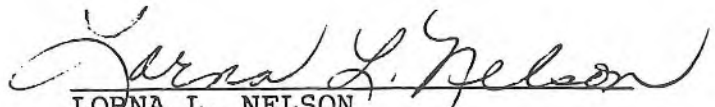
6. That Plaintiff's unpublished lyrics, including the lyric, "WHAT'S COOKING IN THIS BOOK", may have been casually examined by Affiant's brother, Defendant Duane J. Nelson, during the course of his frequent visits to Plaintiff's residence from 1982 through the Spring of 1987, but Affiant never authorized Defendant Duane J. Nelson to use the lyric, "WHAT'S COOKING IN THIS BOOK", in any way, or to remove the lyric from her residence or to disclose the contents of the lyric, "WHAT'S COOKING IN THIS BOOK" to anyone, including Prince Rogers Nelson and PRN Productions, Inc., for any purposes.

7. That Affiant has never authorized access to any of her lyrics, including her unpublished lyric, "WHAT'S COOKING IN THIS BOOK", to anyone, and any such access to the lyric, "WHAT'S COOKING IN THIS BOOK", was without her knowledge and without her permission, and was an illegal appropriation of the contents thereof and constitutes a purloined taking of Affiant's lyric, "WHAT'S COOKING IN THIS BOOK".

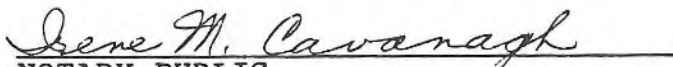
8. That Defendant John L. Nelson is the father of Affiant; and during the years 1979 through 1984, Affiant and Defendant John L. Nelson collaborated in the writing of several lyrics, including the lyrics, "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION". In November, 1984, Defendant John L. Nelson advised Affiant in a telephone conversation that he (Defendant John L. Nelson) had executed contracts with Defendants Prince Rogers Nelson and PRN Productions, Inc. with respect to certain lyrics to be embodied in a forthcoming album to be produced by Prince Rogers Nelson and PRN Productions, Inc. On information and belief, Affiant believes that the lyrics involved were "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION", which were respectively adapted by Prince Rogers Nelson and PRN Productions, Inc. as "LOVE OR MONEY" and "AROUND THE WORLD IN A DAY". The song "AROUND THE WORLD IN A DAY" is included in the album, "AROUND THE WORLD IN A DAY", and the song "LOVE OR MONEY" is embodied in a single record. On information and belief, Affiant believes

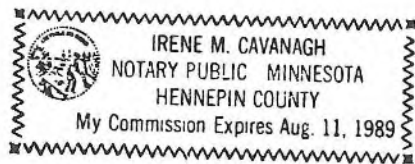
Defendant John L. Nelson was compensated by Defendants Prince Rogers Nelson and PRN Productions, Inc. for the production and distribution of the lyrics entitled "AROUND THE WORLD IN A DAY" and "LOVE OR MONEY", pursuant to contracts referred to herein-above.

Further Affiant sayeth not.


LORNA L. NELSON

Subscribed and sworn to before me
this 25th day of March, 1988.


NOTARY PUBLIC



IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

LORNA L. NELSON,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 4-87-722
)	
PRN PRODUCTIONS, INC.,)	
PRINCE ROGERS NELSON,)	
JOHN L. NELSON, and)	
DUANE J. NELSON,)	
)	
Defendants.)	

MOTION FOR LEAVE TO AMEND COMPLAINT

Plaintiff Lorna L. Nelson, by her Attorney, asks leave of the Court, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, to file the following amendment to her Complaint, heretofore filed in the above-entitled and numbered cause.

Plaintiff's amendment proposes to add the following Paragraph to Count II of the Complaint:

20. This is a claim for a Declaratory Judgment involving an actual controversy, pursuant to 28 U.S.C.A. § 2201 and the Copyright Laws, to declare Plaintiff, LORNA NELSON, as a co-author with Defendant, JOHN NELSON, for the lyrics, "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION".

Plaintiff's amendment also proposes to add the following prayer for relief:

4. That this Court enter a Declaratory Judgment determining Plaintiff, LORNA NELSON, to be a co-author with Defendant, JOHN NELSON, for the lyrics, "LOVE OR MONEY" and "AROUND THE WORLD IN A DAY".

The reasons for the leave requested herein are set forth more fully in the Memorandum attached hereto. Plaintiff has attached hereto a copy of the proposed Amended Complaint.



Herman H. Bains
Attorney for Plaintiff
608 Second Avenue South - Suite 1010
Minneapolis, Minnesota 55402
(612) 339-0159

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

LORNA L. NELSON,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.
)	
PRN PRODUCTIONS, INC.,)	
PRINCE ROGERS NELSON,)	
JOHN L. NELSON, and)	
DUANE J. NELSON,)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff, for her Amended Complaint, states and alleges that:

COUNT I

COPYRIGHT INFRINGEMENT

1. This action arises under the Copyright Laws of the United States, and jurisdiction of this Court is founded on such Laws and on Title 28, United States Code, § 1338(a). The venue is proper under 28 U.S.C. § 1400(a).

2. Plaintiff, LORNA NELSON, is an individual, residing at 3121 Pillsbury Avenue, Minneapolis, Minnesota 55408.

3. Plaintiff, LORNA NELSON, has created and written several lyrics for adaptation to rock music, including the unpublished work entitled, "WHAT'S COOKING IN THIS BOOK". Dominant recurring expressions in "WHAT'S COOKING IN THIS BOOK" are ". . . TAKE A (ANOTHER) LOOK" and ". . . COOKING IN THIS BOOK".

4. Plaintiff has obtained and is the owner of Copyright Registration No. PAU 908-566 of the unpublished work entitled, "WHAT'S COOKING IN THIS BOOK", and a copy of this work and the Copyright Registration is attached hereto as Exhibit "A".

5. Defendant, PRN PRODUCTIONS, INC., is a corporation, having a principal place of business at 7801 Audubon Road, Chanhassen, Minnesota 55317, and is engaged in the business of manufacturing, producing, and distributing phonograph records featuring PRINCE ROGERS NELSON, an internationally-known rock recording star, performer, vocalist, and writer-composer.

6. Defendant, PRINCE ROGERS NELSON, an individual, is the half-brother of Plaintiff, LORNA NELSON; and, on information and belief, resides at 7801 Audubon Road, Chanhassen, Minnesota 55317, and is the owner of PRN PRODUCTIONS, INC.

7. Defendant, JOHN L. NELSON, an individual, is the father of Plaintiff, LORNA NELSON and Defendants, PRINCE NELSON and DUANE NELSON; and, on information and belief, resides at 7801 Audubon Road, Chanhassen, Minnesota 55317.

8. Defendant, PRINCE NELSON, is a performer, writer, and composer of rock music and is the principal singer featured in record albums and single albums manufactured, produced, and distributed by PRN PRODUCTIONS.

9. Defendant, DUANE J. NELSON, is an individual, residing at 539 Newton Avenue North, Minneapolis, Minnesota, is employed by PRN PRODUCTIONS, and is the brother of LORNA NELSON and the half-brother of PRINCE NELSON.

10. During the years 1982 through the Spring of 1987, DUANE NELSON was a frequent visitor to the residence of Plaintiff; and, during such visits, DUANE NELSON was allowed to casually review and inspect lyrics written and owned by LORNA NELSON, including lyrics for which Plaintiff had obtained Copyright Registrations and others for which no Copyright Registration had been obtained.

11. On information and belief, DUANE NELSON, without permission of Plaintiff, obtained a copy of Plaintiff's copyrighted unpublished work entitled, "WHAT'S COOKING IN THIS BOOK", and delivered this copy to PRN PRODUCTIONS and PRINCE NELSON.

12. In 1987, PRN PRODUCTIONS and PRINCE NELSON manufactured, produced, and distributed the record album entitled, "SIGN OF THE TIMES", which included the song "U GOT THAT LOOK", consisting of lyrics in which the dominant expressions of refrain are "U GOT THE LOOK" and "COOKING IN MY BOOK". The dominant expressions of refrain in the song "U GOT THAT LOOK" are strikingly similar to the dominant recurring expressions of Plaintiff's copyrighted unpublished work entitled, "WHAT'S COOKING IN THIS BOOK", and constitute an infringement thereof. This infringement was committed willfully and deliberately. A copy of the album jacket for the album "SIGN OF THE TIMES" is attached hereto as Exhibit B.

13. Defendants were notified of Plaintiff's Copyright Registration by a letter dated April 10, 1987 to PRN PRODUCTIONS, in which Plaintiff sought to have this matter resolved.

14. Defendants, through their Attorneys, responded in a letter,

dated May 29, 1987, denying, in effect, infringement of Plaintiff's copyright by Defendants.

15. Defendant, DUANE NELSON, is among those persons listed on the album entitled, "SIGN OF THE TIMES", credited to having made a contribution to the album's production; and, on information and belief, the designation credit of DUANE NELSON was as an author or co-author of the song, "U GOT THAT LOOK".

16. On information and belief, Defendants, PRN PRODUCTIONS, INC. and PRINCE NELSON manufactured, produced, and distributed a single record recording on one side thereof entitled, "U GOT THAT LOOK", featuring SHEENA EASTON, an internationally known recording star, and PRINCE NELSON, as vocalists. The manufacture, production, and distribution of this record constitute an infringement of Plaintiff's unpublished copyrighted work entitled, "WHAT'S COOKING IN THIS BOOK".

17. On information and belief, Defendants, PRN PRODUCTIONS, INC. and PRINCE NELSON, have manufactured, produced, and distributed a video and a sound track, featuring PRINCE NELSON and SHEENA EASTON, performing "U GOT THAT LOOK". The manufacture, production, and distribution of this video and sound track constitute an infringement of Plaintiff's unpublished copyrighted work entitled, "WHAT'S COOKING IN THIS BOOK".

18. Defendants continue to, and will continue to, infringe Plaintiff's copyright in the unpublished work entitled, "WHAT'S COOKING IN THIS BOOK", all to Plaintiff's substantial and irreparable injury and damage, unless enjoined by this Court.

COUNT IIDECLARATORY JUDGMENT FOR CO-AUTHORSHIP AND ACCOUNTING

19. The allegations of Paragraphs 2, 3, and 5 - 8 are re-alleged and incorporated herein by reference.

20. This is a claim for a Declaratory Judgment involving an actual controversy, pursuant to 28 U.S.C.A. § 2201 and the Copyright Laws, to declare Plaintiff, LORNA NELSON, as a co-author with Defendant, JOHN NELSON, for the lyrics, "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION".

21. During the years 1983 through 1985, Plaintiff, LORNA NELSON, and Defendant, JOHN NELSON, jointly wrote several lyrics for rock music, including the lyrics entitled, "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION". A copy of each of these lyrics is attached hereto as Exhibits C and D, respectively.

22. On information and belief, JOHN NELSON entered into an agreement with Defendants, PRN PRODUCTIONS, INC. and/or Defendant, PRINCE NELSON, licensing the right to adapt the lyrics, "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION", for rock music; and this agreement was entered into by Defendants, JOHN NELSON, PRN PRODUCTIONS, INC., and PRINCE NELSON without knowledge or permission of Plaintiff, LORNA NELSON.

23. Dominant recurring expressions of the lyrics "LOVE FOR MONEY" were adapted and recorded on the single record entitled, "LOVE OR MONEY", manufactured, produced, and distributed by PRN PRODUCTIONS, featuring PRINCE NELSON as the vocalist. LORNA NELSON is a contributing author of "LOVE OR MONEY". The flip

side of this record is a recording of the song entitled, "KISS".

24. PRN PRODUCTIONS, INC. manufactured, produced, and distributed the record album entitled, "AROUND THE WORLD IN A DAY", which included the song "AROUND THE WORLD IN A DAY", consisting of dominant recurring expressions and the theme of the lyrics "TAKING MY MIND ON A VACATION". LORNA NELSON is a contributing author of "AROUND THE WORLD IN A DAY".

25. On information and belief, Defendant, JOHN NELSON, received royalties and/or other compensation in accordance with this agreement with Defendants, PRN PRODUCTIONS, INC. and PRINCE NELSON; and Defendant, JOHN NELSON has never accounted to Plaintiff, LORNA NELSON, for her share of the royalties and/or other compensation relating to the rights conveyed with respect to the lyrics "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION".

WHEREFORE, Plaintiff prays:

1. That Defendants, PRN PRODUCTIONS, INC. and PRINCE NELSON, be enjoined from further acts of infringement of Plaintiff's copyright.
2. That Plaintiff be awarded all damages suffered as a result of the infringement.
3. That Defendants be ordered to account to Plaintiff for all profits that are attributable to the Copyright Infringement Complaint herein.
4. That this Court enter a Declaratory Judgment determining Plaintiff, LORNA NELSON, to be a co-author with Defendant, JOHN

NELSON, for the lyrics, "LOVE OR MONEY" and "AROUND THE WORLD IN A DAY".

5. That Defendant, JOHN NELSON, be ordered to account to Plaintiff for Plaintiff's share of the profits received by Defendant, JOHN NELSON, for the lyrics "LOVE OR MONEY" and "AROUND THE WORLD IN A DAY".

6. That Plaintiff be awarded costs and attorneys fees.

7. That Plaintiff be granted such other and further relief as may be proper under the circumstances.

By _____

Herman H. Bains
Attorney for Plaintiff
608 Second Avenue South
Suite No. 1010
Minneapolis, Minnesota 55402
(612) 339-0159

PRELIMINARY STATEMENT

Plaintiff Lorna Nelson has appealed the Order of the Honorable David S. Doty, United States District Court, District of Minnesota, Fourth Division, entered April 28, 1988, dismissing Count I of the Complaint, for failure to state a claim upon which relief can be granted, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Judgment was entered on the Order dismissing Count I, and this Order is final and appealable. American National Bank and Trust Co. v. Bailey, 750 F.2d 577 (7th Cir. 1984).

Although the Trial Court dismissed Count II of the Complaint without prejudice for lack of subject matter jurisdiction, Lorna Nelson has not appealed that part of the Order dismissing Count II. However, Lorna Nelson has appealed the Order of the Trial Court, entered on February 10, 1988, denying discovery to Lorna Nelson.

Jurisdiction of the Trial Court was invoked generally under 28 U.S.C. 1338(a). Specifically, Lorna Nelson asserted infringement of her unpublished copyrighted work by Defendants Prince Nelson and PRN Productions, Inc. (hereinafter "PRN") under the Copyright Act, Title 17.

Jurisdiction of this Court is based on 28 U.S.C. 1291 and Rule 4(a) of F.R.A.P. Lorna Nelson timely filed her Notice of Appeal on May 3, 1988.

STATEMENT OF THE ISSUES

1. Did the Trial Court err in dismissing the copyright infringement claim of Count I by applying the wrong legal standard in its determination that there was no copyright infringement?

Harper & Row Publishers v. Nation Enterprises, 471 U.S. 539 (1985)

Salinger v. Random House, Inc., 811 F.2d 90 (2nd Cir. 1987)

17 U.S.C. § 106(3)

17 U.S.C. § 107

17 U.S.C. § 301(a).

2. Did the Trial Court abuse its discretion in denying Appellant, Lorna Nelson, discovery under the copyright infringement claim (Count I) with respect to the facts surrounding the admitted unauthorized access and the facts surrounding the accused use by PRN and Prince?

Time, Inc. v. Bernard Geis Associates, 293 F. Supp. 130 (S.D.N.Y. 1968)

Harper & Row Publishers v. Nation Enterprises, 471 U.S. 539 (1985)

Atlantic City Electric Co. v. A. V. Chance Co., 313 F.2d 431 (2nd Cir. 1963)

Lazofsky v. Sommerset Bus Co., 389 F. Supp. 1041 (E.D.N.Y. 1975).

STATEMENT OF THE CASETHE NATURE OF THE CASE

In Count I of the Complaint, Lorna Nelson asserted that the publication and distribution of records and tapes containing the song "U GOT THE LOOK" by Prince Nelson (hereinafter Prince) and PRN infringed on her unpublished copyrighted work "WHAT'S COOKING IN THIS BOOK". The Complaint, as originally filed, contained five (5) Counts, but Counts III, IV, and V were subsequently dismissed by agreement of the parties. In the Complaint, as originally filed, Lorna Nelson asserted a claim (Count II) against John Nelson for accounting for monies received by John Nelson from certain lyrics allegedly co-authored by Lorna and John Nelson. Count II was dismissed without prejudice because of lack of subject matter jurisdiction. That part of the Order dismissing Count II has not been appealed. The questions presented by this Appeal relate only to Count I of the Complaint for copyright infringement against Prince and PRN.

PRN and Prince have argued that Lorna Nelson's copyright claim is frivolous, and similar to other (frivolous) suits brought against Prince as a result of his worldwide fame (App. 85). However, Lorna Nelson is no stranger to most of the Defendants named in the original Complaint because she is familially related to Prince, Duane, and John Nelson.

Lorna Nelson is the sister of Duane Nelson, the half-sister of Prince, and the daughter of John Nelson. Prince is an internationally-known rock recording star, performer, vocalist, and writer-composer of rock music.

PRN is a corporation, having a principal place of business at 7801 Audubon Road, Chanhassen, Minnesota 55317, and is engaged in the business of manufacturing, producing, and distributing phonograph records featuring Prince. It is believed that John Nelson and Duane Nelson are employed by either Prince or PRN. Since Lorna Nelson was denied discovery, the exact relationship between Prince and PRN is unknown.

Lorna Nelson's original efforts at writing lyrics began in 1983, and, during the years 1983 - 1985, she and John Nelson jointly wrote several lyrics for rock music, including the lyrics entitled "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION" (App. 8). The allegation of this joint ownership was the basis for Lorna Nelson's claim for accounting asserted in Count II. John Nelson has denied jointly writing any lyrics with Lorna Nelson (App. 66, 67). The lyrics for "LOVE FOR MONEY" and "TAKING MY MIND ON A VACATION" were adapted to rock music and recorded on records by Prince and PRN as the songs entitled "LOVE OR MONEY" and "AROUND THE WORLD IN A DAY", respectively.

After 1985, Lorna Nelson continued to write lyrics and

in 1986 she wrote the lyric entitled "WHAT'S COOKING IN THIS BOOK". Thereafter, Lorna Nelson filed and obtained Copyright Registration No. PAu 908-566, dated October 20, 1986, for the lyric "WHAT'S COOKING IN THIS BOOK" as an unpublished work (App. 15).

Access to a copyrighted work is a critical and necessary element in proving infringement. Prince and PRN have admitted access to the copyrighted work "WHAT'S COOKING IN THIS BOOK" for the purposes of this Motion. However, Lorna Nelson has testified in her Affidavit that access to her copyrighted unpublished work was not only unauthorized, but she was unaware that Prince and PRN had gained access to it until their admission (App. 141). Lorna Nelson contends, and has alleged, that Prince and PRN gained access to her unpublished copyrighted work through her younger brother, Duane Nelson, during his frequent visits to her residence (App. 3). Lorna Nelson's Affidavit reflects that the unauthorized access amounted to a purloined taking.

Lorna Nelson was involved in the rearing and care of her younger brother, Duane Nelson, prior to, and subsequent to, the death of their mother (App. 140). Duane Nelson was a frequent visitor to Lorna Nelson's residence during the years 1982 - 1987. Lorna Nelson has alleged that, during the course of these frequent visits, she believes Duane Nelson obtained a copy of her unpublished copyrighted work,

without her authority and without her knowledge, and delivered it to Prince and PRN (App. 6).

In the early Spring of 1987, PRN and Prince manufactured, produced, and distributed the record album entitled "SIGN 'O' THE TIMES", which included the accused song, "U GOT THE LOOK". In a letter dated April 10, 1987, PRN and Prince were notified of the Copyright Registration of the unpublished work "WHAT'S COOKING IN THIS BOOK" and Lorna Nelson's allegation of infringement of this work by the accused work, "U GOT THE LOOK". However, in a letter dated May 29, 1987, one of the attorneys for Prince and PRN denied infringement of Lorna Nelson's copyrighted work and asserted that any similarities that might exist would certainly fall within the fair use doctrine (App. 134, 135). The Complaint was thereafter filed on August 12, 1987.

PROCEDURAL HISTORY

The Complaint was filed August 12, 1987, and Lorna Nelson was able to serve Duane Nelson and PRN, but was unable to serve Prince and John Nelson. After extensive unsuccessful efforts to serve John Nelson and Prince (App. 45), service by publication was undertaken pursuant to Rule 4(c)(i) of the F.R.C.P., and service of process by this method would have been completed on November 27, 1987 (App. 41).

On September 2, 1987, Duane Nelson filed a Motion to

Dismiss the Complaint, along with a supporting Memorandum pursuant to Rule 12(b)(6) of the F.R.C.P. On September 11, 1987, PRN filed a Motion to Dismiss pursuant to Rule 12, but deferred filing its supporting Memorandum at that time. Prince and John Nelson voluntarily appeared on November 20, 1987 by filing a Motion to Dismiss the Complaint, pursuant to Rule 12(b)(6) of the F.R.C.P. and were joined in their supporting Memorandum by PRN.

In an Order dated December 14, 1987, Magistrate Boline granted Lorna Nelson's Motion for Leave to Take the Depositions of Defendants (App. 59). However, this Order granting discovery to Lorna Nelson was appealed, and Judge Doty, in an Order dated February 9, 1988, modified Magistrate Boline's Order and denied discovery with respect to Count I (App. 60). In this Appeal, Appellant contends that the denial of discovery with respect to Count I constitutes an abuse of the Trial Court's discretion.

The respective parties to this action, in a Stipulation of Dismissal, stipulated and agreed to dismiss Counts III, IV, and V of the Complaint with prejudice, and this Stipulation of Dismissal was approved and filed March 28, 1988 by the Trial Court. Defendants, of course, have filed no Answer.

The Motion to Dismiss the Complaint, brought by Prince, PRN, and John Nelson, was heard on April 8, 1988, and the Trial Court granted Defendants' Motion in its Order of April

28, 1988 (App. 77) dismissing those Counts remaining in the Complaint, namely, Count I and Count II. Lorna Nelson has appealed that part of the Order dismissing Count I of the Complaint for failure to state a claim for which relief can be granted, but has not appealed that part of the Order dismissing Count II.

ARGUMENT

INTRODUCTION

PRN and Prince contended in their Motion to Dismiss Count I of the Complaint that Lorna Nelson's allegation that Prince's accused lyric ("U GOT THE LOOK") infringed her copyrighted lyric ("WHAT'S COOKING IN THIS BOOK") did not sufficiently allege substantial similarity between the works. This Count was said to fail under Rule 12(b)(6) of the F.R.C.P. for failure to state a claim upon which relief could be granted. PRN and Prince also contended that expressions common to the copyrighted and accused works were unprotected expressions because they did not originate with Lorna Nelson.

In their attempt to have the Trial Court limit its determination of the sufficiency of Count I to a consideration of the question of substantial similarity between the copyrighted and accused works, PRN and Prince asserted that a Copyright claimant must prove ownership of the copyrighted work and

copying by the accused infringer for the purpose of establishing copyright infringement. Ownership of the copyrighted work was admitted for the purposes of the Motion.

PRN and Prince further asserted that copying could be inferred from evidence that the Defendants had access to the copyrighted work and that substantial similarities exist as to the protectible material in the two works. Access was admitted for the purposes of the Motion. Based on these assertions and the case authorities in support of the assertions, PRN and Prince then argued that the only question facing the Trial Court in its determination of the sufficiency of Count I was a consideration of substantial similarity between the two works.

In opposing the Motion to Dismiss Count I, Lorna Nelson contended that the accused lyric, "U GOT THE LOOK", contained expressions which were appropriated in literal or paraphrased form amounting to 20% to 25% of the copyrighted work. Lorna Nelson further contended that the standard to be used in determining copyright infringement of an unpublished work where access thereto was unauthorized, was not the same standard used in determining copyright infringement of a published work where access thereto was legitimate. Finally, Lorna Nelson contended that, since her copyrighted work was unpublished and access thereto was unauthorized, the determination of copyright infringement was controlled by the

principles enunciated in Harper & Row Publishers v. Nation Enterprises, 471 U. S. 539 (1985) under the fair use doctrine.

The Trial Court rejected Lorna Nelson's argument and accepted Defendants' argument that Count I did not sufficiently allege substantial similarity between the copyrighted and accused works.

THE TRIAL COURT'S ORDER

In its Order dismissing Count I, the Trial Court cited and relied on Walker v. Time Life Films, Inc., 784 F.2d 44, 48 (2nd Cir. 1986) and Atari, Inc. v. North American Phillips Consumer Electronics Corp., 672 F.2d 607, 614 (7th Cir. 1982), cert. denied, 459 U.S. 880 (1982), as authorities defining the legal standards and principles for establishing copyright infringement. However, both of these authorities involve a claim of copyright infringement of published works where access was not illegal. Neither authority involves a claim of copyright infringement of an unpublished work whose access was unauthorized.

Although Lorna Nelson vigorously contended during the Hearing on the Motion to Dismiss that the unpublished nature of the copyrighted work and unauthorized access were critical factors in determining copyright infringement of Plaintiff's lyric (App. 120-128), the Trial Court apparently considered these facts irrelevant (App. 117-119) in its consideration

Plaintiff's ownership of her copyrighted lyric, the Certificate of Registration is prima facie evidence of ownership. 17 U.S.C. 410(c). Southern Bell Telephone and Telegraph Co. v. Associated Telephone Directory Publishers, 756 F.2d 801 (11th Cir. 1985). Since originality of the author is a necessary condition to validity of the Copyright, it follows that a Certificate of Registration properly obtained within the five (5) year period allowed by the 1976 Copyright Act constitutes prima facie evidence of the author's originality. 3 Nimmer § 12.11[A] at 12-7a. See also Appalachian Artworks, Inc. v. Toy Loft, Inc., 489 F. Supp. 174 (N.D. Ga. 1980), aff'd. 684 F.2d 821 (11th Cir. 1982). The Certificate of Registration is also prima facie evidence of the copyrightability of Plaintiff's lyric. Donald Frederick Evans & Associates, Inc. v. Continental Homes, Inc., 785 F.2d 897, at 903 (11th Cir. 1986). Lorna Nelson's Registration is, therefore, prima facie evidence that her copyrighted lyric, "WHAT'S COOKING IN THIS BOOK", is her literary property and is presumptively valid and original.

The Certificate of Registration (App. 137) discloses on its face that Lorna Nelson's copyrighted lyric is unpublished. The Complaint (App. 6) in Paragraph 11 alleges that access to Plaintiff's copyrighted unpublished lyric was without her permission. This allegation that access to her copyrighted lyric was without her permission is bolstered by

Lorna Nelson's Affidavit (App. 141) which states that any access to her unpublished work was not only unauthorized, but without her knowledge and, therefore, amounted to a purloined taking. Since the Motion to Dismiss Count I has sought to test the sufficiency of Lorna Nelson's copyright claim, then the alleged unauthorized access must be taken as true.

The record album entitled "SIGN 'O' THE TIMES" contained the accused work "U GOT THE LOOK" and was manufactured, produced, and distributed by PRN and Prince solely for commercial purposes. PRN and Prince manufactured, produced, and distributed a single record entitled "U GOT THE LOOK". The single record entitled "U GOT THE LOOK", as well as the album "SIGN 'O' THE TIMES", which contained the accused work "U GOT THE LOOK" both enjoyed substantial commercial success (App. 144-148). These uncontested facts, namely, the unpublished nature of the copyrighted lyric "WHAT'S COOKING IN THIS BOOK", the unauthorized access thereto, the profit motive of PRN and Prince in releasing the accused work "U GOT THE LOOK", and the substantial commercial success of the accused work, all bear determinatively on the question of whether or not the Trial Court erred in granting Defendants' Motion to Dismiss Count I. Although Lorna Nelson contends that the accused work contains appropriated expressions (in literal or paraphrased form) amounting to 20% to 25% of the copyrighted

work, Defendants deny any use of the copyrighted work (App. 115).

THE TRIAL COURT APPLIED THE WRONG
STANDARD IN DISMISSING COUNT I

The Order dismissing Lorna Nelson's copyright claim (Count I) clearly shows that the Trial Court's conclusion that no fact finder would conclude that Defendant unlawfully appropriated Plaintiff's work was based solely on a review and pure comparison of the two works. No other facts were considered by the Trial Court in reaching this conclusion.

Although Lorna Nelson contended that PRN and Prince had appropriated 20% to 25% of her copyrighted lyric in literal or paraphrased form, PRN and Prince, after admitting access, denied using any of the copyrighted expression (App. 115). The Trial Court made no quantitative determination of the alleged similarities, but merely stated that it agreed with Defendants' contention that there is no substantial similarity between Plaintiff's and Defendants' work and, therefore, no infringement. Finally, the Trial Court's Order is striking in its omission of any reference to the unpublished nature of Plaintiff's copyrighted work and the unauthorized access thereto. One can only infer that, after rejecting Lorna Nelson's contention that the fair use defense was the only one available to Defendants, the Trial Court simply considered the unpublished nature of the copyrighted work and

unauthorized access thereto to be irrelevant for the purposes of its determination (App. 117, 118).

Was the Trial Court judicially justified in limiting its determination of non-infringement to a consideration of substantial similarity where the copyrighted work was unpublished, the admitted access thereto unauthorized, and where Defendants appropriated 20% to 25% of the copyrighted work for use in commercial albums and records which enjoyed smashing commercial success? Given these facts, what is the degree of permissible similarity which would be regarded as substantial?

Prior to 1978, unpublished letters, like other unpublished works, were protected by Common Law Copyright, but the 1976 Copyright Act preempted the Common Law Copyright, 17 U.S.C. § 301(a), and brought unpublished works under the protection of Federal Copyright Law, which includes the the right of first publication among the rights accorded to the copyright owner, Id. § 106(3). Salinger v. Random House, Inc., 811 F.2d 90, 94 (2nd Cir. 1987).

It is submitted that the only justification under the 1976 Copyright Act for a commercial use of an unpublished copyrighted lyric whose access was unauthorized is a defense of fair use. Harper & Row Publishers v. Nation Enterprises, 471 U.S. 539 (1985). The Trial Court's Order, limiting its consideration of copyright infringement solely to a determination

of substantial similarity between Lorna Nelson's unpublished copyrighted lyric and the accused lyric, is clearly at odds and inconsistent with the guidelines set forth in Harper & Row Publishers v. Nation Enterprises, supra. What possible justification under the 1976 Copyright Act is available to PRN and Prince for their commercial use of an unpublished copyrighted lyric, where access thereto was unauthorized? Regardless of whether the fair use defense is raised, it is the only defense available to PRN and Prince with respect to Plaintiff's claim of copyright infringement under the facts of this case.

If the only defense available to PRN and Prince is the defense of fair use, then the Trial Court erred in limiting its consideration of copyright infringement to a determination of substantial similarity between the unpublished copyrighted work and the accused work. The defense of fair use presupposes some use of the copyrighted work by the accused infringer. Although Prince and PRN have denied any use of the copyrighted lyric, "WHAT'S COOKING IN THIS BOOK" (App. 115), Lorna Nelson contends that Defendants' appropriated 20% to 25% of her copyrighted lyric in the accused work "U GOT THE LOOK".

Lorna Nelson sought discovery with respect to the facts surrounding the admitted unauthorized access (App. 90) and the use of her protected expressions in the accused work

(App. 91), but was denied discovery (App. 60) with respect to these matters. The Trial Court's refusal of discovery on these matters prevented Lorna Nelson from seeking an explanation as to how and why certain of her protected expressions appeared in the accused work. Further, Lorna Nelson also was foreclosed from discovering whether PRN and Prince would admit or deny use of her copyrighted work as a source of the similar expressions. Since the Trial Court denied Lorna Nelson discovery with respect to the Copyright Count, and made no determination of use of Plaintiff's unpublished copyrighted work by Prince and PRN, the record is simply mute with respect to this contentious factual question (use versus no use).

In order to facilitate the Court's understanding of Lorna Nelson's contention that the accused work contains 20% to 25% of the copyrighted work, Lorna Nelson has included in the Appendix (App. 136) a copy of the copyrighted and accused works with the alleged appropriated expressions highlighted with corresponding different colors in the respective works. It is submitted that this Chart clearly demonstrates that PRN and Prince appropriated in literal or paraphrased form 20% to 25% of Plaintiff's copyrighted work in the accused lyric.

It is, therefore, patently conclusive that PRN and Prince used protected expressions of Lorna Nelson's unpublished

copyrighted lyric in the accused lyric. The Trial Court erred in limiting its consideration of copyright infringement to determination of substantial similarity, rather than the fair use factors of 17 U.S.C. § 107. It is submitted that the decision of the Supreme Court in Harper & Row Publishers v. Nation Enterprises, supra, is controlling with respect to a determination of copyright infringement of an unpublished work held in confidence.

HARPER & ROW PUBLISHERS
v. NATION ENTERPRISES DECISION

There are striking similarities between the facts in Harper & Row Publishers v. Nation Enterprises and the present case. The copyrighted work in Harper & Row was the unpublished memoirs of Ex-President Gerald Ford, which were embodied in the manuscript entitled, "A Time To Heal", comprised of 200,000 words (655 pages). In the present case, the unpublished lyric for rhythm and blues music is entitled "WHAT'S COOKING IN THIS BOOK" and is comprised of 176 words.

In Harper & Row, a Certificate of Copyright Registration was obtained on the unpublished manuscript, but the manuscript was held in confidence prior to an anticipated publication date. In the present case, Lorna Nelson obtained a Certificate of Copyright Registration on her unpublished lyric, "WHAT'S COOKING IN THIS BOOK", but retained the

unpublished lyric in confidence at her residence (App. 139). In Harper & Row, the admitted access to the unpublished manuscript was not only unauthorized, but the accused infringer purloined the manuscript. In the present case, the admitted access to the unpublished copyrighted lyric was also unauthorized (Paragraph 11 of the Complaint, App. 6, App. 139), and the unpublished lyric was purloined by Defendants (App. 140).

In Harper & Row, the accused infringer appropriated 300 words (1 page) in literal and paraphrased form from the 200,000 word manuscript (655 pages), and the appropriated expressions amounted to substantially less than one percent of the copyrighted manuscript. In the present case, the accused work, "U GOT THE LOOK", is comprised of 242 words and contains approximately seven lines of literal and paraphrased expressions from the copyrighted work "WHAT'S COOKING IN THIS BOOK". The appropriated expressions correspond to approximately 20% to 25% of the copyrighted work.

In Harper & Row, there was pretrial discovery and a full trial on the merits. The Supreme Court held that the accused infringer's use of the unpublished lyrics was an unfair use. In the present case, Lorna Nelson was denied discovery and the Trial Court dismissed Count I of the Complaint for lack of substantial similarity between the copyrighted and accused works. This procedural difference in Harper & Row and the present case should be carefully borne

in mind.

In distinguishing the present case from Harper & Row, the Trial Court noted that the fair use defense may be raised as a justification for the use of copyrighted material when such other use would otherwise constitute infringement (citing Harper & Row, 471 U.S. 539, at 548). Apparently, the Trial Court has concluded that the fair use defense may be invoked only where there is an admission of infringement by the accused infringer, or there is a threshold determination of infringement based on substantial similarity between the accused and copyrighted works of the same quantitative magnitude as required with published copyrighted works. It is submitted that this distinction will not stand up under the cold light of close scrutiny.

Suppose, arguendo, that Plaintiffs in Harper & Row had been denied pretrial discovery, and that the accused infringer had filed a Motion to Dismiss the copyright claim, asserting that there was a lack of substantial similarity (less than one percent) between the accused work and the copyrighted work. If that procedure had been followed in Harper & Row (rather than a full trial), would the Supreme Court's reasoning stand that there was an unfair use? Would the appropriation of less than one percent of the copyrighted work amount to substantial similarity?

It appears as though the Trial Court has simply failed

to understand the reasoning and rationale of the Harper & Row Publishers v. Nation Enterprises case. The Trial Court seems to favor procedure over substance. Where there is an accusation of copyright infringement of an unpublished copyrighted work, the clear mandate in Harper & Row Publishers v. Nation Enterprises, as well as the 1976 Copyright Act, requires a determination under the fair use doctrine.

THE USE OF THE COPYRIGHTED LYRIC IS UNFAIR

The fair use defense has been codified in Title 17 U.S.C. § 107, which states, in pertinent part:

"In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include --

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work."

It is submitted that special emphasis should be placed on the unpublished nature of Lorna Nelson's lyric when considering each of the four (4) statutory fair use factors. In any event, each of the statutory factors listed under 17 U.S.C. § 107 must be evaluated in determining if the use of Lorna Nelson's unpublished lyric by PRN and Prince is a fair

use.

PURPOSE AND CHARACTER OF THE USE

The sole purpose of the use of Plaintiff's lyric, "WHAT'S COOKING IN THIS BOOK", by PRN and Prince was to prepare the accused lyric, "U GOT THE LOOK", for commercial distribution. The accused lyric, "U GOT THE LOOK", was not only embodied in an album entitled, "SIGN 'O' THE TIMES", but the accused lyric was also embodied in a single record of the same name ("U GOT THE LOOK"). Both the album and the single record, "U GOT THE LOOK", enjoyed commercial success (App. 144-148).

Every commercial use of copyrighted material is presumptively an unfair exploitation of the monopoly privilege that belongs to the owner of the Copyright. Sony Corp. v. Universal City Studios, Inc., 464 U.S. 417, at 451, 104 S.Ct. 774, at 793 (1984). The commercial use of the appropriated copyright expressions by PRN and Prince in the accused work favors Lorna Nelson.

The propriety of the conduct of PRN and Prince is also relevant to the character of use. 3 Nimmer, § 1305[A], at 13-72. The admitted access to Lorna Nelson's unpublished lyric was not only unauthorized (App. 6), but amounted to a purloined taking of the lyric (App. 141). The Trial Court apparently considered the unauthorized access of Lorna Nelson's

unpublished lyric and the use of the purloined lyric to be irrelevant in its determination of copyright infringement (App. 118, 119). However, the fair use defense is an equitable defense. Iowa State University Research Foundation, Inc. v. American Broadcasting Companies, 621 F.2d 57 (2nd Cir. 1980). Fair use presupposes "good faith and fair dealing". Time, Inc. v. Bernard Geis Associates, 293 F. Supp. 130 (S.D.N.Y. 1968), quoting Schulman, "Fair Use in the Revision of the Copyright Act", 53 Iowa L. Rev. 832 (1968). See also Harper & Row Publishers v. Nation Enterprises, 471 U. S. 539, at 562.

In view of the commercial exploitation of the appropriated expressions and the purloined taking of Lorna Nelson's unpublished copyrighted lyric, the character and purpose of the use of the copyrighted work by PRN and Prince weighs heavily in favor of Lorna Nelson.

NATURE OF THE COPYRIGHT

Plaintiff's Certificate of Copyright for her lyric, "WHAT'S COOKING IN THIS BOOK", clearly demonstrates on its face that the Registration is for an unpublished work (App. 137). The fact that a work is unpublished is a critical element of its "nature". Harper & Row Publishers v. Nation Enterprises, 471 U.S. 539, 564. See also 3 Nimmer, § 1305[A]. The scope of fair use is narrower with respect to unpublished

works. Harper & Row Publishers v. Nation Enterprises, supra,
at 564.

In Salinger v. Random House, Inc., 811 F.2d 90, at 97
(2nd Cir. 1987), the meaning of the narrower scope of fair
use expressed in Harper & Row has been explained as follows:

"However, we think the tenor of the Court's
entire discussion of unpublished works con-
veys the idea that such works normally enjoy
complete protection against copying any pro-
tected expression. 'Narrower' seems to
refer to the diminished likelihood that
the copying will be fair use when the copy-
righted material is unpublished."

The right provided copyright owners under the 1976
Copyright Act includes the right of first publication under
17 U.S.C. § 106(3). The author's right to control the first
public appearance of his expression weighs against such use
of the work before its release. Harper & Row Publishers v.
Nation Enterprises, supra, at 564. Since the copyrighted
lyric, "WHAT'S COOKING IN THIS BOOK", is unpublished, this
(nature of the copyright factor) weighs heavily in favor of
Lorna Nelson.

AMOUNT AND SUBSTANTIALITY OF THE PORTION USED

In determining whether the expressions appropriated
from Plaintiff's lyric and used by Defendants in the accused
lyric, "U GOT THE LOOK", is an unfair use, the Court must not
only determine the quantitative nature of the appropriated
expressions, Consumers Union of the United States, Inc. v.

General Signal Corporation, 724 F.2d 1044 (2nd Cir. 1983), but also qualitative substantiality. Maxtone-Graham v. Burtchell, 803 F.2d 1253, at 1263 (2nd Cir. 1986). However, the Trial Court, in concluding that there was no substantial similarity between the copyrighted and accused works, cited and relied upon, Walker v. Time Life Films, Inc., 784 F.2d 44 (2nd Cir. 1986), and Atari, Inc. v. North American Phillips Consumer Electronics Corp., 672 F.2d 607, 614 (7th Cir. 1983), cert. denied, 459 U.S. 880 (1982). Yet, both of these case authorities involved a claim of infringement of published works, rather than unpublished works. It was held in Harper & Row Publishers v. Nation Enterprises, 471 U.S. 539, at 552, that fair use under the 1976 Copyright Act does not apply in pari materia to published and unpublished works. Obviously, the Trial Court has equated Lorna Nelson's unpublished work with published copyrighted works in its determination that there is no substantial similarity between the copyrighted and accused works. The Trial Court has clearly applied the wrong standard in dismissing Count I.

Reference is again made to the Chart (App. 136) included in the Appendix to better understand the similarities between the copyrighted and accused lyrics. The copyrighted lyric, "WHAT'S COOKING IN THIS BOOK", is 35 lines long, arranged in 6 verses, and comprised of 176 words. The accused lyric, "U GOT THE LOOK", is approximately 47 lines long, arranged

in 8 verses, and comprised of 242 words. Different colors have been used to highlight different expressions in each song. However, each appropriated expression is highlighted with a color to the corresponding expression in the copyrighted work.

In verse two of the copyrighted lyric, the expression, "I glanced up and saw you, a smile so pretty", has been paraphrased into the expression, "I woke up, I've never seen such a pretty girl", appearing in verses two and seven of the accused lyric, "U GOT THE LOOK". The expression, "A whole hour just to make up your face," appearing in verse five of Defendants' work, is an approximate imitation of the expression, "Makeup was rolling down my face", appearing in verse three of Plaintiff's lyric. The expression "What's cooking in this book", and ". . . What's cooking in this book", appearing in verse six of Plaintiff's lyric is paraphrased into, "U sho 'nuf do be cooking in my book", in verses four and six of the accused work. The expression, "Take a look" . . . "Take another look", appearing in verses one and six of Plaintiff's work has been loosely paraphrased into the expression, "U got the look", appearing in verses one to seven of Defendants' work.

Although the appropriated expressions are not identical to Plaintiff's copyrighted expressions, the appropriated expressions are substantially similar. Defendants have

attempted to conceal this appropriation by paraphrasing and closely imitating Plaintiff's copyrighted expressions. It will be noted that six out of the eight verses of the accused lyrics, "U GOT THE LOOK", are structured around Plaintiff's protected expression in paraphrase or closely imitated form.

In Harper & Row Publishers v. Nation Enterprises, supra, the accused infringer appropriated 300 words (approximately one page) in literal or paraphrased form out of 200,000 words (655 pages) from the unpublished copyrighted manuscript.

Although the appropriated amount in Harper & Row Publishers v. Nation Enterprises was substantially less than one percent of the copyrighted work, the use was nevertheless held to be unfair.

PRN and Prince have appropriated expressions which correspond approximately to seven or eight lines of Plaintiff's lyrics, which amounts to approximately 20% to 25% of Plaintiff's 35-line lyric. The appropriated expressions also correspond to approximately fourteen lines of the accused lyric, which constitutes approximately 30% of the accused lyric (the amount appropriated by Prince and PRN), and far exceeds the appropriated quantity found to be unfair in Harper & Row Publishers v. Nation Enterprises, supra. Accordingly, this fair use factor also clearly weighs heavily in favor of Lorna Nelson.

EFFECT ON THE MARKET

The effect on the market factor reflects the potential market for, or value of, the copyrighted work. Although information pertaining to the commercial exploitation of the appropriated expressions in the accused work is known to PRN and Prince, Lorna Nelson was denied discovery with respect to this information. However, the Bains' Affidavit (App. 144-148) charts the popularity and sales of the accused album and the accused single record embodying the accused work, "U GOT THE LOOK", and is indirect evidence of the commercial success of the accused lyric.

This Affidavit (App. 144) clearly demonstrates that the accused work, "U GOT THE LOOK", enjoyed substantial commercial success as a result of the single record sales and the album record sales. Moreover, the accused work was nominated for two Grammy Awards, and the album, "SIGN 'O' THE TIMES" was nominated for a Grammy Award as Album of the Year. A Grammy Award constitutes a recognition by the music and recording industry annually of outstanding musicians, recording artists, songwriters, and others in this field. This fourth fair use factor also weighs in Lorna Nelson's favor.

THE USE BY PRN AND PRINCE IS AN UNFAIR USE

When the four (4) statutory factors are individually and collectively considered, it is clear that the use of

Lorna Nelson's appropriated expressions in the accused work is unfair. Accordingly, it is submitted that, had the Trial Court applied the correct standard in determining the copyright infringement question of Count I, the Trial Court would not, and should not, have dismissed Count I.

THE TRIAL COURT ABUSED ITS DISCRETION
IN DENYING DISCOVERY TO LORNA NELSON

Lorna Nelson contends that the Trial Court abused its discretion by denying Lorna Nelson discovery by way of oral depositions of PRN and Prince with respect to the unauthorized access and accused use of her unpublished copyrighted lyric, "WHAT'S COOKING IN THIS BOOK". Judgment was entered on the Order dismissing Count I and this Order is, therefore, final and appealable. It is also submitted that the Order of February 10, 1988 (App. 60) denying Lorna Nelson the opportunity to make discovery by way of oral depositions with respect to Count I is also ripe for review under the standard of abuse of discretion.

Although the Trial Court considered the legality or illegality of the admitted access by Prince and PRN to be irrelevant (App. 118, 119) in its determination of copyright infringement, this position is at odds with the authorities. Fair use presupposes good faith and fair dealing. Time, Inc. v. Bernard Geis Associates, 293 F. Supp. 130 (S.D.N.Y. 1968). Likewise, knowing use of a purloined manuscript militates

against a fair use defense. Harper & Row Publishers v. Nation Enterprises, 471 U. S. 539, 563. See also 3 Nimmer 1305[A] at 74. Clearly, the propriety of the Defendants' conduct is relevant to the character of use of Lorna Nelson's unpublished copyrighted lyric. Fisher v. Dees, 794 F.2d 432, 437 (9th Cir. 1986).

The facts surrounding the accused use of Lorna Nelson's copyrighted unpublished lyric by PRN and Prince is of such importance that the relevancy of these facts simply cannot be questioned. Lorna Nelson urged the Trial Court to at least allow her to discover whether PRN and Prince would admit or deny copying any of the protected expressions in her copyrighted unpublished lyric, "WHAT'S COOKING IN THIS BOOK" (App. 90, 91), but the Trial Court remained unpersuaded that this was useful discovery (App. 61). Yet, after characterizing the fair use doctrine as "equitable", it has been held that Defendant's unjustified denial of its use of the Plaintiff's work is a factor militating against permitting Defendant to claim a fair use defense. Iowa State University Research Foundation, Inc. v. American Broadcasting Co., 621 F.2d 57 (2nd Cir. 1980). See also 3 Nimmer § 1305[A] at 73, 74.

It is Lorna Nelson's contention that the facts surrounding the admitted unauthorized access and the accused use of the copyrighted lyric by PRN and Prince is of such relevance,

and the denial of discovery with respect to these facts constitutes either a manifest abuse of discretion, Atlantic City Electric Co. v. A. V. Chance Co., 313 F.2d 431 (2nd Cir. 1963), or, alternatively, the Trial Court has no discretion under these facts. Lazofsky v. Sommerset Bus Co., 389 F. Supp. 1041 (E.D.N.Y. 1975).

Accordingly, it is submitted that the Trial Court clearly abused its discretion in denying Lorna Nelson discovery by way of oral depositions with respect to the facts surrounding the unauthorized access and the accused use by PRN and Prince.

CONCLUSION

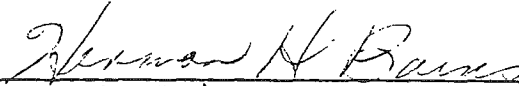
The Trial Court's dismissal of Count I (copyright infringement claim) was based on a determination of lack of substantial similarity between the copyrighted and accused works after the Trial Court made a pure comparison of the works. No facts were considered, other than the contents of the respective works. The Trial Court failed utterly in its determination of non-infringement to consider the unpublished nature of the copyrighted work and the unauthorized access thereto.

Under the 1976 Copyright Act and the appropriate case authorities, a determination of copyright infringement, with respect to unpublished works whose access was unauthorized, must be determined under the fair use doctrine. The Trial Court applied the wrong standard in limiting its consideration of copyright infringement to a determination of lack of substantial similarity between the copyrighted and accused works. Accordingly, the Trial Court's Order dismissing Count I is, therefore, erroneous.

The Trial Court abused its discretion in denying Lorna Nelson discovery by way of oral depositions with respect to the facts surrounding the unauthorized access and the accused use and appropriation of protected expressions from the unpublished copyrighted work. The relevance of the facts surrounding the unauthorized access and the accused use of

the unpublished copyrighted work by PRN and Prince is of such importance that the relevancy thereof cannot be reasonably questioned. The denial of this discovery constituted a clear abuse of the Trial Court's discretion.

Accordingly, the Trial Court's Order dismissing Count I should be reversed, and this Court should enter Judgment finding the use of Lorna Nelson's lyrics by PRN and Prince to be an unfair use.



Herman H. Bains
608 Second Avenue South - Suite 1010
Minneapolis, Minnesota 55402
(612) 339-0159
ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

It is hereby certified that two (2) true and correct copies of the foregoing APPELLANT'S BRIEF were personally served on Jerry W. Snider and Calvin L. Litsey, FAEGRE & BENSON, 2300 Multifoods Tower, 33 South Sixth Street, Minneapolis, Minnesota 55402, Attorneys for Appellees, on this 12th day of August, 1988.

Gene M. Cavanagh

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Lorna L. Nelson,

CIV. NO. 4-87-722

Plaintiffs,

vs.

PRN Productions, Inc.,
Prince Rogers Nelson,
John L. Nelson, and
Duane J. Nelson,

DEFENDANTS'
MEMORANDUM IN
OPPOSITION TO
PLAINTIFF'S MOTION
FOR LEAVE TO AMEND
THE COMPLAINT

Defendants.

Defendants PRN Productions, Inc. ("PRN"), Prince Rogers Nelson ("Prince"), John L. Nelson, and Duane J. Nelson submit this memorandum in opposition to plaintiff's motion for leave to amend the complaint on the ground that the proposed amendment seeks to include a party and a claim to the action not properly joined under Rules 18, 20, and 21 of the Federal Rules of Civil Procedure. Plaintiff's Claim under Count II for a declaratory judgment against defendant John Nelson relates to matters that have nothing in common with plaintiff's claim in Count I for copyright infringement against Prince and PRN. It is therefore inappropriate to join Count II with Count I in the proposed amended complaint, and Count II should be severed and brought as a separate action.

BACKGROUND

Plaintiff's original Complaint was filed on August 12, 1987, against Prince, plaintiff's half-brother, and his production company, PRN. Tacked on to plaintiff's copyright

claim were four additional claims (Counts II through V) that purported to state various causes of action under state law against Prince and PRN, as well as against Duane Nelson, plaintiff's brother, and John Nelson, plaintiff's father, as pendent parties.

Defendants moved to dismiss Count I (the copyright claim) on the ground that it failed to state a claim upon which relief could be granted, and moved to dismiss Counts II through V on the grounds of lack of subject matter jurisdiction and preemption. Prior to the hearing on defendants' motion to dismiss, plaintiff stipulated to a dismissal with prejudice of Counts III, IV, and V. The hearing on the motion to dismiss, therefore, was held on April 7, 1988 before Judge Doty only with respect to Counts I and II. That motion is still pending. Plaintiff's current motion for leave to serve the amended complaint was filed one day before the hearing on defendants' motion to dismiss, on April 6, 1988.

ARGUMENT

Although plaintiff's amended complaint is offered prior to the time defendants have served a responsive pleading, and thus technically proper under Rule 15(a), F.R.Civ.P., the amended complaint is deficient in that it seeks to join together two counts whose claims and parties are entirely unrelated. The amended complaint therefore fails to conform to the rules relating to joinder of claims and parties.

Rule 18(a), F.R.Civ.P., which provides for liberal joinder of claims, does not permit the kind of joinder sought

in the amended complaint. The Notes of Advisory Committee on Rules relating to the 1966 Amendment of Rule 18 observe that: "The Rules 'proceed upon the theory that no inconvenience can result from the joinder of any two or more matters in the pleadings, but only from trying two or more matters together which have little or nothing in common.'" (Citation omitted.) (Emphasis added.)

In this case, plaintiff is clearly attempting to join in one action two matters that have nothing to do with each other. Count I of the complaint asserts that Prince and PRN have released a record album containing the song "U GOT THE LOOK" that infringes the copyright in her lyrics to a work she authored entitled "WHAT'S COOKING IN THIS BOOK." In contrast, Count II, as amended, seeks a declaratory judgment and an accounting from John Nelson with respect to two works that are alleged to have been written jointly by plaintiff and John Nelson. These works are entitled "LOVE FOR MONEY" and "TAKING MY MIND ON VACATION." The lyrics, conduct, transactions, and occurrences involved in the two counts are entirely distinct, and there are no common issues of fact or similar legal theories. Moreover, the defendants named in the two counts are entirely different.

In short, plaintiff is attempting to try two cases in one action in violation of Rules 18 and 20. Under Rule 18 only claims against the same party may be joined. Similarly, joinder of defendants in one action is permitted under Rule 20 only "if there is asserted against them jointly, severally, or

in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action." Rule 20, F.R.Civ.P. As noted above, this is clearly not the situation here.

In analogous circumstances, at least some courts have held that, before amendment under Rule 15(a) will be permitted, compliance with other specific rules must be met. For example, one court held, when the plaintiff tried to drop a party plaintiff by amending the pleading, that:

[a]ny conflict or ambiguity which results from a comparison of [Rule 21 and Rule 15(a)] . . . must be resolved in favor of the specific and against the general. Thus, when a proposed amendment to a complaint seeks to effect a change in the parties to the action, Rule 21, F.R.Civ.P., controls and, to that extent, limits Rule 15(a), F.R.Civ.P.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America v. AFL & CIO, 32 F.R.D. 441, 442 (E.D.Mich. 1963).

By the same reasoning, plaintiff's attempt to amend her complaint here should be limited by the rules relating to joinder of claims and parties, and the amended complaint should not be permitted to be filed as one action. Rather, Count II, as amended, should be brought by plaintiff as a separate action. If the Court decides for some reason that the amendment may be made as a technical matter, then defendants request that the

Court, pursuant to Rule 21, F.R.Civ.P., at least order on its own motion that Count II be severed and filed as a separate action. This would allow Judge Doty to rule on the present motion to dismiss as to Count I without the necessity of defendants have to reassert that motion in response to an amended complaint.

For all the foregoing reasons, defendants request that the Court deny plaintiff permission to serve the amended complaint in its present form, and order that plaintiff be allowed to proceed with Count II only as a separate action.

Dated: April 13, 1988.

FAEGRE & BENSON



Jerry W. Snider
Calvin L. Litsey
Lori Ann Wagner
FAEGRE & BENSON
2300 Multifoods Tower
33 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: (612) 371-5300

Attorneys for Defendants

OF COUNSEL:

L. Lee Phillips, Esq.
Vincent M. Waldman, Esq.
Manatt, Phelps, Rothenberg
& Phillips
11355 West Olympic Boulevard
Los Angeles, California 90064

36960

4/25/2016 1:14 PM Scanned by Carver County

STATE OF MINNESOTA
COUNTY OF CARVERFILED *JM*
OCT 19 2001DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT~~CARVER COUNTY COURTS~~ Court File No.: PO-01-1660In Re:
Estate of John Louis Nelson,
DecedentAFFIDAVIT OF LORNA NELSONSTATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Lorna Nelson, being first duly sworn on oath, deposes and states as follows:

1. That Decedent John Louis Nelson was my father. I am 58 years old, and my mother's name was Vivian Howard Nelson who passed away in 1973. My father and Vivian Nelson had four children - me, Sharon Blakley who is 61 years old, Norrine Nolen who is 60 years old, and John Rogers Nelson who is 57 years old. Sharon lives in New York, John lives in Kansas City, I live in Minneapolis, and Norrine lives in Brooklyn Park, Minnesota.
2. That my father's second wife was Mattie Nelson (f/k/a Mattie Shaw) who had two children - Prince Rogers Nelson (hereafter referred to as Prince) and Tyka Nelson.
3. That at the time of his death, I believe I was closer to my father than any of my other siblings.
4. That I have read the memorandum of law for this motion with my attorney, and the information that is contained in same which is attributed to my personal knowledge is in fact true and accurate to the best of my personal recollection.

5. That approximately four weeks before April 15, 2001, my father came to visit me, and he handed me a check in the amount of \$400,000 written to his order. He told me that he wanted me to have this money, and the reasons for this are noted in the memorandum of law. I present this information to the Court not because I am asserting that I am entitled to \$400,000 from the estate, but rather to point out to the Court that my father had at least \$400,000 in cash, I believe, as of that date. Therefore, the recent contention of my half brother Prince that my father's estate consisted of cash from four bank accounts in the amount of \$329,000 obviously does not seem accurate for this reason alone.

6. That I am aware of the fact that my father received a pension in the amount of \$3,000 a month from Honeywell (my father worked at Honeywell for over 30 years), and having known my father as I do, he was a very frugal man, and I feel that there is a very good chance that his estate has a value much greater than the \$329,000 figure that Prince has recently conveyed to my sister Norrine. Also, my father had very few expenses, and at the time of his death, he was living rent free at a home owned by my half brother Prince.

7. That my father owned jewelry, and I believe the reasonable value of that jewelry was at least \$50,000.00.

8. That I am certain that if me and my lawyer can have access to bank account information, information from Honeywell, tax information, and information regarding the royalty history of royalty funds my father received from music he co-wrote with

Prince, I will have a much better idea of my father's asset situation at the time of his death.

9. That my sister Norrine contacted me on the evening of 10/15/01 and advised that Prince is now taking the position that the cash that my father had in four bank accounts was \$329,000 rather than \$200 noted in his filed affidavit.

10. That I was involved in litigation with Prince back from 1987 to 1992 regarding issues as to who wrote certain music that he claimed credit for, and since that time, I have had little contact with him. For this reason and others, I have very little trust in his actions and believe it is in my best interest and that of my other siblings to have this estate handled by a court-appointed personal representative rather than my half brother Prince.

11. That my father had other assets including musical instruments - an organ, two pianos, and a drum set - that I believe my half brother Prince used when he was learning how to play music. It is my reasonable assumption that these instruments could, if ultimately ordered by the Court, result in large sums of money when sold at auction.

12. That I am aware of the fact that my father received at least two royalty checks for music he co-wrote with Prince - one draft in the amount of \$92,000, another draft in the amount of \$42,000, and numerous other drafts either annually or bi-annually. These facts were specifically conveyed to me by my father.

FURTHER YOUR AFFIANT SAITH NOT.

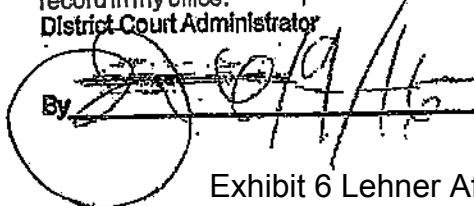
Lorna Nelson
Lorna Nelson

Subscribed and sworn to before me
this 18th day of October, 2001.

Michael B. Padden
Notary Public



STATE OF MINNESOTA COUNTY OF HENNEPIN
I hereby certify this 6 page document to be a
true and correct copy of the original on file and or
record in my office.
District Court Administrator

By  Deputy

Homegoing Service



In Loving Memory of
Duane Joseph Nelson, Sr
August 18, 1958 - March 4, 2011

Exhibit 9 Lehner Aff. p. 1

N. Nelson
EXHIBIT NO. *19*
9/15/16
K. Mohawk

Order of Service

Pastor Art Erickson - Central Church

- Processional.....Minister and family
- Family - Words of Grace and Prayer.....Pastor Art Erickson
- Congregational Hymn.....Blessed Assurance p. 269
Martial Besombes
- Scripture.....1 Cor 15:34-44
and Prayer Pastor Art Erickson
- Selection.....Hamony Nelson
- Obituary.....Breanna Nelson
- Selection.....Tyka Phillips
- Remarks.....Friends and Family (2 minute each)
- Eulogy.....Pastor Art Erickson
- CommittalPastor Art Erickson
- Selection During Recessional.....Martial Besombes
Ministers and Family
- Repast.....Park Avenue United Methodist
Church - Gathering Hall

Obituary

DUANE JOSEPH NELSON, SR. was born in Minneapolis, Minnesota on August 18, 1958. He was the son of John L. and Vivian Nelson and the father of Duane Joseph Nelson, Jr. They precede him in death.

Duane has a daughter Brianna Nelson, a grandchild, Victoria Nelson and a host of nieces, nephews, cousins, aunts, uncles and a loving friend, Carmen Weatherall.

Duane has two brothers; John R. and Prince Nelson. He has three sisters; Norrine and Sharon Nelson and Tyka Phillips. His sister Lorna Lee Nelson precede him in death.

Duane was known for his beautiful smile and dimples. He made many friends, one of which is Lowery Johnson.

Duane loved basketball and football. He received a basketball scholarship to the University of Wisconsin in Milwaukee and received a bachelor's degree in criminal justice. Duane was a bus driver for Metro Transit, a financial worker for Hennepin County Economic Assistance and toured with Prince for 11 years serving in many capacities.

Duane loved to write songs, sing, and play the keyboard.

Duane was saved and confessed Jesus Christ as his Personal Savior. He hoped to be called to preach the gospel. Duane went to be with the Lord March 4, 2011. He will truly be missed by all.

COPY

ORIGINAL OF THIS DOCUMENT IS DEPOSITED FOR
SAFEKEEPING WITH MESSRS. MANATT, PHELPS, ROTHENBERG,
TUNNEY & PHILLIPS - 11355 WEST OLYMPIC BOULEVARD,
LOS ANGELES, CA 90064

WILL

OF

JOHN LEWIS NELSON

I, JOHN LEWIS NELSON, declare that this is my Will:

I. PRIOR WILLS.

I revoke all Wills and Codicils that I have previously made.

II. PROPERTY DISPOSED OF.

I intend by this Will to dispose of all of my property.

III. DISINHERITANCE.

Except as otherwise provided in this Will, I have intentionally and with full knowledge omitted to provide for my heirs who may be living at the time of my death.

IV. CONTESTS.

If any beneficiary under this Will, directly or indirectly, contests or attacks this Will or any of its provisions, any share or interest given to that contesting beneficiary shall be revoked and disposed of in the same manner provided in this Will as if that contesting beneficiary had predeceased me.

V. REPRESENTATIVES.

I nominate my son PRINCE ROGERS NELSON as executor of this Will, to serve without bond. "My executor" as used in this Will shall include any personal representative of my estate.

My executor shall be authorized as follows:

A. Sales.

To sell, with or without notice, at either public or private sale, and to lease any property belonging to my estate, subject only to such confirmation of court as may be required by law;

MANATT, PHELPS, ROTHENBERG & TUNNEY
11355 WEST OLYMPIC BOULEVARD • LOS ANGELES, CALIFORNIA 90064
TELEPHONE (213) 312-4000

B. Investments.

To invest and reinvest any surplus money in my executor's hands in every kind of property and every kind of investment, including interest-bearing accounts, corporate obligations of every kind, stock, preferred or common, shares of investment trusts, investment companies, mutual funds, common trust funds, and mortgage participations, which persons of prudence, discretion, and intelligence acquire for their own account;

C. Distributions.

On any preliminary or final distribution of the property in my estate, to partition, allot, and distribute my estate (pro rata or otherwise) in kind, including undivided interests in my estate or any part of it, or partly in money and partly in kind, or entirely in money, in my executor's discretion;

D. Borrowings.

To borrow money and to encumber or to hypothecate by mortgage, deed of trust, pledge, or otherwise, any property in my estate;

E. Retention of Property.

To retain any property in my estate for as long as my executor deems appropriate, at the risk of my estate, in my executor's discretion;

F. Operation of Business.

To continue the operation of any business belonging to my estate for such time and in such manner as my executor may deem advisable and for the best interests of my estate, or to sell or liquidate the business at such time and in such manner as my executor may deem advisable and for the best interests of my estate. Any such operation, sale, or liquidation by my executor, in good faith, shall be at the risk of my estate and without liability on the part of my executor for any resulting losses.

G. Expenses.

My executor shall determine whether any or all of the expenses of administration of my estate shall be used as federal estate tax deductions or federal income tax deductions. No beneficiary under this Will shall have any right to recoupment or restoration of any loss such beneficiary suffers as a result of use of such deductions for one or the other of these purposes; however, my executor may make adjustments between principal and income as appropriate to accommodate such loss.

VI. MISCELLANEOUS.A. Gender.

As used in this Will, the masculine, feminine, or neuter gender, and the singular or plural number shall be deemed to include the others whenever the context so indicates.

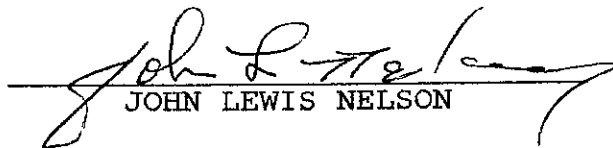
B. Will Contracts.

I have not entered into a contract either to make Wills or not to revoke Wills.

VII. DISPOSITION OF ESTATE.

I give the property disposed of by this Will to my son PRINCE ROGERS NELSON. It is my wish, but I do not direct, that my son, in my son's absolute discretion, distribute any property which he wishes to dispose of to any members of my family who survive me and whom my son, in my son's absolute discretion, selects.

The foregoing Will is subscribed by me on this 1st day of July, 1986, at Sheridan, WY.


JOHN LEWIS NELSON

On the date last written, JOHN LEWIS NELSON declared to us, the undersigned, that the foregoing instrument, consisting of four (4) pages, including the page signed by us as witnesses, was his Will and requested us to act as witnesses to this Will. He thereupon signed this Will in our presence, all of us being present at the same time. We now, at his request and in his presence and in the presence of each other, subscribe our names as witnesses. We further declare that at the time of signing this Will, JOHN LEWIS NELSON appears to be of sound and disposing mind and memory and is not acting under duress, menace, fraud, or the undue influence of any person whomsoever.

We declare under penalty of perjury that the foregoing is true and correct.

Executed on July 1, 1986, at Sheridan,

WY.

Al R. [Signature] residing at 2480 S. HICK 180,

Minneapolis, Minnesota.

Donald L. [Signature] residing at 10950 BROWN ROUGE AVE
NORTHRIDGE, CA 91326.

Karen J. [Signature] residing at 17030 Saddlewood Dr.
Minnetonka, MN.

ARTHUR, CHAPMAN & McDONOUGH, P.A.
ATTORNEYS AT LAW

INCLUDING THE FORMER FIRM OF GUSTAFSON & TYSON, P.A.

500 Young Quinlan Building
81 South Ninth Street
Mankato, MN 55402-3214
Telephone 612 339-3500
Telecopier 612 339-7655

Writer's Direct Line

June 1, 1989

DRAFT

LINDSEY G. ARTHUR, JR. ¹	THOMAS O. ALBERS ⁴
JOHN T. CHAPMAN ²	BRIAN J. LOVE
MICHAEL P. McDONOUGH ²	MICHAEL R. QUINLIVAN ⁴
GREGORY D. GUSTAFSON	TIMOTHY J. GRANDE
DENIS E. GRANDE	SALLY J. FERGUSON
ROBERT W. KETTERING, JR. ¹	MICHAEL A. ZIMMER ⁷
JEROME J. SIMONS, JR.	KATHERINE L. MACKINNON
CHRISTINE M. LEICK	BLAKE W. DUERRE ¹
THEODORE J. SMETAK ¹	KAREN MELLING VAN VLIET
ROBERT F. STRAUSS ^{1,2}	STEVEN M. PHILLIPS
DONNA D. GECK ³	JOSEPH J. DEUHS, JR.
PATRICK C. CRONAN	TORI JO WIBLE
DANIEL R. TYSON ¹	WILLIAM J. O'BRIEN
THOMAS A. PEARSON	SARAH Z. ERICKSON
WILLIAM M. HABICHT	EUGENE C. SHERMOEN, JR.
COLBY B. LUND ¹	PAUL J. RAUHFOR
JAMES D. ECKENKAMP ⁴	

Mr. John Nelson
9401 Kiowa Trail
Chanhassen, MN 55317**PERSONAL AND CONFIDENTIAL**
HAND DELIVERED

Dear Mr. Nelson:

Enclosed please find your Will that our office has drafted on your behalf. Since this is an important document and will control the disposition of your estate, I would like to point out several aspects to you:

1. This Will voids any prior Wills you may have.
2. As requested, your Will omits all of your children except your son Prince Nelson, from receiving any portion of your estate. Prince will be your sole heir under your Will. In the event your son Prince were to predecease you, your estate would be distributed to your heirs other than your children (i.e. your brothers, sisters, nieces, nephews, etc.) in an order of distribution defined by Minnesota Law. To avoid this result, you may wish to specify in your Will who should receive your estate in the event Prince does not.
3. It is our understanding that you are not currently married. If you were to remarry, your spouse would have a claim for approximately one-third of your estate. This is true regardless of the wording of your Will.
4. Your personal representative will be your son, Prince R. Nelson. As such, it will be his task to administer your estate. Administration involves gathering your assets and distributing them to your beneficiaries.
5. It is our understanding that your current estate is less than \$600,000. If your estate happens to exceed approximately \$600,000 at any time in the future, we

Attorneys also admitted in ¹Wisconsin, ²Illinois, ³North Dakota, ⁴Iowa, ⁵South Dakota, ⁶Nebraska and ⁷Arizona.

Mr. John Nelson
June 1, 1989
Page Two

HAND DELIVERED

strongly urge you to undertake further estate planning
in order to avoid payment of federal and state estate
taxes.

We understand that the preparation of your estate plan is a
sensitive matter. If you or your advisors should have any questions
now or in the future, please contact me.

Yours very truly,

ARTHUR, CHAPMAN & MCDONOUGH, P.A.

James D. Echtenkamp

JDE/kjm

Enclosure

cc: Paul Jones
Dennis Luderer

WRK/JNELSON

" DRAFT "

LAST WILL AND TESTAMENT

OF

JOHN NELSON

I, John Nelson, domiciled in the County of Hennepin, State of Minnesota, being of sound and disposing mind and memory, do hereby make, publish and declare, with complete testamentary intent and capacity, this instrument to be my Last Will and Testament.

ARTICLE IRevocation of Prior Wills

I hereby revoke and annul any and all wills and codicils heretofore made by me.

ARTICLE IIDebts and Taxes

I direct my Personal Representative to pay from my Residuary Estate (as hereinafter defined), without apportionment, all of my just debts allowed in my estate (except such of them as shall be secured by any mortgage, lien or other encumbrance and which shall not have become due and payable at the date of my death), expenses of my last illness and funeral, expenses of administration of my estate, including ancillary administration thereof, and all estate or other death taxes, except any generation-skipping transfer tax, which become due on account of my death, including any interest and penalties thereon.

ARTICLE IIITangible Personal Property

I give and devise all of my household furniture and furnishings, automobiles, musical instruments, books, pictures, jewelry, watches, wearing apparel, silverware and all other items of tangible personal property which I own at the date of my death, together with all insurance policies which are in force at the date of my death insuring any of the herein devised property against any loss or liability to my son Prince R. Nelson. It is my specific

John Nelson

intention that my children, Duane Joseph Nelson, Sharon Nelson Blakely, Tyka Nelson and Lorna Nelson shall not share in the distribution of my tangible personal property.

ARTICLE IV

Residuary Estate

I give and devise all of the rest, residue and remainder of my estate, excluding any property over which I may have a power of appointment (it being my intention not to exercise any such power), but including any lapsed devise hereunder, all of which is herein referred to as my "Residuary Estate", to Prince R. Nelson or to the surviving issue of Prince R. Nelson by right of representation; provided that my children Duane Joseph Nelson, Sharon Nelson Blakely, Tyka Nelson and Lorna Nelson shall not receive any benefits from my estate under the provisions of this Article IV; and provided further, that the balance of any loans I may have made to any of my children, if any, during my lifetime that is outstanding at my date of death, as reflected on my personal records, shall be included in the value of my Residuary Estate for the purpose of determining the value of my Residuary Estate.

If, before the time for distribution as set out hereinabove, there is no beneficiary to receive distribution in full, then I give and devise my Residuary Estate to my heirs at law as determined under the laws of the State of Minnesota. Provided, however, that _____ shall not be considered my heirs at law for purposes of this Article IV.

ARTICLE V

Simultaneous Death

If any beneficiary named or described in this Will, shall die within thirty (30) days of my death, then all provisions of this Will shall take effect as if I had predeceased such beneficiary.

ARTICLE VI

Personal Representative Powers, Rights and Duties

John Nelson

My Personal Representative shall have power and authority to do any act or thing reasonably necessary or advisable to the proper administration and distribution of my estate, and in extension and not in limitation of the powers provided by applicable law, my Personal Representative shall have full power and authority as to any properties, real, personal or mixed, at any time comprising a part of my estate, without the necessity of notice to or license, approval or order of any court or person during the term of such estate, and for purposes of division and distribution after its termination, and in the continuing discretion of my Personal Representative, including the power:

- A. To exercise, without limitation, all powers, express and implied, permitted a personal representative under Chapter 524 of Minnesota Statutes; and
- B. To perform all other acts necessary or advisable to administer my estate.

I recognize that my Personal Representative is granted by this Will discretion as to the distribution of my property. Unless otherwise specifically restricted by this Will, I direct that my Personal Representative shall be permitted to divide and distribute my property in any manner. My Personal Representative shall not be liable for damages to any beneficiary because of a good faith decision in making such distribution of property and such decision shall be final and binding on all parties in interest.

ARTICLE VII

Personal Representative

Section 7.1 Appointment of Personal Representative. I hereby nominate and appoint my son Prince R. Nelson as my Personal Representative under this Will. My Personal Representative may, at his discretion, choose a successor individual or corporate Personal Representative.

Section 7.2 Definition of Personal Representative. Wherever reference is made herein to my "Personal Representative", such reference shall be deemed to include any and all successor personal

John Nelson

representatives at any time qualified to act and acting as Personal Representative under this Will, and each such successor Personal Representative, immediately upon qualification as such, shall be vested with all of the powers, rights and duties as if originally named as Personal Representative herein.

Section 7.3 Bond My Personal Representative herein designated shall serve without bond, and if, notwithstanding this direction, any bond is required by any law, statute or rule of court, I direct that no surety be required thereon.

Section 7.4 Exculpatory Clause. My Personal Representative shall not be liable for any loss to my estate occasioned by acts on good faith in the administration of my estate, or in reliance upon an opinion of counsel, and in any event my Personal Representative shall be liable only for willful wrongdoing or gross negligence, but not for honest errors of judgment. No Personal Representative shall be responsible or liable for the acts or omissions of any other Personal Representative in which the Personal Representative sought to be held did not participate or concur.

Section 7.5 Personal Representative Compensation and Expenses. At his option, my Personal Representative shall be entitled to receive from my estate fair and just compensation for services rendered as Personal Representative, and my Personal Representative shall also be reimbursed for any and all reasonable expenses incurred in the management, protection and distribution of my estate.

ARTICLE VIII

Miscellaneous

Section 8.1 Definitions. As used in this Will where appropriate, the masculine includes the feminine and neuter (and vice versa), and the singular includes the plural (and vice versa) and the following terms have the following meanings:

John Nelson

- A. I have five (5) children, namely, PRINCE R. NELSON, DUANE JOSEPH NELSON, SHARON NELSON BLAKELY, TYKA NELSON and LORNA NELSON. All of said children are adults.
- B. "Issue" of a person, as used herein, includes both the singular and the plural, and includes the legitimate natural descendants of such person, and also those who become such descendants through legal adoption.

Section 8.2 Statement of Intent. It is my specific intention in preparing this Will that my children Duane Joseph Nelson, Sharon Nelson Blakely, Tyka Nelson and Lorna Nelson, receive no benefits from my estate. In the disposition of my estate under this Will, I am fully mindful and aware of all my heirs-at-law, and the omission of any heirs, or the diminution of the share of any heirs from their intestate share, is intentional and not occasioned by accident or mistake. This statement is intended to comply with M.S.A. Section 524.2-302(a)(1).

Section 8.3 Headings. The headings, titles and subtitles herein are inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

Section 8.4 Governing Law. This Will shall be governed, interpreted and construed by, and all questions of law arising hereunder shall be determined under and according to the laws of the State of Minnesota.

IN WITNESS WHEREOF, I have hereunto set my hand to this my Last Will and Testament this _____ day of _____, 1989.

John Nelson

THIS INSTRUMENT, consisting of _____ typewritten pages, including this page and the attached acknowledgement, each bearing the signature of the above-named John Nelson, was by his on the date hereof signed, published and declared by him to be his Last Will and Testament in our presence, who, at his request and in his presence, and in the presence of each other, we believing him to

John Nelson

be of sound and disposing mind and memory, have hereunto subscribed
our names as witnesses.

_____ residing at _____

_____ residing at _____

John Nelson

FAX

TO : James D. Echtenkamp, Esq
 FROM : Paul Jones
 RE : John Nelson's Will

I Spouse - John was formally divorced.
 His ex-wife has remarried

- II Children -
- 1) Prince Rogers Nelson
 - 2) Duane Joseph Nelson
 8/18/58
 539 Newton Ave
 Minneapolis, MN 55405
 - 3) Sharon Nelson Blakely
 3/22/ pending
 435 West 57th Street
 Apt 8L
 NY NY 10019
 - 4) Tyka Nelson 5/18/1961
 7224 Stonecliff Dr Apt 5
 Raleigh, N.C. 27615
 - 5) Lorna Nelson
~~info~~ pending
 3121 Pillsbury Ave
 Minneapolis, MN 55408
- III Beneficiary ~~other~~ other than Prince
 Name Pending

CAROLYN SIMMONS, 10/19/2016

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

PROBATE DIVISION

In the Matter of:ESTATE OF PRINCE ROGERS NELSON.

Examination of CAROLYN SIMMONS, taken at the instance of Brianna Nelson and Jeannine Halloran, under and pursuant to all applicable rules, before KARA D. SHAWHAN, a Certified Realtime Reporter, Registered Merit Reporter and Notary Public in and for the State of Wisconsin, at Simmons Family Resources, 9235 West Capitol Drive, Milwaukee, Wisconsin, on October 19, 2016, commencing at 9:34 a.m. and concluding at 11:47 a.m.

CAROLYN SIMMONS, 10/19/2016

2

1 A P P E A R A N C E S

2 STOLTMANN LAW OFFICES, P.C., by
3 MS. CELIZA (LISA) BRAGANCA,
4 MS. DEANNA BESBEKOS-LAPAGE,
5 MR. ANDREW STOLTMANN (telephonically),
6 10 South LaSalle Street, Suite 3500,
7 Chicago, Illinois 60603-1002,
8 appeared on behalf of Brianna Nelson and Jeannine
9 Halloran.

10 LEHNER LAW OFFICE, LLC, by
11 MR. ANDREW M. LEHNER,
12 1069 South Robert Street, Suite 100,
13 West St. Paul, Minnesota 55118,
14 appeared on behalf of Corey Simmons.

15 COZEN O'CONNOR, by
16 MR. THOMAS KANE,
17 33 South 6th Street,
18 Minneapolis, Minnesota 55402,
19 appeared telephonically on behalf of Omarr Baker.

20 STINSON LEONARD STREET, by
21 MS. SHARMA FOLEY AFFELDT,
22 150 South Fifth Street, Suite 2300,
23 Minneapolis, Minnesota 55402,
24 appeared telephonically on behalf of the Special
25 Administrator.

LOMMEN ABD0, PA, by
MR. ADAM P. GISLASON,
1000 International Centre,
920 Second Avenue South
Minneapolis, Minnesota 55402,
appeared telephonically on behalf of Norrine Nelson,
Sharon Nelson and John Nelson.

BRUNTJEN & BRODIN LEGAL,
MR. JUSTIN A. BRUNTJEN,
2915 Wayzata Boulevard
Minneapolis, Minnesota 55405,
appeared telephonically on behalf of Alfred Jackson.

23 A L S O P R E S E N T

24 Mr. Corey Simmons.
25

CAROLYN SIMMONS, 10/19/2016

3

1 *****

2 I N D E X

3 Examination: Page

4 By Ms. Braganca..... 4

5 By Mr. Kane..... 80

6 Exhibits Identified: Page

7 Exhibit 24 - Notice of Motion for Relief From Order and Judgment of Court..... 19

8 Exhibit 25 - Deposition Summary of Carolyn Simmons. 34

9 *****

10 Disposition Of Original Exhibit/s:

11 Attached To Original Transcript

12 *****

13 *****

14

15

16

17

18

19

20

21

22

23

24

25

4

1 TRANSCRIPT OF PROCEEDINGS

2 CAROLYN SIMMONS, called as a witness

3 herein, having been first duly sworn on oath, was

4 examined and testified as follows:

5 (Exhibit No. 24 was marked.)

6 EXAMINATION

7 BY MS. BRAGANCA:

8 Q Would you please state your name for the record and

9 spell your first and last name?

10 **A Carolyn Renee Simmons, C-a-r-o-l-y-n,**

11 **S-i-m-m-o-n-s.**

12 Q Okay. And what is your address?

13 **A 2879 North 56th Street, Milwaukee, Wisconsin.**

14 Q Okay. And are you appearing here today

15 voluntarily, Ms. Simmons?

16 **A Yes.**

17 Q Okay. Thank you. And we appreciate you appearing

18 on short notice. Before we get started, let me

19 just explain to you -- I know we spoke very briefly

20 about the process of a deposition earlier, but let

21 me just give you a little bit more information. We

22 have a court reporter sitting between us, and she

23 is taking down everything that is said on the

24 record. And you just nodded your head, and I'm

25 going to have to raise that first. One of the

5

1 things that she can't really record are body

2 motions that are responses. So when I ask you a

3 question, would you please give me a verbal answer

4 so that our court reporter can take it down?

5 **A Yes.**

6 Q Okay. Thank you. And she has trouble, too -- It's

7 unclear if you say "uh-huh" or "huh-uh". Those two

8 sound very similar. So if you say that, please

9 don't be offended if I ask for a clarification or a

10 verbal answer so that we -- it's clear on the

11 record.

12 **A Yes.**

13 Q Thank you. And somebody else just joined us on the

14 call?

15 MR. STOLTMANN: Justin Bruntjen.

16 MS. BRAGANCA: Okay. And we just

17 started, Justin.

18 BY MS. BRAGANCA:

19 Q And everything has to be verbal, as we were

20 discussing, Ms. Simmons. Our court reporter takes

21 down all of this, and then you'll get an

22 opportunity to take a look at the transcript if you

23 want and review it to see if there are any errors

24 on it, and then it will become your official

25 testimony.

6

1 **A Yes.**

2 Q Okay. And in this room, we have Mr. Simmons --

3 Corey Simmons, and we have his counsel, Andy

4 Lehner, and Deanna Besbekos is here with us. Okay.

5 Can I start with -- Ms. Simmons, where were you

6 born?

7 **A Milwaukee, Wisconsin.**

8 Q Okay. And have you lived in Milwaukee all of your

9 life?

10 **A All my life.**

11 Q Okay. And that reminds me of the next thing that I

12 should remind you -- that although in conversation

13 we tend to answer questions -- I mean, it's very

14 common to answer questions before somebody finishes

15 asking the question because you very clearly know

16 where the question is going, but that is difficult

17 for our court reporter to take down. So if you

18 could try to wait until I'm done with a question

19 before answering, that will help our court reporter

20 a lot.

21 **A Yes.**

22 Q Thank you. Okay. Now that I've made this as

23 foreign as possible, I'd like to get to the easier

24 part. So did you -- Where did you attend high

25 school?

CAROLYN SIMMONS, 10/19/2016

7	8
9	10

1 **A North Division.**

2 Q Okay. And where is that?

3 **A 10th and Center.**

4 Q Okay. Did you graduate from high school?

5 **A Yes.**

6 Q Okay. And what year was that?

7 **A 1973.**

8 Q 1973? Okay. And where did you live when you were
9 growing up?

10 **A 18th and Clarke.**

11 Q 18th and what?

12 **A Clarke.**

13 Q Clarke? Thank you. And did you live there all the
14 way from your childhood up through high school?

15 **A No.**

16 Q What other addresses -- When did you live at
17 18th and Clarke?

18 **A From birth to 13.**

19 Q Okay. And where did you move to when you were 13?

20 **A 24th and Hopkins.**

21 Q And how long did you live at 24th and Hopkins?

22 **A Well, my mother still lives there now, but I moved
23 in 1988.**

24 Q Okay. Where did you move in 1988?

25 **A 53rd and Hadley.**

1 MR. LEHNER: I'm sorry to interrupt. Are
2 you okay?

3 THE WITNESS: Yes.

4 MR. LEHNER: Do you need a break or are
5 you okay?

6 THE WITNESS: I'm okay.

7 MR. LEHNER: All right.

8 BY MS. BRAGANCA:

9 Q And that's one more thing that I failed to mention
10 to you. At any time, anytime you need a break,
11 please say -- just say so, we'll take a break. The
12 only thing I ask is if there's a question pending,
13 if you could just answer that question, and then we
14 will take a break for you, you know, whatever you
15 need.

16 **A Yes.**

17 Q Thank you. Okay. So you lived at -- And can I --
18 Before we go further, can I just ask, Andy, are you
19 representing --

20 MR. LEHNER: Thank you.

21 MS. BRAGANCA: -- Ms. Simmons --

22 MR. LEHNER: Yes.

23 MS. BRAGANCA: -- in this deposition?

24 MR. LEHNER: To be clear, I am not
25 counsel for Ms. Simmons --

1 MS. BRAGANCA: Okay.

2 MR. LEHNER: -- but for the purpose of
3 this deposition, I am going to advocate for her,
4 although I don't represent her as her counsel.

5 MS. BRAGANCA: Okay. Okay. And we'll --
6 I don't anticipate we're going to run into
7 problems --

8 MR. LEHNER: Right.

9 MS. BRAGANCA: -- where that will be an
10 issue, but if it is, we'll deal with it.

11 BY MS. BRAGANCA:

12 Q Okay. So Ms. Simmons, you mentioned that you lived
13 at 53rd and Hadley from 1988. How long did you
14 live at that address?

15 **A Until 1991.**

16 Q Okay. And where did you go in 1991?

17 **A 56th and Locust.**

18 Q How long did you live at 56th and Locust?

19 **A I'm still there.**

20 Q Okay. You mentioned that your mother is still
21 living at 24th and Hopkins?

22 **A Yes.**

23 Q Okay. What's your mother's name?

24 **A Juanita Simmons.**

25 Q And what is the street address at 24th and Hopkins?

1 **A 2442 West Hopkins.**

2 Q How old is your mother?

3 **A 89.**

4 Q Okay.

5 MR. KANE: I didn't hear that, Andrew.
6 (Record read.)

7 MS. BRAGANCA: And maybe you guys should
8 state your name when you're asking for something,
9 for our court reporter.

10 BY MS. BRAGANCA:

11 Q Ms. Simmons, after you graduated from high school,
12 what did you do?

13 **A Attend UWM, Milwaukee.**

14 Q Okay. And when did you first enroll at -- And when
15 you say "UWM," that's University of Wisconsin at
16 Milwaukee?

17 **A Yes.**

18 Q Okay. When did you begin attending classes there?

19 **A September 4.**

20 Q September 4 of?

21 **A 1973.**

22 Q Okay. And how long did you attend the University
23 of Wisconsin-Milwaukee?

24 **A May 1977.**

25 Q Okay. What did you do after you left the

CAROLYN SIMMONS, 10/19/2016

11	12
1 University of Wisconsin-Milwaukee?	1 Q And what job did you -- or when did you start
2 A I was pregnant.	2 working outside the home?
3 Q Did you return to live in the home that you've	3 A July 2, 1977.
4 identified -- the one you lived in with your	4 Q Wow. Okay. And where were you working?
5 mother, at 24th and Hopkins?	5 A Boston Store warehouse.
6 A Yes.	6 Q Boston Store warehouse? What were you doing there?
7 Q Okay. And then when did you give birth to your	7 A I was a checker and a marker.
8 child?	8 Q How long were you there?
9 A June 15, 1977.	9 A Until 1986.
10 Q And that is Corey Simmons?	10 Q Okay. So from June of 1977 to 1986.
11 A Corey Simmons.	11 A Um-hum.
12 Q Do you have any other children?	12 Q Okay. And did you work someplace else in 1986?
13 A Yes.	13 A No.
14 Q What are their names?	14 Q Okay. Did you retire?
15 A Ciara McDade.	15 A No.
16 Q Can you spell that?	16 Q Okay. What happened in 1986? What did you do?
17 A C-i-a-r-a M-c-D-a-d-e.	17 A They relocated to Japan.
18 Q And do you have any other children?	18 Q Oh, okay. What did you do at that point?
19 A No.	19 A I lived off my retirement money.
20 Q When was Ciara McDade born?	20 Q Okay. Have you been employed since 1986?
21 A June 1, 1989.	21 A No.
22 Q After you had Corey, did you return to school?	22 Q Okay. Now, when you were at the University of
23 A No.	23 Wisconsin, you met Duane Nelson. Is that correct?
24 Q Okay. Did you work outside the home?	24 A Yes.
25 A Yes.	25 Q Okay. Can you tell me when that was?
13	14
1 A August 1976.	1 A Okay. That was it.
2 Q And how did you meet Duane Nelson?	2 Q You just met him?
3 A They had a scrimmage for the new basketball	3 A Just met all the players.
4 players, like a meet and greet, and people on	4 Q Okay. So they were introduced to the group or to
5 campus was there to see them perform a basketball	5 you?
6 tournament versus another team.	6 A As a basketball team to the student body in the
7 Q Okay.	7 union.
8 A That's how I met him.	8 Q Did you have an opportunity to talk one-on-one with
9 Q Was that a -- Was there a social gathering before	9 Duane at that time?
10 or after that scrimmage?	10 A Meeting and greeting? No.
11 A After.	11 Q Okay. So you didn't have any individual --
12 Q Okay. And was that at the -- That was at the	12 A No.
13 University of Wisconsin-Milwaukee?	13 Q -- interaction with Duane at that time.
14 A Yes.	14 A No.
15 Q Okay. What was the -- Was it in the fieldhouse or	15 Q Okay. You mentioned "the next time."
16 whatever their --	16 A Yes.
17 A The union.	17 Q When was the next time that you met Duane Nelson or
18 Q The union? Okay. And tell me about that meeting.	18 spoke to him?
19 A We met all the players. They invited us to	19 A When I worked in the cafeteria as a work-study
20 participate in games -- upcoming games to support	20 program, the basketball players ate there. I was a
21 our team. That was it.	21 server. That's how we met.
22 Q But you mentioned that you met Duane at that --	22 Q Okay. And what was that first meeting? Or tell me
23 A I saw -- Yeah. I met him there the second time.	23 about the first time you spoke with Duane Nelson.
24 Q Okay. Tell me about that first time before we move	24 A I put bread and desserts out. I was out of bread.
25 to the second one, if you can.	25 He asked for a slice of bread. I gave it to him.

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">15</p> <p>1 He asked me then for my phone number.</p> <p>2 Q Okay. And so you gave him your phone number?</p> <p>3 A Yes, I did.</p> <p>4 Q Okay. Did you talk anymore?</p> <p>5 A Yes.</p> <p>6 Q Okay. What did you talk about?</p> <p>7 A My name, I gave him my phone number, and he asked</p> <p>8 to see me more.</p> <p>9 Q Okay. Did you talk about anything else?</p> <p>10 A I don't remember.</p> <p>11 Q Okay. And was that while he was going through the</p> <p>12 cafeteria line?</p> <p>13 A Yes.</p> <p>14 Q Was there anybody else who was there while you were</p> <p>15 having that conversation?</p> <p>16 A Only the people that's in line to get their lunch.</p> <p>17 Q Okay. So you don't --</p> <p>18 A I don't recall.</p> <p>19 Q Do you recall any person who overheard that</p> <p>20 conversation?</p> <p>21 A No.</p> <p>22 Q Okay. What was the next time that you either spoke</p> <p>23 to Duane Nelson or you met him?</p> <p>24 A The next day, for lunch.</p> <p>25 Q And where -- Do you remember when that was in terms</p>	<p style="text-align: center;">16</p> <p>1 of the month and year? Would it be 1977?</p> <p>2 A 1976.</p> <p>3 Q '76? I'm sorry. 1976. And would that have been</p> <p>4 in August?</p> <p>5 A September.</p> <p>6 Q September? Okay. Where did you meet for lunch?</p> <p>7 A Sandburg Hall cafeteria.</p> <p>8 Q And did Duane call you before you met for lunch?</p> <p>9 A No.</p> <p>10 Q Okay. How did you meet for lunch then?</p> <p>11 A I worked there.</p> <p>12 Q Okay. Okay. I'm sorry. I misunderstood. I</p> <p>13 thought you were someplace else.</p> <p>14 A No. I worked there.</p> <p>15 Q Okay. It was Sandburg Hall. Right. So what</p> <p>16 happened at the lunch?</p> <p>17 A When he came down for lunch, I normally take my</p> <p>18 break and he sit and talk while he eat.</p> <p>19 Q And in that first meeting that you had with him or</p> <p>20 chance to sit down and have lunch, what did you</p> <p>21 both talk about?</p> <p>22 A I don't remember.</p> <p>23 Q Okay. I'm just asking for the best that you can</p> <p>24 remember, as you're sitting here today. Do you</p> <p>25 recall when you met him the next time or talked</p>
<p style="text-align: center;">17</p> <p>1 with him?</p> <p>2 A If I met him Monday, Tuesday -- I worked Monday</p> <p>3 through Friday.</p> <p>4 Q Okay. Do you have any specific recollection of the</p> <p>5 next time that you met him?</p> <p>6 A The next day at lunchtime.</p> <p>7 Q Do you recall what you talked about in that lunch?</p> <p>8 A I don't remember.</p> <p>9 Q Okay. And what was the next time that you spoke to</p> <p>10 or met with Duane?</p> <p>11 A The summertime. We take a break, summertime. He</p> <p>12 go back to Minnesota spring break or summer break.</p> <p>13 Q Okay. So I just -- I want to get the timeline</p> <p>14 clear. So you had -- You had a few lunch dates</p> <p>15 with Duane, and then did you stop seeing him at the</p> <p>16 cafeteria?</p> <p>17 A No.</p> <p>18 Q So he continued to come in for meals at the</p> <p>19 cafeteria?</p> <p>20 A Yes.</p> <p>21 Q But you weren't talking with him at that point?</p> <p>22 A I don't understand.</p> <p>23 Q Oh, no. I'm just trying to see if there were other</p> <p>24 times that you sat and had lunch with Duane during</p> <p>25 1976 or whether you saw him -- you only saw him in</p>	<p style="text-align: center;">18</p> <p>1 the lunch line or you didn't see him at all?</p> <p>2 A No. After I got off of work, I would visit him in</p> <p>3 his dorm room.</p> <p>4 Q Okay. Where was his dorm?</p> <p>5 A South Tower.</p> <p>6 Q Okay. When was the first time that you met Duane</p> <p>7 other than at Sandburg Hall?</p> <p>8 A I don't remember.</p> <p>9 Q Can you give me an idea? Was it in the fall of</p> <p>10 1976 sometime?</p> <p>11 A I saw Duane Monday through Friday during work hours</p> <p>12 and after work hours the whole year.</p> <p>13 Q And the whole year --</p> <p>14 A 1976.</p> <p>15 Q Okay. From the time that you met him --</p> <p>16 A Yes.</p> <p>17 Q -- and started seeing him at lunch, then you</p> <p>18 started seeing him after --</p> <p>19 A Yes.</p> <p>20 Q Okay. After you got off work. When did you get</p> <p>21 off work?</p> <p>22 A I don't remember.</p> <p>23 Q Did you work the dinner shift, too, or just the</p> <p>24 lunch shift?</p> <p>25 A Breakfast and lunch.</p>

CAROLYN SIMMONS, 10/19/2016

19	20
<p>1 Q Okay. So when you say you saw him after work, that</p> <p>2 was after you were done working the lunch shift?</p> <p>3 A Yes.</p> <p>4 Q Okay. And would you go directly to his dorm room</p> <p>5 then?</p> <p>6 A No.</p> <p>7 Q Okay. So where did you go after you finished your</p> <p>8 work on the lunch shift?</p> <p>9 A I had classes.</p> <p>10 Q That makes sense. Okay. So you would attend</p> <p>11 classes, and then when would you --</p> <p>12 A After my last class.</p> <p>13 Q Okay. And were your classes near where Duane's</p> <p>14 dorm was?</p> <p>15 A Yes.</p> <p>16 Q Okay.</p> <p>17 MS. BRAGANCA: We pre-marked -- Guys on</p> <p>18 the phone, we'll let you know, we pre-marked</p> <p>19 Exhibit 24, and I think this will be helpful in</p> <p>20 talking with Ms. Simmons. So -- And you can pull</p> <p>21 it out. It is the notice of motion for relief from</p> <p>22 order and judgment of court that was filed on</p> <p>23 Mr. Simmons' behalf on October 4, 2016. So we're</p> <p>24 just marking that entire filing as Exhibit 24. So</p> <p>25 I'll give you a second if you guys don't have it</p>	<p>1 out.</p> <p>2 BY MS. BRAGANCA:</p> <p>3 Q But Ms. Simmons, you have a copy of this in front</p> <p>4 of you. All of us here have a copy in front of us.</p> <p>5 Ms. Simmons, please take a moment to look at this,</p> <p>6 and my first question will be just have you ever</p> <p>7 seen any of the documents that are in this motion</p> <p>8 before? And take your time.</p> <p>9 A Just this page.</p> <p>10 Q Okay. And the page that you're pointing to is the</p> <p>11 -- Are you pointing to both the pages that are your</p> <p>12 signed affidavit?</p> <p>13 A Yes.</p> <p>14 Q Okay. And that was September 17, 2016?</p> <p>15 A Yes.</p> <p>16 Q Okay. And where it's typed at the end of it,</p> <p>17 "Carolyn R. Simmons," is that your signature?</p> <p>18 A Yes.</p> <p>19 Q And you hand-wrote the date?</p> <p>20 A Yes.</p> <p>21 Q Okay. So please feel free to take a look at that</p> <p>22 if you need to remember something as I'm asking you</p> <p>23 questions. But let me go to where you stated that</p> <p>24 you met Duane Nelson at University of Wisconsin-</p> <p>25 Milwaukee, and then I want to go to the next</p>
<p>1 paragraph because you said, "During our courtship,</p> <p>2 Duane often invited me to his dorm at Sandburg Hall</p> <p>3 Dormitory, and during those visits, we were</p> <p>4 intimate." And that's the period of time that we</p> <p>5 were just talking about.</p> <p>6 A Yes.</p> <p>7 Q In the fall of 1976.</p> <p>8 A Yes.</p> <p>9 Q Okay. Were you seeing anyone else at that time?</p> <p>10 A No.</p> <p>11 Q So Duane Nelson was the only person you were</p> <p>12 intimate with during that period of time?</p> <p>13 A Yes.</p> <p>14 Q And I'm sorry to ask you this. It's an awkward</p> <p>15 subject, but when you say "intimate," you mean that</p> <p>16 you were having sex.</p> <p>17 A Yes.</p> <p>18 Q Okay. When did you learn that you were pregnant?</p> <p>19 A When I was throwing up and not eating.</p> <p>20 Q Okay. When did that happen?</p> <p>21 A Around late September, early October.</p> <p>22 Q Did you have a pregnancy test then?</p> <p>23 A Yes.</p> <p>24 Q And did you do that at a health clinic or an</p> <p>25 at-home test?</p>	<p>1 A Health clinic.</p> <p>2 Q And they confirmed that you were pregnant?</p> <p>3 A Yes.</p> <p>4 Q What did you do then?</p> <p>5 A I decided to take care of my baby.</p> <p>6 Q Did you talk with your -- And if you need to take a</p> <p>7 break at any point, I know you're distressed now,</p> <p>8 please take a break. Okay? Why don't we take a</p> <p>9 moment here. Okay?</p> <p>10 MS. BRAGANCA: Guys, we're going to take</p> <p>11 a break right now.</p> <p>12 THE WITNESS: I'm okay.</p> <p>13 BY MS. BRAGANCA:</p> <p>14 Q Are you sure?</p> <p>15 A Um-hum.</p> <p>16 Q Okay. And I apologize. I know this is -- It's</p> <p>17 obviously distressing, and I hope we can get</p> <p>18 through this fairly quickly. How far through</p> <p>19 school with your coursework were you at that point?</p> <p>20 A I didn't understand the question.</p> <p>21 Q How far were you in your coursework at University</p> <p>22 of Wisconsin at that point?</p> <p>23 A School was out in May. I worked until May with</p> <p>24 classes, had Corey in June.</p> <p>25 Q Okay. So I guess what I'm trying to get to, were</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">23</p> <p>1 you about halfway done with what was required for</p> <p>2 you to graduate or were you most of the way done?</p> <p>3 A I dropped out.</p> <p>4 Q Okay. And when was it that you dropped out of</p> <p>5 school?</p> <p>6 A May.</p> <p>7 Q Okay. May of --</p> <p>8 A 1977.</p> <p>9 Q -- 1977? Okay. Let's step back to when you found</p> <p>10 out you were pregnant. Did you tell your mother?</p> <p>11 A No.</p> <p>12 Q Okay. Did you tell Duane?</p> <p>13 A Yes.</p> <p>14 Q Okay. When did you tell Duane?</p> <p>15 A I don't remember.</p> <p>16 Q I'm going to try to see if something might jog your</p> <p>17 memory. Do you think that -- Do you recall waiting</p> <p>18 a while before you told Duane?</p> <p>19 A I told him right away.</p> <p>20 Q Okay. And can you tell me about that conversation?</p> <p>21 Where were you when you told Duane?</p> <p>22 A In his dorm room.</p> <p>23 Q Okay. Was there anybody else present?</p> <p>24 A No.</p> <p>25 Q Okay. And what do you remember about that</p>	<p style="text-align: center;">24</p> <p>1 conversation?</p> <p>2 A He was pleased.</p> <p>3 Q Okay. Did he say anything else?</p> <p>4 A Nothing bad.</p> <p>5 Q Okay. He didn't say anything bad?</p> <p>6 A No. Just pleased.</p> <p>7 Q Can you remember anything else -- anything that</p> <p>8 Duane said to you during that conversation?</p> <p>9 A I can't remember.</p> <p>10 Q Did you talk with Duane at that time about what you</p> <p>11 both would do going forward?</p> <p>12 A No.</p> <p>13 Q Did there come a time where you did talk with Duane</p> <p>14 about what the two of you would do going forward?</p> <p>15 A No.</p> <p>16 Q Did you continue to be intimate with Duane?</p> <p>17 A No.</p> <p>18 Q Did you continue to see Duane after that?</p> <p>19 A Yes.</p> <p>20 Q Okay. And what did you do when you were together?</p> <p>21 A Talk.</p> <p>22 Q What did you talk about?</p> <p>23 A School, people.</p> <p>24 Q "School" meaning your classes or --</p> <p>25 A Him continuing his education.</p>
<p style="text-align: center;">25</p> <p>1 Q Okay. What did you talk about in terms of him</p> <p>2 continuing his education?</p> <p>3 A To pull his grades up and graduate.</p> <p>4 Q Was that something that Duane said he wanted to do?</p> <p>5 A No.</p> <p>6 Q Is that something you said you wanted Duane to do?</p> <p>7 A Yes.</p> <p>8 Q How was Duane doing in school at the time?</p> <p>9 A He told me he was on academic probation.</p> <p>10 Q Okay. And what did that mean then if he was on</p> <p>11 academic probation?</p> <p>12 A He was on the dean's list for a bad cause, not a</p> <p>13 good cause.</p> <p>14 Q Could that mean that he could potentially get</p> <p>15 kicked out of school?</p> <p>16 A Yes.</p> <p>17 Q Did that jeopardize him playing basketball on the</p> <p>18 team?</p> <p>19 A Yes.</p> <p>20 Q When was Duane attending basketball practices</p> <p>21 during that time?</p> <p>22 A I don't remember.</p> <p>23 Q Do you remember any basketball games -- any times</p> <p>24 he was away for basketball games during that period</p> <p>25 of time? And I'm talking about the fall semester</p>	<p style="text-align: center;">26</p> <p>1 1976.</p> <p>2 A Yes.</p> <p>3 Q And when do you remember him being away?</p> <p>4 A When the team's required to play in another state</p> <p>5 or away games.</p> <p>6 Q Do you remember any particular times that he was</p> <p>7 away? Like, do you remember the school that the</p> <p>8 team was playing?</p> <p>9 A I don't remember.</p> <p>10 Q Okay. Did you continue to see Duane through the</p> <p>11 winter break from school?</p> <p>12 A No.</p> <p>13 Q Did Duane return to Minneapolis?</p> <p>14 A Yes.</p> <p>15 Q And you stayed -- You returned to your -- or you</p> <p>16 stayed with your family?</p> <p>17 A Yes.</p> <p>18 Q Okay. Did you talk to Duane during that winter</p> <p>19 break?</p> <p>20 A No.</p> <p>21 Q Is there anything else that you can remember about</p> <p>22 your discussions with Duane during the fall of</p> <p>23 1976?</p> <p>24 A I can remember him being on probation. His sister</p> <p>25 came up with another female. We were in the</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">27</p> <p>1 Sandburg Hall. His sister was there. He 2 introduced me to her. She looked at me and told 3 him, "This is what you're doing?" I felt not 4 pleased. Duane never talked to me. 5 Q When you say "never talked to you," he didn't say 6 anything to you about that fact? 7 A He was surprised. He looked, because that's his 8 sister. That was that. 9 Q Does -- In your statement, I believe you said that 10 that was Norrine Nelson? 11 A Yes, it was. 12 Q Okay. And you thought that the person who was with 13 her was an Alberta or somebody -- a Roberta or 14 Alberta? 15 A Yes. 16 Q Okay. And this was the two of them visiting Duane 17 at the -- at Sandburg Hall? 18 A Yes. 19 Q Okay. Was anybody else with them? 20 A Just them two. 21 Q Okay. You didn't -- Did you ever meet 22 John L. Nelson? 23 A No. 24 Q Okay. Did you have any other contact with Norrine 25 Nelson other than just that one meeting?</p>	<p style="text-align: center;">28</p> <p>1 A No. 2 Q Okay. Can you remember anything else that Norrine 3 Nelson said? 4 A That's it. 5 Q Do you remember anything that the other woman -- 6 Roberta or Alberta said? 7 A She never spoke. 8 Q Do you remember anything that Duane said in that 9 conversation? 10 A He looked disappointed, and that was it. 11 Q Do you remember anything you said in that 12 conversation? 13 A I didn't say anything. 14 Q And how did that meeting end? 15 A I left and went to my room. 16 Q Okay. Was -- Where was your room? 17 A North Tower. 18 Q And I apologize. I had wrongly assumed that you 19 were living at home while you were attending 20 school. So you were living on campus during this 21 fall semester? 22 A The first semester I was at home. 23 Q The -- 24 A The second semester, I lived on campus. 25 Q Okay. All right. That helps a lot because that --</p>
<p style="text-align: center;">29</p> <p>1 You were living in the North Tower at the time, and 2 that would have been in the spring semester of that 3 year? 4 A I don't remember. 5 Q Okay. But you're sure that you were living in -- 6 you were living at home with your mother during 7 that fall semester. 8 A Yes. 9 Q Okay. And this conversation when you left, you 10 went to the North Tower. 11 A Yes. 12 Q So what I'm drawing -- concluding from that is that 13 this conversation must have happened sometime after 14 you moved into the North Tower. 15 A Yes. 16 Q Okay. And that would be that spring semester, so 17 sometime after January of 1977? 18 A Yes. 19 Q Okay. Okay. In your affidavit, you stated that 20 "This time became stressful. Duane's grades 21 suffered. He had other issues that impacted his 22 schooling, and he left school and moved back to 23 Minnesota when I was approximately five months 24 pregnant." So can I ask you just about -- When you 25 say "This time became stressful," are you referring</p>	<p style="text-align: center;">30</p> <p>1 to both that fall semester and the spring semester? 2 A Yes. 3 Q Okay. And "Duane's grades suffered." That was -- 4 He didn't do well that fall semester? 5 A Yes. 6 Q And he was continuing not to do well during that 7 spring semester or do you recall? 8 A I recall him finishing up that semester, going to 9 Minnesota for the break, and to come back and 10 improve. 11 Q Okay. When you say "He left school," did he leave 12 school before the semester was over? 13 A When I say "left," I mean he lived -- He's an 14 out-of-state student. 15 Q Um-hum. 16 A When students have summer breaks or a length of two 17 or three months, they go home. That's what he did. 18 Q Okay. So he -- 19 A He didn't leave completely. He left for a break 20 and came back. 21 Q Okay. But when you said "left" -- 22 A I know. I see that. 23 Q Okay. So he finished up his fall -- or his spring 24 semester, to the best of your knowledge. 25 A Yes.</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">31</p> <p>1 Q Okay. And there came a time when you couldn't 2 continue your schooling because of your pregnancy? 3 A Yes. 4 Q Okay. What happened? 5 A I received a letter from the dean saying I couldn't 6 be on campus while pregnant. 7 Q You couldn't be on campus? Oh. You couldn't live 8 on campus. 9 A Yeah. Live. 10 Q Okay. 11 A 1977. 12 Q Okay. And at that point then, you moved out of the 13 dorm -- 14 A Yes. 15 Q -- and back in with your mother? 16 A Yes. 17 Q Okay. When did you tell your mother that you were 18 pregnant? 19 A When I went home, she could see. 20 Q Did she not know before that? 21 A No. 22 Q Okay. I imagine that was a stressful time, too. 23 A Yes. 24 Q Did you talk with Duane at all after you moved back 25 in with your mother?</p>	<p style="text-align: center;">32</p> <p>1 A Yes. 2 Q Okay. And that was via telephone? 3 A He would drive to my mother's house to visit. 4 Q Okay. When you say "He would drive," was he 5 driving from Minneapolis during the summer or was 6 he driving from campus out to see you? 7 A Campus. 8 Q Okay. Did Duane have a car then? 9 A Yes. 10 Q Okay. What kind of car did he have? 11 A A Newport. 12 Q Okay. Was it new? 13 A I'm sorry. Cars I don't know anything about -- 14 Q Okay. 15 A -- but it looked old. 16 Q I was just wondering if he borrowed a car or if he 17 had his own. 18 A It was his. 19 Q It was his? Okay. Did Duane have -- or did you 20 meet any of Duane's friends while you were dating? 21 A Just the basketball players. 22 Q And who do you recall meeting of the basketball 23 players? 24 A Al Walker, Gerald Hardnett. 25 Q Can you -- Gerald?</p>
<p style="text-align: center;">33</p> <p>1 A Gerald. 2 Q Gerald? Okay. And the last name Hardnett? 3 A Yes. 4 Q Okay. And anyone else? 5 A Robert Jammer. 6 Q Anyone else? 7 A I just know by first name -- Malcolm, Dennis. 8 That's all I remember. 9 Q And would you see those players when you were in 10 Duane's room? Would they come by or did you see 11 them somewhere else? 12 A I saw them in Duane's room. 13 Q What did they talk about with Duane? 14 A I didn't see any conversation, but it was back and 15 forth going to classes, passing through. 16 Q Okay. So they would just stop by on their way? 17 A Pass through. 18 Q Okay. Did you talk with any of these fellows -- Al 19 Walker, Gerald Hardnett, Robert Jammer, Malcolm or 20 Dennis? 21 A I talked to them. I had classes with some of them. 22 Q Did you have any classes with Duane? 23 A No. 24 Q Was Duane particularly close with any one of them? 25 A No.</p>	<p style="text-align: center;">34</p> <p>1 Q So they were more acquaintances from the team? 2 A Yes. 3 Q Okay. Not close friends? 4 A No. 5 Q All right. We're going to mark another exhibit, 6 and it's -- It will be Exhibit 25. It's double- 7 sided, too, just for the record, as we're going 8 through it. 9 (Exhibit No. 25 was marked.) 10 BY MS. BRAGANCA: 11 Q Ms. Simmons, I'm putting in front of you what 12 Mr. Lehner provided to us earlier at the top. It 13 reads "Deposition Summary of Carolyn Simmons," and 14 it's dated October 19 of 2016. 15 MS. BRAGANCA: And counsel on the phone, 16 I don't know if you have copies of this. Could you 17 let us know? 18 MR. KANE: Thomas Kane does not have a 19 copy. 20 MS. BRAGANCA: Okay. Should we e-mail -- 21 or Andy, could you maybe e-mail that to the gang? 22 Okay. Okay. We'll take a second. 23 BY MS. BRAGANCA: 24 Q And if you want to take a second and look at it, 25 and I'll ask you questions about this, Ms. Simmons.</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">35</p> <p>1 MR. STOLTMANN: Lisa, this is Andrew. I 2 had you on mute. Did you want me to e-mail 3 something? 4 MS. BRAGANCA: Oh, no. This is the -- 5 Okay. Yeah. If you could, we had -- Andy Lehner 6 had e-mailed us yesterday this -- 7 MS. BESBEKOS-LAPAGE: I could just 8 actually do it off my phone. 9 MS. BRAGANCA: Oh. Deanna can do it off 10 her phone -- or maybe I can. We'll try not to lose 11 you. She's good. She can do these things 12 simultaneously. Okay. We'll go off the record for 13 a second while we do this. 14 (Discussion off the record.) 15 BY MS. BRAGANCA: 16 Q Okay. Ms. Simmons, you've got in front of you 17 Exhibit -- what we've marked Exhibit 25, and at the 18 top it reads "Deposition Summary of Carolyn 19 Simmons," and it's dated October 19, 2016. Have 20 you ever seen this before? 21 A Yes. 22 Q Okay. And when? When did you see it? 23 A I wrote it. 24 Q Okay. Did you write this on October 19 with the 25 help of Counsel?</p>	<p style="text-align: center;">36</p> <p>1 A No. 2 Q Okay. You just wrote this -- 3 A Yes. 4 Q -- and typed it up and sent it to Counsel to send 5 to us? 6 A Yes. 7 Q Okay. And thank you. This is helpful. Okay. And 8 this is two pages. I want to direct you to the 9 middle paragraph on the first page, the paragraph 10 that starts, "On one particular day while on campus 11 Duane introduced me to his sister Norrine and 12 another lady which I believe the name was Roberta 13 or Alberta," and we talked about that. Is there 14 anything else that -- Oh. Wait. Let me go to the 15 next sentence. "Both ladies looked me up and down. 16 Norrine took a step closer to me and looked at my 17 stomach and turned to Duane and said, 'So this is 18 what you're doing up here'." Does that cause you 19 to remember anything else about that meeting? 20 A That was a meeting -- a short meeting. That's how 21 exactly it happened. 22 Q Okay. The next statement you have is "Shortly 23 thereafter, he stated he was leaving school and 24 moving back to Minnesota at the time I was 25 approximately five months pregnant." You mentioned</p>
<p style="text-align: center;">37</p> <p>1 that Duane returned home for Christmas break. Is 2 that right? 3 A Yes. Yes. 4 Q Okay. He came back to school then in or around the 5 beginning of 1977 for the next semester of school. 6 A Yes. 7 Q Okay. Does this help you to remember when it was 8 that Duane left school -- you remember Duane 9 leaving school? 10 A Permanently or -- 11 Q Well, I'm trying to -- 12 A -- for break? 13 Q Are you referring to maybe him leaving school for 14 spring break and coming back? 15 A That's what I'm referring to. 16 Q Okay. So when you said "Shortly thereafter, he 17 stated he was leaving school and moving back to 18 Minnesota," that -- the "moving back to Minnesota" 19 is referring to spring break? 20 A Yes. 21 Q Okay. And then at the time -- At that time you 22 were about five months pregnant. 23 A Yes. 24 Q Okay. So that -- We now can put a time -- somewhat 25 of a time frame on that.</p>	<p style="text-align: center;">38</p> <p>1 A Yes. 2 Q Okay. Then -- Did you ever talk to Duane about 3 that conversation that he and Norrine and this 4 other woman had with you at Sandburg Hall? 5 A No. 6 Q Okay. Did you ever bring it up with Duane after? 7 A No. 8 Q Did you ever talk to anybody else about it? 9 A No. 10 Q So Duane went home -- You recall Duane going home 11 for -- 12 A Yes. 13 Q -- going back to Minneapolis for spring break and 14 then returning to school? 15 A If it was in the wintertime, it would be winter 16 break instead of spring break. 17 Q Oh, I'm sorry. Okay. Winter break. I guess I'm 18 trying to differentiate between the Christmas 19 break -- 20 A Winter. 21 Q Okay. And then spring break would be somewhere 22 around March or so -- February, March? 23 A We didn't get a spring break. We got a summer 24 break. January to May, September to December. 25 Q Okay. So when Duane moved back to Minnesota, that</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">39</p> <p>1 was the end of that semester in May?</p> <p>2 A Yes.</p> <p>3 Q Okay. May 1977?</p> <p>4 A I believe.</p> <p>5 Q Okay. And what I'm trying to do is use the events</p> <p>6 to see if we can reconstruct the timeline.</p> <p>7 A When he went back to Minnesota, if he came back in</p> <p>8 January, I didn't see him.</p> <p>9 Q Okay. All right. So during 1977 --</p> <p>10 A From January to June, I didn't see Duane.</p> <p>11 Q Okay. All right.</p> <p>12 MS. AFFELDT: Sorry to interrupt. This</p> <p>13 is Sharma Affeldt just joining.</p> <p>14 MS. BRAGANCA: Okay. And Sharma Affeldt</p> <p>15 is with the Special Administrator in this case.</p> <p>16 I'll give you her contact information when we have</p> <p>17 a break. Welcome, Sharma.</p> <p>18 MS. AFFELDT: Thank you.</p> <p>19 BY MS. BRAGANCA:</p> <p>20 Q So you said that you didn't see Duane from January</p> <p>21 to June of 1977, but you -- What I'm trying to</p> <p>22 figure out is, you recall seeing Duane's sister,</p> <p>23 Norrine, at a time when you were living in the</p> <p>24 North Tower.</p> <p>25 A Yes.</p>	<p style="text-align: center;">40</p> <p>1 Q And that would be between January and June 1977.</p> <p>2 A No.</p> <p>3 Q Okay. All right. So can you tell me then -- Do</p> <p>4 you recall seeing Duane between January and June of</p> <p>5 '77?</p> <p>6 A No.</p> <p>7 Q Okay. Does this give you a better idea of when you</p> <p>8 may have -- when this conversation with Norrine</p> <p>9 took place?</p> <p>10 A November 1976.</p> <p>11 Q Okay. So when you left that conversation, you</p> <p>12 weren't living in North Tower at that time.</p> <p>13 A Yes.</p> <p>14 Q I'm sorry. That was one of those "yeses" that I</p> <p>15 just -- I don't know if you're saying "yes," you</p> <p>16 agree with me or "yes," you were living in North</p> <p>17 Tower.</p> <p>18 A Yes, I was living in the North Tower.</p> <p>19 Q Okay. So when did you start living in the North</p> <p>20 Tower?</p> <p>21 A I don't remember.</p> <p>22 Q Okay. Okay. You mentioned -- or you state in --</p> <p>23 further in that paragraph, "I also left school</p> <p>24 because UWM wouldn't allow me to be pregnant in the</p> <p>25 dorms." And you also state, "I did not see Duane</p>
<p style="text-align: center;">41</p> <p>1 again until Corey was approximately 3 years old."</p> <p>2 A Yes.</p> <p>3 Q Okay. How did you connect with Duane at that time?</p> <p>4 A He would show up.</p> <p>5 Q Okay. Did -- Okay. So were you aware of Duane</p> <p>6 returning to the University of Wisconsin to</p> <p>7 continue school?</p> <p>8 A No.</p> <p>9 Q Okay. Did you try to reach Duane after Corey was</p> <p>10 born?</p> <p>11 A No.</p> <p>12 Q And why not?</p> <p>13 A I don't go over -- after people.</p> <p>14 Q Okay. So you felt that Duane knew where you were?</p> <p>15 A He neglected us.</p> <p>16 Q Pardon?</p> <p>17 A I felt he neglected us -- his responsibilities, so</p> <p>18 I raised my child the best I could.</p> <p>19 Q Okay. You were able to then go back to work?</p> <p>20 A I wasn't able.</p> <p>21 Q I'm sorry. You had to work.</p> <p>22 A No. I decided to go to work.</p> <p>23 Q Okay. And your mother was able to care for</p> <p>24 Corey --</p> <p>25 A Yes.</p>	<p style="text-align: center;">42</p> <p>1 Q -- while you were at work?</p> <p>2 A Yes. I paid her.</p> <p>3 Q Okay. Was that a difficult time, financially, for</p> <p>4 you?</p> <p>5 A No.</p> <p>6 Q You made enough money to be able to --</p> <p>7 A Yes.</p> <p>8 Q -- support Corey at the time?</p> <p>9 A Yes.</p> <p>10 Q Okay. During that spring semester before Corey was</p> <p>11 born, do you remember attending any basketball</p> <p>12 games?</p> <p>13 A I remember, four months pregnant, supporting the</p> <p>14 UWM basketball team.</p> <p>15 Q When you say "supporting" --</p> <p>16 A Basketball team.</p> <p>17 Q Okay. That was attending the game?</p> <p>18 A Yes.</p> <p>19 Q Do you remember attending any other games?</p> <p>20 A Many other.</p> <p>21 Q Okay. Did you see any other players at that time?</p> <p>22 I'm sorry. Let me -- Obviously, you saw other</p> <p>23 players. Did you speak with any of the players or</p> <p>24 speak with Duane at the games?</p> <p>25 A No.</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">43</p> <p>1 Q Okay. Did you have any friends at school at that 2 time who you talked about Duane with? 3 A Yes. 4 Q And who are they? 5 A Valerie Brown. 6 Q Okay. Anybody else? 7 A James Swanigan. 8 Q Can you spell Swanigan? 9 A S-w-a-n-i-g-a-n. 10 Q Okay. Were they fellow students at University of 11 Wisconsin? 12 A Yes. 13 Q Are you still in touch with them? 14 A Valerie. 15 Q Okay. And where does Valerie live? 16 A San Quentin, California. 17 Q Do you have her contact information? 18 A Not on me. 19 Q Okay. But you would -- 20 A I have it at home. 21 Q Okay. So do you talk with her on the phone? 22 A Yes. 23 Q Okay. And do you e-mail with her? 24 A Yes. 25 Q Okay. Text?</p>	<p style="text-align: center;">44</p> <p>1 A No. 2 Q Okay. Would you be willing to give us her contact 3 information so we can talk with her? 4 A Yes. 5 Q Okay. Thank you. James Swanigan. Do you know 6 where he lives? 7 A No. 8 Q When did you lose touch with him? 9 A I don't remember. 10 Q Were you in contact with him just while you were at 11 school? 12 A No. 13 Q Okay. You stayed in contact with him after you 14 left University of Wisconsin? 15 A Ten years after that. 16 Q Okay. Does he live -- Did he live at that time in 17 the Milwaukee area? 18 A Yes. 19 Q Okay. And where did he live -- What's the last 20 place that you recall him living? 21 A I never knew where he lived. 22 Q Okay. What did you tell Valerie Brown about Duane? 23 A I didn't have to tell her anything. She was with 24 me. 25 Q Okay. And what do you mean by that?</p>
<p style="text-align: center;">45</p> <p>1 A She's my best friend. We stayed on campus together 2 in the same suite, so she saw everything. 3 Q Okay. Did you -- How soon after you learned you 4 were pregnant did you tell Valerie? 5 A She went with me. 6 Q Okay. Did you tell her about conversations that 7 you had with Duane about what you would do? 8 A No. 9 Q Did Duane come to your dorm room to visit you? 10 A No. 11 Q Did she ever come with you to Duane's dorm room? 12 A Yes. 13 Q Was she a friend of Duane's also? 14 A I would say a schoolmate, not a friend. 15 Q Okay. Now, when -- Tell me about when you first 16 saw Duane after Corey was born. 17 A He would call my house. 18 Q When was the first time you remember him calling 19 your house after Duane (sic) was born? 20 A Corey. 21 Q I'm sorry -- after Corey was born. 22 A 1980. 23 Q And were you surprised the first time that Duane 24 called in 1980? 25 A No.</p>	<p style="text-align: center;">46</p> <p>1 Q What did you talk about? 2 A What did I have? What was his name? That's all I 3 remember. 4 Q Did Duane come to visit you? 5 A Yes. 6 Q And that was -- The first time that Duane came to 7 visit you, you stated Corey was about 3 years old? 8 A Yes. 9 Q Okay. And that was around 1980. Can you tell me 10 about that first meeting? 11 A I don't remember. 12 Q Okay. So Duane came to visit. He met Corey for 13 the first time. And can you remember any of those 14 meetings when Corey was 3? 15 A I remember giving him pictures, talking to my niece 16 and nephew that was older. That's it. 17 Q Okay. And that would be a niece and nephew who 18 were also at your mother's home? 19 A Yes. 20 Q Okay. And what are their names? 21 A Frederick. 22 Q Is that Frederick Simmons? 23 A Simmons. 24 Q Um-hum. 25 A Anita Simmons.</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">47</p> <p>1 Q Is that A-n-i-t-a?</p> <p>2 A Yes.</p> <p>3 Q Okay. Is there anyone else other than your mother,</p> <p>4 Anita Simmons and Frederick Simmons who was at the</p> <p>5 house when Duane came to see Corey during that</p> <p>6 period of time when he was 3 or -- 3, 4?</p> <p>7 A No.</p> <p>8 Q Did -- Was Duane in school at that time when he was</p> <p>9 visiting?</p> <p>10 A I don't know.</p> <p>11 Q Okay. Did Duane drive to your home?</p> <p>12 A Yes.</p> <p>13 Q Okay. What car did he drive in?</p> <p>14 A A brown and black Newport.</p> <p>15 Q Okay. Same car?</p> <p>16 A Same car.</p> <p>17 Q Okay. You mentioned that your mother and Duane</p> <p>18 would have long conversations.</p> <p>19 A Yes.</p> <p>20 Q What did they talk about?</p> <p>21 A I was not there.</p> <p>22 Q Okay. So he was visiting sometimes when you</p> <p>23 weren't at home.</p> <p>24 A Yes.</p> <p>25 Q Okay. Thank you. Were most of his visits when you</p>	<p style="text-align: center;">48</p> <p>1 were working or when you were not home?</p> <p>2 A I don't know.</p> <p>3 Q Would your mother tell you when Duane had come to</p> <p>4 see Corey while you were out?</p> <p>5 A Sometimes.</p> <p>6 Q How do you know that your mother and Duane would</p> <p>7 have long conversations?</p> <p>8 A One day she talked to Duane, she mentioned and he</p> <p>9 said that I don't let him see Corey, and it wasn't</p> <p>10 true. I never said that.</p> <p>11 Q Okay.</p> <p>12 A My mother told me that.</p> <p>13 Q So you know that your mother spoke with Duane?</p> <p>14 A Yes.</p> <p>15 Q And Duane told her that you would not let him see</p> <p>16 Corey.</p> <p>17 A Yes.</p> <p>18 Q Okay. And that was not true.</p> <p>19 A Yes.</p> <p>20 Q Okay. But you also mentioned that your mother and</p> <p>21 Duane would have long conversations, so I'm just</p> <p>22 trying to get a sense of why you think they had</p> <p>23 long conversations.</p> <p>24 A My mother used to sell dinners. She would fix</p> <p>25 Duane free barbecue dinner, and she would sit and</p>
<p style="text-align: center;">49</p> <p>1 eat -- let him eat. So they would talk at the</p> <p>2 table while he eat.</p> <p>3 Q And did your mother tell you what they would talk</p> <p>4 about?</p> <p>5 A No.</p> <p>6 Q Were you ever -- Were you -- Do you recall being</p> <p>7 there while Duane was having dinner?</p> <p>8 A No. He would talk about the barbecue dinner -- how</p> <p>9 good they were.</p> <p>10 Q Did your mother say anything else about Duane?</p> <p>11 A No.</p> <p>12 Q Did your mother ever encourage you to get an order</p> <p>13 to get child support from Duane?</p> <p>14 A No.</p> <p>15 Q Why not? If you know.</p> <p>16 A I don't know.</p> <p>17 Q Okay. Did you ever talk with any of your other</p> <p>18 friends about getting child support from Duane?</p> <p>19 A No.</p> <p>20 Q In the next paragraph in Exhibit 25, you state,</p> <p>21 "While working at Wonder Bread, he would visit</p> <p>22 Corey, and at that time we would talk, and I would</p> <p>23 give him pictures of Corey." So Duane was working</p> <p>24 for Wonder Bread at the time?</p> <p>25 A Yes.</p>	<p style="text-align: center;">50</p> <p>1 Q Okay. And was that around 1980?</p> <p>2 A I don't remember.</p> <p>3 Q Okay. But he told you that he was working at</p> <p>4 Wonder Bread?</p> <p>5 A Yes.</p> <p>6 Q Okay. And what would you talk about with him when</p> <p>7 he would visit?</p> <p>8 A I don't remember.</p> <p>9 Q Okay. In the next paragraph, you said that "Years</p> <p>10 had passed, and while I was a friend's home, I</p> <p>11 called a cab to pick me up. When the cab arrived,</p> <p>12 the driver was Duane." You were at a friend's home</p> <p>13 in Milwaukee?</p> <p>14 A Yes.</p> <p>15 Q Okay. And who was the friend?</p> <p>16 A Mary Jones.</p> <p>17 Q Okay. And so Duane was driving a cab at that time?</p> <p>18 A Yes.</p> <p>19 Q Okay. Do you recall if that was after he was</p> <p>20 working at Wonder Bread or was it the same time?</p> <p>21 A After.</p> <p>22 Q Okay. All right. Was it long -- You said "Years</p> <p>23 had passed."</p> <p>24 A Years.</p> <p>25 Q So how old was Corey at that time?</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">51</p> <p>1 A He had to be 10.</p> <p>2 Q Okay. Okay. So Corey was born in 1977?</p> <p>3 A Yes.</p> <p>4 Q So this would be somewhere around 1987 then?</p> <p>5 A Yes.</p> <p>6 Q Give or take a year. Okay. So did you find out</p> <p>7 from Duane where he was living at that time?</p> <p>8 A No.</p> <p>9 Q Okay.</p> <p>10 A No.</p> <p>11 Q Do you remember the cab company?</p> <p>12 A No.</p> <p>13 Q Okay. Do you know if Duane was officially working</p> <p>14 for the cab company or whether it was an</p> <p>15 unofficial --</p> <p>16 A No.</p> <p>17 Q Okay. And you stated then that "Rather than resume</p> <p>18 working, Duane decided to turn off the cab, and we</p> <p>19 stayed at my friend's house and talked for hours."</p> <p>20 And that's your friend, Mary Jones?</p> <p>21 A Yes.</p> <p>22 Q And are you still in touch with Mary Jones?</p> <p>23 A Yes.</p> <p>24 Q Do you -- Where does she live?</p> <p>25 A 44th Street.</p>	<p style="text-align: center;">52</p> <p>1 Q Do you know her street address?</p> <p>2 A I have it at home.</p> <p>3 Q And I assume you have her phone number at home --</p> <p>4 A Yes.</p> <p>5 Q -- or her e-mail? We would like to contact her --</p> <p>6 have a telephone call with her. Would you be</p> <p>7 willing to give us her contact information so that</p> <p>8 we can talk with her?</p> <p>9 A Yes.</p> <p>10 Q Thank you. Okay. Did Mary Jones join you in</p> <p>11 talking to Duane?</p> <p>12 A No.</p> <p>13 Q Where did Mary go?</p> <p>14 A In the front room with her husband.</p> <p>15 Q And where were you and Duane talking?</p> <p>16 A In the kitchen.</p> <p>17 Q Now, the next statement you have, you said, "We</p> <p>18 talked about how Corey was doing and what was going</p> <p>19 on in both of our lives." So can you tell me, what</p> <p>20 did you talk about? What did you tell Duane about</p> <p>21 Corey?</p> <p>22 A What he asked.</p> <p>23 Q Do you recall what he asked?</p> <p>24 A No.</p> <p>25 Q Okay. And you said "what was going on in both our</p>
<p style="text-align: center;">53</p> <p>1 lives." What did Duane tell you and what did you</p> <p>2 tell Duane?</p> <p>3 A I don't remember.</p> <p>4 Q Did you talk with your friend, Mary Jones,</p> <p>5 afterward about that meeting with Duane?</p> <p>6 A Yes.</p> <p>7 Q Do you recall what you told your friend, Mary Jane</p> <p>8 (sic), about that?</p> <p>9 A Mary Jones.</p> <p>10 Q Mary Jones -- I'm sorry -- about that meeting?</p> <p>11 A She was happy we saw each other, wanted us to</p> <p>12 communicate, and thought we might get back</p> <p>13 together. That's all her concern.</p> <p>14 Q Okay. You said that was --</p> <p>15 A Was her concern -- she asked.</p> <p>16 Q And what did you tell her about that?</p> <p>17 A "No."</p> <p>18 Q Is there any particular reason you say "no"?</p> <p>19 Because you're saying it very emphatically, so I</p> <p>20 just want to kind of find out why.</p> <p>21 A He comes and goes. I didn't need that.</p> <p>22 Q Did Duane ever talk to you about getting together?</p> <p>23 A No.</p> <p>24 Q And you weren't interested in raising it with him.</p> <p>25 A No.</p>	<p style="text-align: center;">54</p> <p>1 Q Okay. You said in the next sentence, "Duane's</p> <p>2 visits were starting to become only at night, and</p> <p>3 calls were sporadic, making it difficult to</p> <p>4 maintain a relationship with Corey." So after you</p> <p>5 met Duane because of the cab and you talked with</p> <p>6 him at Mary Jones's house --</p> <p>7 A Yes.</p> <p>8 Q -- when was the next time that you saw Duane or</p> <p>9 talked with him?</p> <p>10 A At night, when he showed up at my door.</p> <p>11 Q And was it -- Was there a long gap between --</p> <p>12 A Yes.</p> <p>13 Q -- that meeting at Mary -- Oh. I'm sorry -- that</p> <p>14 meeting at Mary Jones's house and the next time you</p> <p>15 heard from him?</p> <p>16 A Yes.</p> <p>17 Q Okay. And the next time you heard from him, he</p> <p>18 just showed up.</p> <p>19 A He just shows up.</p> <p>20 Q Okay. What happened that next time that you saw</p> <p>21 Duane?</p> <p>22 A He came, went for a drive. He showed me he stayed</p> <p>23 on the east side in an apartment. We stayed in the</p> <p>24 apartment, talked, and that's it.</p> <p>25 Q So Duane was living, at that point, in Milwaukee?</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">55</p> <p>1 A I guess.</p> <p>2 Q Okay. All right. But you went to his apartment on</p> <p>3 the east side. Did he drive you in a cab or in</p> <p>4 his --</p> <p>5 A His car.</p> <p>6 Q Okay. Same car?</p> <p>7 A Yep.</p> <p>8 Q Okay. All right. And what did you talk about that</p> <p>9 evening?</p> <p>10 A His relationship with other females.</p> <p>11 Q What did he tell you?</p> <p>12 A How he was having trouble with relationships with</p> <p>13 other females.</p> <p>14 Q Did he mention any people in particular?</p> <p>15 A No.</p> <p>16 Q All right. Did he tell you about Carmen</p> <p>17 Weatherall?</p> <p>18 A No.</p> <p>19 Q Did he mention that he had any other children?</p> <p>20 A No.</p> <p>21 Q Did he talk about working for Prince at that time?</p> <p>22 This is around 1987.</p> <p>23 A No.</p> <p>24 Q Okay. Okay. Then you state after that, that last</p> <p>25 sentence, you stated, "Some visits, Duane would</p>	<p style="text-align: center;">56</p> <p>1 talk to Prince on my telephone."</p> <p>2 A While living with my mother, yes.</p> <p>3 Q Okay. So this was -- Duane would come to your</p> <p>4 house and -- "your house" meaning your mother's</p> <p>5 house --</p> <p>6 A Yes.</p> <p>7 Q -- and he would call Prince from your home?</p> <p>8 A Yes.</p> <p>9 Q Okay. And did he tell you why he needed to call</p> <p>10 Prince?</p> <p>11 A They talked all the time.</p> <p>12 Q Did they talk about work that Duane was doing for</p> <p>13 Prince?</p> <p>14 A No. They talked about family.</p> <p>15 Q What else do you recall Prince and Duane talking</p> <p>16 about?</p> <p>17 A Just family.</p> <p>18 Q What would they say about family? What did Duane</p> <p>19 say about family?</p> <p>20 A Sisters being pregnant, nobody knows, just family</p> <p>21 talk.</p> <p>22 Q Was there anything else that you can remember about</p> <p>23 family?</p> <p>24 A That's it.</p> <p>25 Q Do you remember the names of any family members</p>
<p style="text-align: center;">57</p> <p>1 that they talked about?</p> <p>2 A I don't remember.</p> <p>3 Q Okay. Were there more -- You said there were -- On</p> <p>4 some visits, Duane would talk to Prince on your</p> <p>5 telephone. So that happened more than once.</p> <p>6 A Yes.</p> <p>7 Q Okay. Did it happen a lot? Approximately how many</p> <p>8 times?</p> <p>9 A In the three months, maybe twice a month.</p> <p>10 Q Okay. And you said that Duane would put the phone</p> <p>11 up to you and would say -- and you --</p> <p>12 A I would ask, "Can I speak to Prince?" And Prince</p> <p>13 agreed.</p> <p>14 Q Okay.</p> <p>15 A I got on the phone. He said, "Hi."</p> <p>16 Q Okay.</p> <p>17 A He's quiet.</p> <p>18 Q Was that just once?</p> <p>19 A I said "Hi," and I gave it back to Duane.</p> <p>20 Q Okay. Is there anything else that you can recall</p> <p>21 about those conversations that Duane had with</p> <p>22 Prince?</p> <p>23 A I can remember Duane being in his set, and Prince</p> <p>24 would record things. He said he was in the</p> <p>25 recording studio with Prince at times.</p>	<p style="text-align: center;">58</p> <p>1 Q Okay. What else do you recall him talking about?</p> <p>2 A Prince rapping. That's it.</p> <p>3 Q Yeah? Did Duane talk at all about other things</p> <p>4 that he was doing for Prince?</p> <p>5 A No.</p> <p>6 Q Did he tell you that he was working for Prince at</p> <p>7 the time?</p> <p>8 A No.</p> <p>9 Q Did he tell you that he was living in Milwaukee?</p> <p>10 A No.</p> <p>11 Q Did he tell you that he was living in the</p> <p>12 Minneapolis area?</p> <p>13 A No.</p> <p>14 Q Is there anything else that you can remember about</p> <p>15 those telephone calls that Duane had with Prince</p> <p>16 from your home?</p> <p>17 A That's it. Family. They talked about sisters and</p> <p>18 brother. There was seven of them. That's it.</p> <p>19 Q Okay. Do you recall the names of the seven?</p> <p>20 A No.</p> <p>21 Q Any of them?</p> <p>22 A No.</p> <p>23 Q The brothers and sisters? Okay. The next</p> <p>24 statement, you say, "Duane would" -- I'm sorry.</p> <p>25 After that one. "In addition, concert memorabilia</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">59</p> <p>1 would be mailed to Corey and I from Prince, Rick 2 James and Chaka Khan." 3 A Duane, when he came, he would bring Prince, Chaka's 4 souvenirs to give to Corey, Frederick and Anita. 5 Q Okay. Do you know if Corey, Frederick and Anita 6 still have any of those things? 7 A I don't know. 8 Q Okay. It's a long time ago. Okay. You said in 9 there that the concert memorabilia would be mailed 10 to them? 11 A No. He would -- 12 Q He would bring it? 13 A That's an error. He would bring it to me. 14 Q Okay. In the next sentence you say, "He was in and 15 out of our lives and never consistent with his 16 interactions, so I learned to make the best out of 17 the time we had when he was around." 18 A Yes. 19 Q So -- And you had mentioned earlier that he was not 20 a consistent visitor. 21 A No. 22 Q Okay. How did you make the best of the time that 23 he was around? 24 A I would talk to him, see what's going on with him, 25 have a conversation. He stated he liked talking to</p>	<p style="text-align: center;">60</p> <p>1 me, and so we talked. 2 Q And what did he do -- What were his interactions 3 with Corey like? 4 A He would spend time with Corey, play with Corey, 5 take him to get something to eat. 6 Q What kind of things -- When you said "He played 7 with Corey," let's start with when he was really 8 young. So Corey's around 3. What kinds of things 9 would he do with Corey? 10 A When he was 3, he would just tickle on the bed, 11 tickle, make him laugh, things like that. 12 Q Okay. And would he bring things for Corey when 13 Corey was around 3? 14 A Later, when he brought Prince stuff. 15 Q Okay. That was when Corey was around 10? 16 A A little older. 17 Q Or later? 18 A He was young still. He was 7. 19 Q Okay. Okay. So Duane would take Corey out to eat. 20 What else would Duane do with Corey? 21 A Take him for a ride, pick me up from work. 22 Q Would he sometimes pick you up from work with Corey 23 in the car? 24 A He would pick me up, I would go home, get Corey, 25 and we'd go riding then.</p>
<p style="text-align: center;">61</p> <p>1 Q Where would you go? 2 A To the lake, different places. 3 Q What other places? 4 A He had an apartment on 27th Street. I'd let Corey 5 visit. 6 Q Okay. And tell me about the visits to the 7 apartment on 27th Street. 8 A He just showed us where he stay at, watched TV. 9 That's pretty much -- 10 Q Is there anything else that you can remember about 11 those visits? 12 A No. 13 Q Did Duane ever come to visit Corey around -- on a 14 holiday? 15 A No. 16 Q Did he ask you if he could take Corey to stay with 17 his family in Minneapolis? 18 A No. 19 Q Or to meet his family in Minneapolis? 20 A No. 21 Q Did Duane ever bring Duane, Jr. with him to visit? 22 A No. 23 Q Did he ever bring Brianna with him to visit? 24 A No. 25 Q Okay. In the next sentence you say, "Those</p>	<p style="text-align: center;">62</p> <p>1 interactions lasted about a year, and then he 2 disappeared again, and I did not hear about him or 3 know of his whereabouts." So you mentioned in this 4 paragraph -- You're talking about when you 5 reconnected with Duane -- 6 A Yes. 7 Q -- when Corey was about 10 years old. So you said 8 you were -- We were figuring it out from -- that it 9 was around -- somewhere around 1986-1987. 10 A Yes. 11 Q Okay. And that -- Your contact with him then 12 lasted about one year. 13 A Yes. 14 Q And then he disappeared, and you didn't know where 15 he was. 16 A Yes. 17 Q Okay. And you weren't looking for him. Were you? 18 A No. 19 Q Okay. All right. Did people talk to you about 20 knowing -- Let me rephrase that. Did anybody else 21 in your family know that Duane was talking with and 22 working with Prince? 23 A My family knew. 24 Q Okay. And would they, from time to time, tell you 25 about things that they saw about Duane in the</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">63</p> <p>1 papers?</p> <p>2 A No.</p> <p>3 Q Okay. Or things they saw about Prince in the</p> <p>4 papers?</p> <p>5 A No.</p> <p>6 Q I suppose I should ask at this point, are you a</p> <p>7 Prince fan?</p> <p>8 A Yes.</p> <p>9 Q Okay. All right. So did you follow what Prince</p> <p>10 was doing at that time -- around that time?</p> <p>11 A Yes.</p> <p>12 Q Okay. Did you attend any Prince concerts in the</p> <p>13 area?</p> <p>14 A No.</p> <p>15 Q Okay. All right. So this was 1987, you just</p> <p>16 finished talking about.</p> <p>17 A Yes.</p> <p>18 Q On the next page, the next paragraph is, "In the</p> <p>19 winter of 1989, I received a startling call from</p> <p>20 Duane indicating he was in a rehabilitation center</p> <p>21 in New York." And tell me about that call.</p> <p>22 A I was four, five months pregnant with my daughter.</p> <p>23 The phone rang. Duane was on the phone. He wanted</p> <p>24 to say "Hi." He got my number from my mother. He</p> <p>25 had both our numbers. We had separate numbers.</p>	<p style="text-align: center;">64</p> <p>1 She gave it to him, where I moved, and he was</p> <p>2 trying to get help from drugs. I hung up, and that</p> <p>3 is the last time I've heard or spoken to him.</p> <p>4 Q Did he say why he called you?</p> <p>5 A No. He just -- He wanted know how I'm doing.</p> <p>6 Q Okay. What did he tell you about the -- How did</p> <p>7 you know he was calling from a rehabilitation</p> <p>8 center?</p> <p>9 A I don't know if it was a collect call from there</p> <p>10 and I accepted it just to talk to him. He just</p> <p>11 called.</p> <p>12 Q Okay. Do you remember him telling you why he was</p> <p>13 in the rehabilitation center?</p> <p>14 A I knew.</p> <p>15 Q Okay. But did he tell you?</p> <p>16 A Yes.</p> <p>17 Q Okay. What did he say?</p> <p>18 A He was trying to get help to get off drugs.</p> <p>19 Q Did he say what kind of drugs he was --</p> <p>20 A No.</p> <p>21 Q -- taking? Okay. Did he tell you how he ended up</p> <p>22 in a center in New York?</p> <p>23 A No.</p> <p>24 Q Do you know where in New York he was?</p> <p>25 A No.</p>
<p style="text-align: center;">65</p> <p>1 Q Did he tell you anything about -- Well, let me go</p> <p>2 to the next -- farther down in that paragraph. "We</p> <p>3 talked briefly about him trying to get his life</p> <p>4 back together and asked how Corey and I were</p> <p>5 doing." So tell me, what did you talk about in</p> <p>6 terms of -- or what did Duane say in terms of</p> <p>7 getting his life back together?</p> <p>8 A He said he was going to improve himself, beat this,</p> <p>9 and be back in Minnesota.</p> <p>10 Q Okay. Okay. We're going to take a break for a</p> <p>11 second to figure out what's happening with the</p> <p>12 phone.</p> <p>13 (Discussion off the record.)</p> <p>14 BY MS. BRAGANCA:</p> <p>15 Q We have solved our phone problem. Did Duane talk</p> <p>16 at all in that conversation in the winter of 1989</p> <p>17 about his family?</p> <p>18 A No.</p> <p>19 Q Did he talk about any other children he had?</p> <p>20 A No.</p> <p>21 Q Did he talk about anybody else he was dating at the</p> <p>22 time?</p> <p>23 A No.</p> <p>24 Q Or anybody else he had a relationship with at the</p> <p>25 time?</p>	<p style="text-align: center;">66</p> <p>1 A No.</p> <p>2 Q And how do you know that this was a conversation in</p> <p>3 the winter of 1989?</p> <p>4 A I was four months pregnant.</p> <p>5 Q Okay. Okay. And your daughter was born --</p> <p>6 A June.</p> <p>7 Q -- June of 1989?</p> <p>8 A Yes.</p> <p>9 Q So that's a good measure. Okay. The next</p> <p>10 statement -- Well, before we move on to that, is</p> <p>11 there anything else that you can remember about</p> <p>12 those conversation -- that conversation with Duane</p> <p>13 in the winter of 1989?</p> <p>14 A No. He had 15 minutes to talk, so --</p> <p>15 Q Why do you remember it was 15 minutes to talk?</p> <p>16 A It stated on it the time you had to talk to the</p> <p>17 person you're talking to.</p> <p>18 Q Okay. All right. What did you tell Duane about</p> <p>19 Corey in that call?</p> <p>20 A He was in middle school, graduated from his</p> <p>21 previous school, looking for a job, things like</p> <p>22 that.</p> <p>23 Q Is there anything else you can remember about that</p> <p>24 conversation in 1989?</p> <p>25 A No.</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">67</p> <p>1 Q The next statement you say, "I never heard from him 2 after that." So you never heard from Duane from 3 that conversation in 1989 for the rest of time. 4 A Right. 5 Q Okay. And during that time, you never had any 6 contact with anybody else from Duane's family? 7 A No. 8 Q "No" meaning you didn't have contact. 9 A No. 10 Q Okay. Do you want to take a break? Are you doing 11 okay? 12 A I'm fine. 13 Q Okay. Okay. We're moving through quickly, so -- 14 Okay. Let's go back to this Exhibit 25. Okay. 15 Let's look at the second page of your affidavit in 16 there. So -- I'm sorry. I'm looking back at 17 No. 24. No wonder. Okay. So we have -- This one 18 is 24, and can I flip to the next page? There we 19 go. So we're looking at the one that you signed -- 20 the page that you signed that's dated September 17, 21 2016. The last paragraph there says, "Duane 22 acknowledged Corey as his son but did not provide 23 financial support, and I was not able to find him 24 to pursue child support." So you stated there 25 "Duane acknowledged Corey as his son." How did he</p>	<p style="text-align: center;">68</p> <p>1 acknowledge him as his son? 2 A How he resembled him when he was a child, how he 3 was made up. They were made up alike, and he 4 stated that. 5 Q Okay. So Duane said, "Corey looks like me." 6 A Yes. 7 Q Things to that effect? 8 A As he was a kid, yes. 9 Q Anything else that Duane did? 10 A I do not remember. 11 Q Okay. And you stated that Duane did not provide 12 financial support. 13 A No. 14 Q And then you say, "I was not able to find him to 15 pursue child support." 16 A That became later. 17 Q Okay. Tell me when you thought about pursuing 18 Duane for child support. 19 A When I was pregnant, I was bedridden. I had a 20 high-risk pregnancy. The doctor recommended me to 21 stay in bed, so I signed up for, at that time, 22 AFDC. They asked me, "Do I have any other 23 children?" I told them "Yes," and they wanted to 24 pursue that. 25 Q Okay. So that was the --</p>
<p style="text-align: center;">69</p> <p>1 A Agency. 2 Q -- State of Wisconsin -- whatever agency handles 3 AFDC. 4 A Yes. 5 Q Okay. So you signed papers at that point 6 identifying Duane Nelson as Corey's father. 7 A No. 8 Q You don't recall signing anything or saying on any 9 form that Duane Nelson was Corey's father? 10 A I didn't put his name down. 11 Q Okay. But you do recall that the state wanted to 12 know who Corey's father was? 13 A No. It was an option. 14 Q It was an option? 15 A Yes. 16 Q That was in 1989 -- around that time? 17 A Yes. 18 Q But above that you said, "I became tired and 19 stressed out about trying to find Duane." So -- 20 A I wasn't looking for him. I'm talking about when 21 he's in and out. Is he going to come see Corey? 22 Is he not going to come see him? That's stressing 23 me. 24 Q Okay. So you weren't trying to find him. 25 A If he came, he came. If he didn't, he didn't.</p>	<p style="text-align: center;">70</p> <p>1 Q Okay. And you don't recall anything -- any efforts 2 by the State of Wisconsin to get the name of 3 Corey's father so that they could pursue him for 4 child support? 5 A I don't remember. 6 Q Okay. And you state in your affidavit here that 7 you eventually decided you had to be the sole 8 provider. When did you decide that you had to be 9 the sole provider for Corey? 10 A June 15, 1977. 11 Q Okay. All right. That was from the beginning. 12 A Yes. 13 Q Okay. Is there anything else that you recall about 14 Duane or Duane's interactions with Corey that we 15 haven't talked about yet? 16 A What they did as father and son. If I'm in the 17 kitchen or something, I could not be able to 18 witness anything like that. They bonded in my room 19 where the TV was, and that was that. 20 Q Okay. Are there any other people that you can 21 think of who would have any information about Duane 22 and his relationship with Corey? We've talked 23 about your mother, your niece and your nephew and 24 your friend. 25 A My niece and nephew, mind you, were 10 and 11 when</p>

CAROLYN SIMMONS, 10/19/2016

71	72
<p>1 Corey was younger, so they may or may not remember.</p> <p>2 Q Okay.</p> <p>3 A The best person is Valerie Brown. Mary Jones, when</p> <p>4 we reunited the day of the cab. James Swanigan is</p> <p>5 the only one that seen him on campus. That's the</p> <p>6 only relationship -- just seeing him. Anything</p> <p>7 else about him he don't know.</p> <p>8 Q Okay. Did you ever meet or know of somebody named</p> <p>9 Lowery Johnson?</p> <p>10 A No.</p> <p>11 Q Okay. Okay. When -- Did Corey talk about his</p> <p>12 father with you?</p> <p>13 A At times.</p> <p>14 Q You talked about Duane? Okay. And what would he</p> <p>15 ask you about him?</p> <p>16 A His name, where he lived. That's pretty much -- or</p> <p>17 why -- why we lost contact with each other, things</p> <p>18 like that.</p> <p>19 Q Now, in 1989, you mentioned you were pregnant.</p> <p>20 A Um-hum -- Yes.</p> <p>21 Q Have you ever married?</p> <p>22 A No.</p> <p>23 Q Who is the father of your daughter?</p> <p>24 A Gregory.</p> <p>25 Q And is he somebody who is involved in your</p>	<p>1 daughter's life?</p> <p>2 A Yes.</p> <p>3 Q Is he somebody who has a relationship with Corey?</p> <p>4 A From 10 to now.</p> <p>5 Q What is Gregory's last name?</p> <p>6 A McDade.</p> <p>7 Q Have you ever talked with Gregory McDade about</p> <p>8 Duane?</p> <p>9 A No.</p> <p>10 Q Did Corey ever -- Are you aware of Corey ever going</p> <p>11 to Minneapolis to see his father, Duane?</p> <p>12 A No.</p> <p>13 Q Are you aware of any contact between Corey and</p> <p>14 Duane after 1989?</p> <p>15 A No.</p> <p>16 Q Okay. I'm going to ask you a question I ask of all</p> <p>17 witnesses, and I don't want you to be offended by</p> <p>18 it because I truly do ask it of all witnesses, but</p> <p>19 is there any reason, sitting here today, that you</p> <p>20 know of, that you would be unable to testify</p> <p>21 truthfully? Any medications, health conditions,</p> <p>22 anything like that, that would affect your ability</p> <p>23 to tell the truth or remember?</p> <p>24 A To tell the truth? I will tell the truth. As far</p> <p>25 as memory, if I can remember, I'll tell the truth.</p>
<p>1 If I can't remember, I'll tell you.</p> <p>2 Q Okay. And I'm asking about -- Certain medications</p> <p>3 sometimes have side effects that affect people's</p> <p>4 memory.</p> <p>5 A No.</p> <p>6 Q Okay. So you're not taking any medication that</p> <p>7 would affect -- that you know of that would affect</p> <p>8 your memory.</p> <p>9 A No.</p> <p>10 Q Okay. And you don't have any health condition like</p> <p>11 Alzheimer's or something that might affect your</p> <p>12 memory.</p> <p>13 A No.</p> <p>14 Q Okay. I ask this of everyone, so I don't mean to</p> <p>15 offend. We're going to take just about a</p> <p>16 two-minute break just to make sure that we don't</p> <p>17 have any more questions or to finish up, and then</p> <p>18 we're almost done, Ms. Simmons. Okay?</p> <p>19 A Okay.</p> <p>20 MS. BRAGANCA: So we're going to go off</p> <p>21 the record now, guys.</p> <p>22 (Discussion off the record.)</p> <p>23 (A break was taken.)</p> <p>24 BY MS. BRAGANCA:</p> <p>25 Q I'd like to have you take a look at Exhibit 24, the</p>	<p>1 -- almost the very last page. It's the birth</p> <p>2 certificate that's attached. And we're looking at</p> <p>3 the original certificate of live birth, and it's</p> <p>4 dated -- I'm sorry. Have you ever seen this</p> <p>5 before?</p> <p>6 A No. They got his name ugly.</p> <p>7 Q Okay. What's misspelled?</p> <p>8 A Just -- The quotations are not there.</p> <p>9 MR. LEHNER: The apostrophe?</p> <p>10 BY MS. BRAGANCA:</p> <p>11 Q The apostrophe before --</p> <p>12 A And everything. Oh, my God.</p> <p>13 Q What is wrong about it?</p> <p>14 A Okay. It says D-'-A-n-d-r-e-a -- a line -- a</p> <p>15 hyphen under the "A" for it to be "Drea."</p> <p>16 Q Okay. Is the rest of the information on here</p> <p>17 correct other than the way they wrote Corey's name?</p> <p>18 A Correct.</p> <p>19 Q Okay. What hospital did you give birth in? Do you</p> <p>20 recall?</p> <p>21 A The county hospital.</p> <p>22 Q And was your mother present when you gave birth?</p> <p>23 A She drove me.</p> <p>24 Q So --</p> <p>25 A She drove me. Anything else, I don't know.</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">75</p> <p>1 Q Okay. Was anybody else there?</p> <p>2 A No.</p> <p>3 Q Okay. And did you or did anybody ask you about the</p> <p>4 name of the -- of Corey's father?</p> <p>5 A No.</p> <p>6 Q Okay. You mentioned that in 1989, you were</p> <p>7 bedridden or you had a difficult pregnancy.</p> <p>8 A Yes.</p> <p>9 Q Okay. And you were on AFDC at that time. That's</p> <p>10 public aid?</p> <p>11 A I signed up when I was seven months pregnant.</p> <p>12 Q Okay. At that time did you consider calling Duane</p> <p>13 to get child support from him?</p> <p>14 A No.</p> <p>15 Q Okay. Why not?</p> <p>16 A I don't know.</p> <p>17 Q Did you ever talk with Duane about him formally</p> <p>18 recognizing Corey as his son?</p> <p>19 A No.</p> <p>20 Q Okay. How long were you on AFDC?</p> <p>21 A Two years.</p> <p>22 Q And after that period of time -- That was around</p> <p>23 1991?</p> <p>24 A '90-'91.</p> <p>25 Q Okay. What did you do after you were off of AFDC?</p>	<p style="text-align: center;">76</p> <p>1 A I went to get child care training.</p> <p>2 Q Okay. And where did you get that training?</p> <p>3 A At OIC.</p> <p>4 Q What is OIC?</p> <p>5 A It's opportunities for people to get training in</p> <p>6 their fields, and the county pays for it.</p> <p>7 Q Okay. And what did you do after you got your</p> <p>8 training?</p> <p>9 A I went to work.</p> <p>10 Q Where did you work?</p> <p>11 A We Care Day Care.</p> <p>12 Q Okay. When did you start working for them -- for</p> <p>13 We Care Day Care?</p> <p>14 A '92 -- '91, '92.</p> <p>15 Q And how long did you work for them?</p> <p>16 A Until March of '93.</p> <p>17 Q And where did you work after March of '93?</p> <p>18 A I opened my own day care.</p> <p>19 Q Okay. And where is that day care -- Where was it?</p> <p>20 A 56th and Locust.</p> <p>21 Q Is that out of your home?</p> <p>22 A Family.</p> <p>23 Q Okay. And how long did you operate that day care?</p> <p>24 A To 2006.</p> <p>25 Q And what happened in 2006?</p>
<p style="text-align: center;">77</p> <p>1 A I closed.</p> <p>2 Q Okay. What have you been doing since 2006?</p> <p>3 A Working at day care -- group day care.</p> <p>4 Q So in 2006, you went to work for what?</p> <p>5 A Magic Me.</p> <p>6 Q Okay. And how long did you work for Magic Me?</p> <p>7 A 2011.</p> <p>8 Q Okay. And where did you go to work in 2011?</p> <p>9 A They closed up. They wanted us to stay employed,</p> <p>10 so they was closed for a year or two.</p> <p>11 Q Were they continuing to pay you while it was</p> <p>12 closed?</p> <p>13 A Unemployment.</p> <p>14 Q Okay. Did you return to work after you stopped</p> <p>15 working at Magic Me?</p> <p>16 A I returned to work in 2013. Hadley Child Care.</p> <p>17 Q What was it?</p> <p>18 A Hadley.</p> <p>19 Q Hadley? How long did you work for Hadley Child</p> <p>20 Care?</p> <p>21 A I'm still there.</p> <p>22 Q Okay. When Corey -- When you found out that Duane</p> <p>23 had passed away or -- How did you find out that</p> <p>24 Duane had passed away?</p> <p>25 A Corey told me.</p>	<p style="text-align: center;">78</p> <p>1 Q Did you go to Minneapolis for the funeral?</p> <p>2 A No.</p> <p>3 Q Okay. There came a time then after Duane died that</p> <p>4 you met Brianna Nelson?</p> <p>5 A Yes.</p> <p>6 Q And tell me about that -- the first time you met</p> <p>7 her.</p> <p>8 A Corey told me about Brianna. She came to my house</p> <p>9 to be introduced. We shared memories of Duane, and</p> <p>10 that was it.</p> <p>11 Q Okay. And do you remember when that was -- when</p> <p>12 you first met Brianna?</p> <p>13 A I don't remember.</p> <p>14 Q There came a time in November of 2012 that Corey,</p> <p>15 Brianna and you did a genetic test. Is that</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. Tell me why. What prompted that?</p> <p>19 A Corey asked me, and I supported him.</p> <p>20 Q Okay. Did he say why he wanted to do the genetic</p> <p>21 test?</p> <p>22 A I don't remember.</p> <p>23 Q Did you talk about it with Brianna at all?</p> <p>24 A No.</p> <p>25 Q Did he tell you anything about Brianna</p>

CAROLYN SIMMONS, 10/19/2016

79	80
<p>1 participating in a genetic test?</p> <p>2 A Yes.</p> <p>3 Q What did he tell you?</p> <p>4 A She would be there.</p> <p>5 Q When you said "be there," what do you mean?</p> <p>6 A At the place to take the DNA.</p> <p>7 Q Okay. And so you went to a particular place --</p> <p>8 A Yes.</p> <p>9 Q -- for the test? Do you remember where?</p> <p>10 A No.</p> <p>11 Q Okay. Was it in Milwaukee?</p> <p>12 A I don't know.</p> <p>13 Q Okay. Had you ever done a DNA test before that?</p> <p>14 A No.</p> <p>15 Q Okay. Do you know what the results were?</p> <p>16 A No.</p> <p>17 Q Okay.</p> <p>18 A I don't know how to read them.</p> <p>19 Q Okay. Did Corey or -- Did Corey ever talk to you</p> <p>20 about what the results were of the test?</p> <p>21 A I don't remember.</p> <p>22 Q You don't remember Corey ever talking to you about</p> <p>23 the results of the genetic test?</p> <p>24 A He talked about it, but I don't remember.</p> <p>25 MS. BRAGANCA: Okay. That's all we have.</p>	<p>1 So guys on the phone, do you have any questions or</p> <p>2 -- and then we'll see if Andy --</p> <p>3 MR. KANE: Thomas Kane has some</p> <p>4 questions, but if somebody else wants to go first,</p> <p>5 that's fine.</p> <p>6 MS. BRAGANCA: Why don't you go ahead,</p> <p>7 Tom?</p> <p>8 EXAMINATION</p> <p>9 BY MR. KANE:</p> <p>10 Q Okay. Ms. Simmons, my name is Tom Kane,</p> <p>11 T-h-o-m-a-s, K-a-n-e, and I represent Omarr Baker</p> <p>12 in the dispute or in the estate -- the matter of</p> <p>13 Prince Rogers Nelson, and I'm going to ask you a</p> <p>14 few questions, and the same general statements</p> <p>15 apply that Ms. Braganca gave you. If you don't</p> <p>16 understand any of my questions, just interrupt me</p> <p>17 and tell me. If something is wrong with the</p> <p>18 telephonic transmission, let us know so I can</p> <p>19 rephrase the question. So let's -- Let me just</p> <p>20 start at the beginning. How old are you today?</p> <p>21 A 61.</p> <p>22 Q All right. And you've told us that your mother is</p> <p>23 still alive, and she's, what, 91? 92?</p> <p>24 A 89.</p> <p>25 Q 89? I'm sorry. I misspoke. And at some point in</p>
<p>81</p> <p>1 time have you -- Did you ever learn who Duane's</p> <p>2 father was?</p> <p>3 A No.</p> <p>4 Q Did you ever have a discussion with Duane about who</p> <p>5 his father or mother were?</p> <p>6 A No.</p> <p>7 Q Do you know who Tyka Nelson is?</p> <p>8 A Yes.</p> <p>9 Q What do you know about Tyka Nelson as to who she</p> <p>10 is?</p> <p>11 A From television, Prince's sister -- biological</p> <p>12 sister.</p> <p>13 Q Other than seeing her on television or hearing</p> <p>14 about her on television, is there any other</p> <p>15 knowledge you have about her?</p> <p>16 A No.</p> <p>17 Q Do you know any of the other Prince relatives from</p> <p>18 the television such as Sharon Nelson, Norrine</p> <p>19 Nelson or John Nelson? Do you know any of those</p> <p>20 individuals?</p> <p>21 A Norrine Nelson.</p> <p>22 Q What is your basis of knowing Norrine Nelson?</p> <p>23 A I met her one time on campus.</p> <p>24 Q At the University of Wisconsin?</p> <p>25 A Yes.</p>	<p>82</p> <p>1 Q And what was the basis of that meeting? How did</p> <p>2 that come about?</p> <p>3 MS. BRAGANCA: I'm going to object. She</p> <p>4 has testified to that already. Did you miss that,</p> <p>5 Tom?</p> <p>6 MR. KANE: Well, it was very hard to</p> <p>7 hear, so I'm just trying to get it clarified. If</p> <p>8 she'll just -- I'm not trying to be repetitious,</p> <p>9 and I apologize, but it has been very hard to hear,</p> <p>10 so I just want to --</p> <p>11 BY MR. KANE:</p> <p>12 Q You talked to Norrine, and who did you understand</p> <p>13 Norrine was?</p> <p>14 A I never talked to Norrine. Duane introduced me to</p> <p>15 his sister as Norrine.</p> <p>16 Q He introduced you to this person named Norrine as</p> <p>17 his sister? Is that correct?</p> <p>18 A Yes.</p> <p>19 Q And is that the only knowledge you have about</p> <p>20 Norrine? Is that correct?</p> <p>21 A Yes.</p> <p>22 Q All right. And did you ever know who John L Nelson</p> <p>23 was?</p> <p>24 A John L. Nelson, Prince and Duane's father.</p> <p>25 Q And how did you learn about that?</p>

CAROLYN SIMMONS, 10/19/2016

<p style="text-align: center;">83</p> <p>1 A Through Duane.</p> <p>2 Q Duane told you that?</p> <p>3 A Years ago.</p> <p>4 Q Okay. So you did have a conversation about that</p> <p>5 subject. What --</p> <p>6 A That name.</p> <p>7 Q What did --</p> <p>8 A All I know is his name.</p> <p>9 Q -- he tell you about -- I'm sorry.</p> <p>10 A I just know his name.</p> <p>11 Q All right. Remember only one of us can talk at a</p> <p>12 time, and I'll try to stop when you're talking.</p> <p>13 Duane Nelson told you about John L. Nelson. Is</p> <p>14 that correct?</p> <p>15 A He said John L. Nelson was Prince and his father.</p> <p>16 Q Is that all he said?</p> <p>17 A Yes.</p> <p>18 Q And did you have any further conversation about</p> <p>19 John L. Nelson other than this one conversation</p> <p>20 that you've just identified for us?</p> <p>21 A No.</p> <p>22 Q Okay. Do you know who Vivian Nelson is?</p> <p>23 A No.</p> <p>24 Q Do you know who Mattie Shaw is or Mattie Shaw</p> <p>25 Nelson is?</p>	<p style="text-align: center;">84</p> <p>1 A No.</p> <p>2 Q And other than this one conversation you had about</p> <p>3 John L. Nelson that you just talked to us about,</p> <p>4 did you know anything else about Duane's parents at</p> <p>5 all?</p> <p>6 A I just know Prince and Duane had two separate</p> <p>7 mothers.</p> <p>8 Q And you know that from the television or something</p> <p>9 else?</p> <p>10 A Duane.</p> <p>11 Q Duane told you that?</p> <p>12 A Yes.</p> <p>13 Q And so you've never seen John L. Nelson. Correct?</p> <p>14 A Pictures and on TV.</p> <p>15 Q Okay. Did you ever have any conversations with</p> <p>16 Duane Nelson other than this one comment that</p> <p>17 you've told us about where the word "father" was</p> <p>18 used or the word "son" was used when it related to</p> <p>19 John L. Nelson and Duane Nelson other than this one</p> <p>20 conversation?</p> <p>21 A No.</p> <p>22 MR. KANE: I don't have any further</p> <p>23 questions.</p> <p>24 MS. BRAGANCA: Anybody else? Adam?</p> <p>25 Sharma?</p>
<p style="text-align: center;">85</p> <p>1 MS. AFFELDT: No questions from Sharma.</p> <p>2 MS. BRAGANCA: Okay. Adam, are you still</p> <p>3 on?</p> <p>4 MR. KANE: We may have lost Adam.</p> <p>5 MS. BRAGANCA: Okay. Tom, do you want to</p> <p>6 contact him and just see if he's got any questions?</p> <p>7 MR. KANE: Well, I'll send him an e-mail.</p> <p>8 MS. BRAGANCA: Thank you.</p> <p>9 MR. KANE: I'm typing it as we speak.</p> <p>10 MS. BRAGANCA: Okay. We'll go off the</p> <p>11 record for a minute while we wait to see if he has</p> <p>12 questions.</p> <p>13 MR. GISLASON: I'm here. I was on mute.</p> <p>14 I do not have any questions at this time.</p> <p>15 MS. BRAGANCA: Okay.</p> <p>16 MR. KANE: All right. Thank you.</p> <p>17 MS. BRAGANCA: Okay. Andy, do you have</p> <p>18 any questions?</p> <p>19 MR. LEHNER: I do not have any questions.</p> <p>20 MS. BRAGANCA: Okay. Then I think we're</p> <p>21 all finished, Ms. Simmons. Thank you very much for</p> <p>22 coming in. We appreciate you appearing on short</p> <p>23 notice --</p> <p>24 THE WITNESS: Thank you.</p> <p>25 MS. BRAGANCA: -- and voluntarily, and we</p>	<p style="text-align: center;">86</p> <p>1 are done. Will you handle signature or do you want</p> <p>2 to reserve?</p> <p>3 MR. LEHNER: Yeah. We would like to</p> <p>4 review and sign.</p> <p>5 (Proceedings concluded at 11:47 a.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

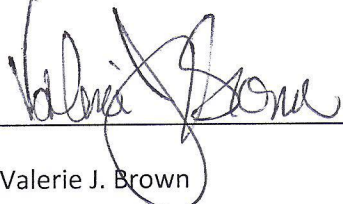
Valerie J. Brown
PO Box 316
San Quentin, Ca. 94964

To whom it concerns,

My name is Valerie J. Brown,

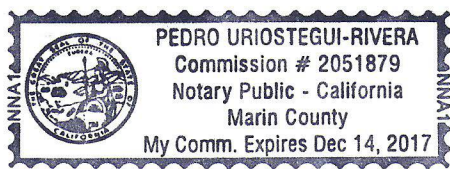
I attended the University of Wisconsin at Milwaukee (UWM) during the years of 1973 to 1978. While at UWM, I met Ms. Carol Simmons who was also a student there. Carol and I became very good friends and eventually elected to become dormitory roommates. Our life friendship remains intact through this day.

I have composed this note to state that I am witness to the fact that Ms. Simmons met and had a romantic dating relationship with Mr. Duane Nelson who was a student and basketball player at UWM. Ms. Simmons' relationship with Nelson lasted approximately 6 to 8 months. While in the relationship with Nelson, Ms. Simmons became pregnant. She gave birth to son Corey D. Simmons on June 15, 1977. While attending UWM I sometimes wrote sports stories for the UWM Post newspaper and I was on the women's track team. Any time I communicated with Mr. Nelson he was always personable and polite, and had a good sense of humor. Nelson treated Ms. Simmons respectfully and with dignity while they dated.


10/26/2016
Valerie J. Brown

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California County of MARIN ss.
On Oct 26, 2016 before me, PEDRO URIOSTEGUI-RIVERA Notary Public,
personally appeared VALERIE J. BROWN
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument. I certify under PENALTY OF
PERJURY under the laws of the State of California that the foregoing paragraph is true
and correct. WITNESS my hand and official seal.





BROWN & JONES REPORTING, INC.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

PROBATE DIVISION

In the Matter of:ESTATE OF PRINCE ROGERS NELSON.

Examination of COREY SIMMONS, taken at the instance of Brianna Nelson and Jeannine Halloran, under and pursuant to all applicable rules, before KARA D. SHAWHAN, a Certified Realtime Reporter, Registered Merit Reporter and Notary Public in and for the State of Wisconsin, at Simmons Family Resources, 9235 West Capitol Drive, Milwaukee, Wisconsin, on October 19, 2016, commencing at 12:42 p.m. and concluding at 4:05 p.m.

COREY SIMMONS, 10/19/2016

2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

STOLTMANN LAW OFFICES, P.C., by
MS. CELIZA (LISA) BRAGANCA,
MS. DEANNA BESBEKOS-LAPAGE,
MR. ANDREW STOLTMANN (telephonically),
10 South LaSalle Street, Suite 3500,
Chicago, Illinois 60603-1002,
appeared on behalf of Brianna Nelson and Jeannine
Halloran.

LEHNER LAW OFFICE, LLC, by
MR. ANDREW M. LEHNER,
1069 South Robert Street, Suite 100,
West St. Paul, Minnesota 55118,
appeared on behalf of Corey Simmons.

COZEN O'CONNOR, by
MR. THOMAS KANE,
33 South 6th Street,
Minneapolis, Minnesota 55402,
appeared telephonically on behalf of Omarr Baker.

STINSON LEONARD STREET, by
MS. SHARMA FOLEY AFFELDT,
150 South Fifth Street, Suite 2300,
Minneapolis, Minnesota 55402,
appeared telephonically on behalf of the Special
Administrator.

LOMMEN ABDO, PA, by
MR. ADAM P. GISLASON,
1000 International Centre,
920 Second Avenue South
Minneapolis, Minnesota 55402,
appeared telephonically on behalf of Norrine Nelson,
Sharon Nelson and John Nelson.

BRUNTJEN & BRODIN LEGAL,
MR. JUSTIN A. BRUNTJEN,
2915 Wayzata Boulevard
Minneapolis, Minnesota 55405,
appeared telephonically on behalf of Alfred Jackson.

* * * * *

COREY SIMMONS, 10/19/2016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Examination:	Page
By Ms. Braganca.....	4
By Mr. Kane.....	107
By Mr. Gislason.....	130
By Ms. Braganca.....	134
By Mr. Gislason.....	135
By Mr. Lehner.....	135

Exhibits Identified:	Page
Exhibit 26 - Deposition Summary of Corey Simmons..	7
Exhibit 27 - DNA Test Report.....	51
Exhibit 28 - Affidavit of Shalonda McKinney.....	88

* * * * *

Disposition Of Original Exhibit/s:

Attached To Original Transcript

* * * * *

COREY SIMMONS, 10/19/2016

4

1 TRANSCRIPT OF PROCEEDINGS

2 COREY SIMMONS, called as a witness

3 herein, having been first duly sworn on oath, was

4 examined and testified as follows:

11:55 5 EXAMINATION

11:55 6 BY MS. BRAGANCA:

12:42 7 Q Hello, Mr. Simmons. You are aware I'm counsel for
12:42 8 Brianna and Victoria Nelson?

12:42 9 A Correct.

12:42 10 Q Okay. You were sitting here while your mother was
12:42 11 deposed, so if we can, I'm going to skip over some
12:42 12 of the introductory questions because you've now
12:42 13 had a chance to see how a deposition works. Is
12:42 14 that okay with you?

12:43 15 A Okay.

12:43 16 Q You don't want me to repeat the mechanics of it
12:43 17 and how it works?

12:43 18 A That's fine.

12:43 19 Q Okay. I will ask you, just off the bat, is there
12:43 20 -- Are there any medications you're taking or any
12:43 21 medical conditions you have that would affect your
12:43 22 ability to be able to give testimony today that's
12:43 23 truthful?

12:43 24 A No.

12:43 25 Q Okay. Any medications or medical conditions that

COREY SIMMONS, 10/19/2016

5

12:43 1 would affect your ability to remember things?

12:43 2 A No.

12:43 3 Q Okay. Can you spell your name for the record?

12:43 4 A Corey, C-o-r-e-y, Simmons, S-i-m-m-o-n-s.

12:43 5 Q Okay. And let's make sure we get your middle

12:43 6 name.

12:43 7 A D'Andrea -- D-'-A-n-d-r-e-a.

12:43 8 Q Great. Okay. And I will just encourage you if

12:43 9 you need a break at any point, please just let me

12:43 10 know. And you're represented by counsel here

12:43 11 today?

12:43 12 A Yes.

12:43 13 Q Okay. And that's Andy Lehner?

12:43 14 A Yes.

12:43 15 Q Okay. All right. Mr. Simmons, I'm going to try

12:44 16 to get through your documents pretty quickly, but

12:44 17 -- Let's see. You have just produced to us this

12:44 18 morning about 105 photographs. Is that correct?

12:44 19 A Correct.

12:44 20 Q Okay. We numbered them 1 to 105 so that we will

12:44 21 get them scanned in, and your counsel is going to

12:44 22 make sure that they come to us, but we may refer

12:44 23 to them during this deposition, and we'll mark

12:44 24 those as exhibits as we do that.

12:44 25 A Okay.

COREY SIMMONS, 10/19/2016

6

12:44 1 Q Okay?

12:44 2 MS. BRAGANCA: I apologize to the people
12:44 3 on the phone. We just -- We tried to figure out a
12:44 4 way to be able to get them to you, and we don't
12:44 5 have scanning capabilities here, and so we
12:44 6 couldn't get them to you.

12:44 7 BY MS. BRAGANCA:

12:44 8 Q You also have provided to us a list of -- or
12:44 9 multiple pages of telephone calls, and we haven't
12:45 10 finished numbering them yet, but your AT&T phone
12:45 11 bills -- itemized phone bills. So we have, you
12:45 12 know, some record of communications with various
12:45 13 people, and we'll go through that later.

12:45 14 MS. BRAGANCA: But I just want to let
12:45 15 you guys know on the phone that those are the two
12:45 16 sets of things that you won't have. Otherwise we
12:45 17 will be going through the affidavit that Mr.
12:45 18 Simmons signed and made part of the motion in the
12:45 19 case, and then there's another -- There's a
12:45 20 deposition summary that was in the e-mail that you
12:45 21 guys should have received with the deposition
12:45 22 summary from Carolyn Simmons. Have you all got
12:45 23 that? Folks on the phone?

12:45 24 MR. KANE: This is Thomas Kane. I have
12:45 25 a document that you identified as Exhibit 24 which

COREY SIMMONS, 10/19/2016

12:45 1 is the deposition summary of Carolyn Simmons, and
12:45 2 I have a document that you've labeled Exhibit --
12:46 3 That's 25, and Exhibit 24 is the affidavit of
12:46 4 Corey D. Simmons. Those are the two documents
12:46 5 that I have. If you're talking about something
12:46 6 else, I don't have it.

12:46 7 MS. BRAGANCA: Okay. Andy, was it
12:46 8 attached to the same e-mail that you sent?

12:46 9 MR. LEHNER: Yes.

12:46 10 MS. BRAGANCA: Okay. Go back to the --
12:46 11 Could you guys go back to the e-mail that Andy
12:46 12 sent earlier? And you will have two documents
12:46 13 attached to that. One of them is a deposition
12:46 14 summary of Corey Simmons, and the other one was
12:46 15 the deposition summary of Carolyn Simmons. So you
12:46 16 should have two documents on that e-mail.

12:46 17 MS. AFFELDT: This is Sharma. I have
12:46 18 both.

12:46 19 MS. BRAGANCA: Okay. So we are going to
12:46 20 go ahead and mark the deposition summary of Corey
12:46 21 Simmons as Exhibit 26 while Tom's, you know,
12:46 22 working on seeing if he's got that other one.

12:47 23 (Exhibit No. 26 was marked.)

12:47 24 BY MS. BRAGANCA:

12:47 25 Q Okay. Mr. Simmons, I'm going to put in front of

COREY SIMMONS, 10/19/2016

8

12:47 1 you what's been marked as Deposition Exhibit 26.
12:47 2 We will get to that later, but I just want you to
12:47 3 have that. Great. Okay. Tom, do you have our
12:47 4 Exhibit 26?

12:47 5 MR. KANE: Just keep going. I'll keep
12:47 6 looking.

12:47 7 MS. BRAGANCA: Okay. I hate to leave a
12:47 8 man behind, but -- Okay.

12:47 9 MR. KANE: This is from Andy Lehner this
12:48 10 morning at 10:24 Central Time, the discovery
12:48 11 response -- that e-mail you're talking about?

12:48 12 MR. LEHNER: Correct.

12:48 13 MR. KANE: Okay. I've got that.

12:48 14 MS. BRAGANCA: Okay. Great.

12:48 15 BY MS. BRAGANCA:

12:48 16 Q All right. Mr. Simmons, I'd like to start with
12:48 17 the affidavit that you filed with the motion. So
12:48 18 that's our Deposition Exhibit 24.

12:48 19 A Okay.

12:48 20 MR. LEHNER: Wrong one.

12:48 21 MS. BRAGANCA: Okay.

12:48 22 MR. LEHNER: Here you are. Yeah.

12:48 23 That's it.

12:48 24 BY MS. BRAGANCA:

12:48 25 Q Okay.

COREY SIMMONS, 10/19/2016

9

12:48 1 MR. LEHNER: Oh. No.

12:48 2 MS. BRAGANCA: A different one.

12:48 3 BY MS. BRAGANCA:

12:49 4 Q Okay. Rather than going through that, let's start
12:49 5 with -- Okay. You were here during your mother's
12:49 6 deposition, so I just want to briefly go through
12:49 7 your educational and work history.

12:49 8 A Okay.

12:49 9 Q Okay. So where did you go to high school?

12:49 10 A Bay View.

12:49 11 Q What's --

12:49 12 A Bay View.

12:49 13 Q Bay View? Okay. And what years were you in high
12:49 14 school?

12:49 15 A '91 to '96.

12:49 16 Q How old are you today?

12:49 17 A 39.

12:49 18 Q 39? What did you do after high school?

12:49 19 A Attended college.

12:49 20 Q What college did you go to?

12:49 21 A MATC.

12:49 22 Q What is MATC?

12:49 23 A Milwaukee Area Technical College.

12:49 24 Q Okay. And what did you study?

12:49 25 A Business and marketing management.

COREY SIMMONS, 10/19/2016

10

12:50 1 Q Okay. Did you get a degree?

12:50 2 A I didn't.

12:50 3 Q Did not?

12:50 4 A No.

12:50 5 Q It's a little bit hard for us to hear the

12:50 6 subtleties of "didn't." Okay. How long did you

12:50 7 attend the Minneapolis (sic) Area Technical

12:50 8 College?

12:50 9 A Milwaukee Area --

12:50 10 Q Milwaukee. I'm sorry.

12:50 11 A A year-and-a-half.

12:50 12 Q Okay. And what did you do after you stopped

12:50 13 attending school?

12:50 14 A Worked full time.

12:50 15 Q Okay. What's the first job that you had? Well,

12:50 16 let's do after high school.

12:50 17 A Milwaukee Journal.

12:50 18 Q Okay. We can leave paper routes behind but --

12:50 19 A No. It wasn't a paper route.

12:50 20 Q Okay.

12:50 21 A Yeah. Milwaukee Journal.

12:50 22 Q Milwaukee Journal. And when did you work there?

12:50 23 A I don't remember. I don't remember exact dates.

12:50 24 Q Okay. But years? Approximate years? Was it

12:50 25 after high school?

COREY SIMMONS, 10/19/2016

11

12:50 1 A Yes.

12:50 2 Q Okay. After high school. Was it while you were
12:51 3 at the Milwaukee Area Technical College?

12:51 4 A Yes.

12:51 5 Q Okay. So somewhere in the 1997-'98 area?

12:51 6 A Correct.

12:51 7 Q Okay. What did you do for the Milwaukee Sentinel
12:51 8 (sic)?

12:51 9 A Loaded trucks.

12:51 10 Q Okay. How long were you there?

12:51 11 A Maybe three years.

12:51 12 Q Okay. And then what did you do after that?

12:51 13 A Worked at Quad/Graphics.

12:51 14 Q Quad, Q-u-a-d, Graphics?

12:51 15 A Um-hum -- Yes.

12:51 16 Q Okay. And how long did you work at Quad/Graphics?

12:51 17 A Two years.

12:51 18 Q What did you do for Quad/Graphics?

12:51 19 A My position was called roll tender.

12:52 20 Q R-o-l-l tender?

12:52 21 A Yes.

12:52 22 Q And what did that involve?

12:52 23 A Loading paper in a machine.

12:52 24 Q Okay. When did you leave Quad/Graphics? Do you
12:52 25 remember the year?

COREY SIMMONS, 10/19/2016

12

12:52 1 A I don't.

12:52 2 Q Okay. What did you do after you left

12:52 3 Quad/Graphics?

12:52 4 A Sold cars.

12:52 5 Q Okay. How long -- or where did you work selling

12:52 6 cars?

12:52 7 A Dodge City of Wauwatosa.

12:52 8 Q Okay. How long were you with Dodge City of

12:52 9 Wauwatosa?

12:52 10 A Four-and-a-half years.

12:52 11 Q Okay. And what did you do after you stopped

12:52 12 working at Dodge City?

12:52 13 A Worked at Time Warner Cable.

12:52 14 Q Time Warner Cable. And for how long did you work

12:52 15 for them?

12:53 16 A Seven years.

12:53 17 Q Okay. What did you do for Time Warner Cable?

12:53 18 A A line technician.

12:53 19 Q Okay. So what year did you stop working at Time

12:53 20 Warner Cable?

12:53 21 A 2007.

12:53 22 Q Okay. So you were there from approximately 2000

12:53 23 to 2007?

12:53 24 A Approximately.

12:53 25 Q Okay. And where did you go to work in 2007?

COREY SIMMONS, 10/19/2016

13

12:53 1 A AT&T.

12:53 2 Q What did you do for AT&T?

12:53 3 A Line technician.

12:53 4 Q How long did you work for AT&T?

12:53 5 A Eight years.

12:53 6 Q Okay. And that takes us up to 2015?

12:53 7 A Correct.

12:53 8 Q Okay. When did you stop working for AT&T?

12:53 9 A October.

12:53 10 Q October? Okay. And what did you do after you

12:53 11 left AT&T?

12:53 12 A Car sales.

12:54 13 Q Who did you work for?

12:54 14 A Ernie Von Schledorn.

12:54 15 Q Can you --

12:54 16 A Ernie.

12:54 17 Q Ernie?

12:54 18 A V-o-n S-c-h-l-e-d-o-r-n.

12:54 19 Q Okay. And are you still working for Ernie Von

12:54 20 Schledorn?

12:54 21 A I am not.

12:54 22 Q When did you stop working for them?

12:54 23 A August of this year.

12:54 24 Q That's August of 2016. So you were there from

12:54 25 somewhere around October/November of 2015 through

COREY SIMMONS, 10/19/2016

14

12:54 1 August 2016?

12:54 2 A Correct.

12:54 3 Q Okay. And what did you do after you left?

12:54 4 A Entrepreneur.

12:54 5 Q Okay. And what kind of work are you doing as an
12:54 6 entrepreneur?

12:54 7 A Career and personal development center.

12:54 8 Q Can you tell me a little bit more about it?

12:55 9 A This is called Simmons Family Resources, so we
12:55 10 help youth, young adults prepare for jobs, résumé,
12:55 11 interviewing skills, things of that nature.

12:55 12 Q Okay. How long has Simmons Family Resources been
12:55 13 in existence?

12:55 14 A Three years.

12:55 15 Q Okay. Is this something you started?

12:55 16 A Correct.

12:55 17 Q Okay. Are there other people in your family
12:55 18 involved?

12:55 19 A My wife.

12:55 20 Q Do you work with any particular state agencies or,
12:55 21 you know, religious organizations?

12:55 22 A No. Just employers.

12:55 23 Q Oh. Sorry. Go ahead.

12:55 24 A Just employers.

12:55 25 Q Okay. So you connect employers with at-risk youth

COREY SIMMONS, 10/19/2016

15

12:55 1 or youth who are trying to find jobs?

12:55 2 A Correct.

12:55 3 Q Okay. Great. Okay. Let's go back to when you

12:56 4 first met your father, Duane. Okay? So do you

12:56 5 remember -- What's your earliest memory of Duane

12:56 6 Nelson?

12:56 7 A I don't really have a memory. Just Happy Meals.

12:56 8 Q Like, McDonald's Happy Meals?

12:56 9 A Yeah.

12:56 10 Q Okay.

12:56 11 A He used to keep a coin jar. And sitting in a cab

12:56 12 while him and my mom talked.

12:56 13 Q So you guys -- The coin jar was in his cab?

12:56 14 A No. This was at his apartment.

12:56 15 Q Okay. And you'd go into McDonald's to have Happy

12:57 16 Meals?

12:57 17 A Correct.

12:57 18 Q Okay. Okay. Anything else that you can remember?

12:57 19 A No.

12:57 20 Q Okay. When you were -- Do you remember spending

12:57 21 time with your father when -- from, like, ages --

12:57 22 let's say 10 and older with Duane Nelson?

12:57 23 A Not to my knowledge.

12:57 24 Q Okay. What age were you when you had the last

12:57 25 contact with Duane Nelson?

COREY SIMMONS, 10/19/2016

16

12:57 1 A I honestly couldn't tell you.

12:57 2 Q Okay. Before Duane Nelson died, had you had

12:57 3 contact with anyone else related to Duane Nelson

12:58 4 before his death?

12:58 5 A Not to Duane Nelson, no.

12:58 6 Q Okay. Is there anyone else in the Nelson family

12:58 7 who you have contact with?

12:58 8 A I tried to reach out to a makeup artist of Prince

12:58 9 to connect me to him.

12:58 10 Q And who is that person?

12:58 11 A Her name is Rhonda Jackson.

12:58 12 Q Okay. Rhonda Jackson. And how did you reach her?

12:58 13 A She was part of the organization I was affiliated

12:58 14 with.

12:58 15 Q What was that organization?

12:58 16 A It's called YTB.

12:58 17 Q YTB. What's that stand for?

12:58 18 A I have no clue. It was a travel company.

12:58 19 Q Okay. And when was it that you contacted

12:58 20 Ms. Jackson?

12:58 21 A Learning that she had access to Prince.

12:58 22 Q Right. But when was that?

12:58 23 A Time? I don't know.

12:58 24 Q Do you recall about how old you were?

12:59 25 A Not what age. The year would be 2008-2009.

COREY SIMMONS, 10/19/2016

17

12:59 1 Q Okay. How did you contact her?

12:59 2 A Phone.

12:59 3 Q How did you get her phone number?

12:59 4 A She was affiliated in the same company.

12:59 5 Q Okay. So did you not try to contact anybody in

12:59 6 the Nelson family before 2008 or 2009?

12:59 7 A Correct.

12:59 8 Q And what happened when you contacted Ms. Jackson?

12:59 9 A I explained to her my situation. I didn't have

01:00 10 any contact with my father.

01:00 11 Q And what did she tell you?

01:00 12 A She would attempt to reach out to people to gain

01:00 13 access to Prince or him.

01:00 14 Q What else did she say on that call?

01:00 15 A That's it.

01:00 16 Q Okay. And what happened after that?

01:00 17 A No luck.

01:00 18 Q You didn't hear anything from Duane?

01:00 19 A No.

01:00 20 Q And you didn't hear anything from Prince?

01:00 21 A No.

01:00 22 Q And nobody else from -- associated with them

01:00 23 called you?

01:00 24 A No.

01:00 25 Q Okay. Did you ever go to Minneapolis or the

COREY SIMMONS, 10/19/2016

18

01:00 1 Minneapolis area to try to contact anybody from
01:00 2 the Nelson family?

01:00 3 A No.

01:00 4 Q And I'm limiting that really to before Duane died.
01:01 5 Okay. Tell me what your -- what you remember your
01:01 6 mother telling you about Duane.

01:01 7 A Nothing.

01:01 8 Q Okay. Would you ask her questions --

01:01 9 A Yes.

01:01 10 Q -- about your father? Okay. And what would she
01:01 11 do?

01:01 12 A Kind of just let me know she didn't have any
01:01 13 information.

01:01 14 Q Okay. Did she tell you Duane Nelson's name when
01:01 15 you were a kid?

01:01 16 A Yes.

01:01 17 Q Okay. Did she -- And sometimes you sat in the car
01:02 18 while she was talking with Duane Nelson?

01:02 19 A Yes.

01:02 20 Q Okay. Did you have any contact with Duane Nelson
01:02 21 that -- when your mother was not present, that you
01:02 22 can recall?

01:02 23 A Not that I can recall.

01:02 24 Q Okay. Did you, as a -- Before Duane's death, did
01:02 25 you search for information about Duane Nelson on

COREY SIMMONS, 10/19/2016

19

01:02 1 the Internet or in libraries?

01:02 2 A Yes.

01:02 3 Q Okay. What kinds of things did you look for?

01:02 4 A Addresses. Just contact information.

01:03 5 Q Okay. Did you ever find the address for Paisley

01:03 6 Park?

01:03 7 A I never knew anything about Paisley Park.

01:03 8 Q Did you find an address for Duane Nelson?

01:03 9 A No.

01:03 10 Q Did you ever find a phone number for Duane Nelson?

01:03 11 A No.

01:04 12 Q Okay. Let's step back for a minute. Now, you are

01:04 13 here with your wife, Tanya --

01:04 14 A Yes.

01:04 15 Q -- Simmons. When did you get married?

01:04 16 A 2010.

01:04 17 Q Okay. Congratulations. And you have several

01:04 18 children. Right?

01:04 19 A Correct.

01:04 20 Q Okay. And can you tell me the names of your kids

01:04 21 and how old they are?

01:04 22 A Destiny, 29; Darius, 23; Ja'Cey, she's 15; Cori,

01:04 23 C-o-r-i, she's 2.

01:04 24 Q Congratulations.

01:04 25 A Thank you.

COREY SIMMONS, 10/19/2016

20

01:04 1 Q Okay. Okay. Let's go back to the affidavit that
01:05 2 we were looking at before. Okay. No. 6 says,
01:05 3 "Duane Nelson, Sr., fathered me out of wedlock
01:05 4 prior to fathering his other two children, Brianna
01:05 5 Nelson and the late Duane J. Nelson, Jr." Before
01:05 6 Duane Nelson died, you'd never met Brianna Nelson.
01:05 7 Is that correct?

01:05 8 A No.

01:05 9 Q Okay. And -- You mean "no," you'd never met them.

01:05 10 A I never met them.

01:05 11 Q And you've never met Duane J. Nelson, Jr.?

01:05 12 A No.

01:05 13 Q You've never met him. I'm asking my question --

01:05 14 A I've never met him.

01:05 15 Q Okay. Thank you. Sorry. It's unclear when
01:06 16 somebody is writing it down as opposed to when
01:06 17 you're talking to me, when I know what you mean.

01:06 18 A Okay.

01:06 19 Q Okay. Okay. And your basis for knowing that your
01:06 20 -- that Duane Nelson, Sr., is your father is your
01:06 21 mother.

01:06 22 A Correct.

01:06 23 Q Okay. The next -- Well, let me ask you, is there
01:06 24 anyone else who has told you that Duane Nelson,
01:06 25 Sr. is your father?

COREY SIMMONS, 10/19/2016

21

01:06 1 A Norrine.

01:06 2 Q So what did Norrine Nelson tell you?

01:06 3 A That he was my father.

01:06 4 Q Okay. And when did she tell you that?

01:06 5 A During our first initial conversations.

01:06 6 Q And that was around the time that Duane Nelson

01:06 7 died?

01:07 8 A Later in the year 2011.

01:07 9 Q Anybody else? So we have --

01:07 10 A Paul Mitchell.

01:07 11 Q Okay. And tell me what -- When did you talk with

01:07 12 Paul Mitchell?

01:07 13 A When or -- When was the first time?

01:07 14 Q When was the first time?

01:07 15 A Maybe three months ago.

01:07 16 Q Where was that?

01:07 17 A Via phone.

01:07 18 Q Okay. And did you call him or did he call you?

01:07 19 A I returned a call to him.

01:07 20 Q Okay. And what did you talk about?

01:08 21 A Him just getting to know me, different things like

01:08 22 that.

01:08 23 Q Okay. Did he tell you why he had initially called

01:08 24 you?

01:08 25 A To get to know me.

COREY SIMMONS, 10/19/2016

22

01:08 1 Q Okay. And what did he tell you about Duane
01:08 2 Nelson?

01:08 3 A How good of a guy he was, he didn't want to face
01:08 4 me in his state of condition is the reason why he
01:08 5 never got in touch with me.

01:08 6 Q Can you explain that? What did that mean?

01:08 7 A He said he was self-medicating himself --
01:08 8 depression, schizophrenia.

01:08 9 Q Anything else?

01:08 10 A Not that I can remember.

01:08 11 Q What do you remember telling Paul Mitchell?

01:09 12 A I just remember asking him a question in regards
01:09 13 to did he ever know me or talk about me.

01:09 14 Q Did -- Your question was, did Duane ever talk
01:09 15 about you?

01:09 16 A Yeah, and know about me.

01:09 17 Q And know about you. And what did he say?

01:09 18 A He said, "Yes. All of the time."

01:09 19 Q Okay. What else?

01:09 20 A He told him that he needed to go and get me.

01:09 21 Q Um-hum. What else?

01:09 22 A He said he wouldn't because my mom wouldn't allow
01:09 23 him to see me.

01:09 24 Q And this was -- This was a conversation you had
01:09 25 with Paul before -- after Duane Nelson died?

COREY SIMMONS, 10/19/2016

23

01:09 1 A Correct.

01:09 2 Q Okay. So at this point, you're an adult, though.

01:10 3 A I'm 39 years old.

01:10 4 Q Yeah. So what I'm trying to understand is, Paul
01:10 5 said that he told Duane to go and get you.

01:10 6 A Correct.

01:10 7 Q Okay. Did Paul Mitchell say when he told --

01:10 8 A This is when I was younger -- when he would talk
01:10 9 about me.

01:10 10 Q Okay. What else can you tell me about that
01:10 11 conversation with Paul?

01:10 12 A All the details I can't describe them or remember
01:10 13 them.

01:10 14 Q Yeah. And this was a conversation about three
01:10 15 months ago?

01:10 16 A Around about, yeah.

01:10 17 Q Do you remember if it was -- Okay. All right. So
01:11 18 we have so far -- The people who have told you
01:11 19 that Duane Nelson is your father include Carolyn
01:11 20 Simmons, your mother, Norrine Nelson and Paul
01:11 21 Mitchell.

01:11 22 A Correct.

01:11 23 Q Is there anybody else?

01:11 24 A Daryl Boudreaux.

01:11 25 Q And when did you first meet Daryl or talk to Daryl

COREY SIMMONS, 10/19/2016

24

01:11 1 Boudreaux?

01:11 2 A At Prince's memorial.

01:11 3 Q And when was the memorial service?

01:11 4 A August 12.

01:11 5 Q Okay. Tell me what you talked about with Daryl
01:11 6 Boudreaux.

01:11 7 A We didn't talk much about my dad at that time.

01:12 8 Q Okay. So that's when you first met him. What was
01:12 9 the next time you had contact with Daryl
01:12 10 Boudreaux?

01:12 11 A On a phone call.

01:12 12 Q Did you call him or did he call you?

01:12 13 A He called me.

01:12 14 Q Okay. And what did you talk about?

01:12 15 A Meeting the Johnson family.

01:12 16 Q And who is the Johnson family?

01:12 17 A I don't know. I didn't meet them.

01:12 18 Q Okay. And why did Daryl Boudreaux want you to
01:12 19 meet the Johnson family?

01:12 20 A He said that my dad was close -- real close with
01:12 21 them, and they wanted to meet me.

01:12 22 Q Okay. Anything else you talked about in that
01:13 23 conversation with Daryl Boudreaux?

01:13 24 A We talked about a guy named Lowery wanted to meet
01:13 25 me.

COREY SIMMONS, 10/19/2016

25

01:13 1 Q Lowery, L-o-w-e-r-y?

01:13 2 A I don't know how to spell his name. They call him

01:13 3 "Nap."

01:13 4 Q Call him what?

01:13 5 A His nickname is "Nap" is how they referred to him.

01:13 6 Q Nap, N-a-p?

01:13 7 A Yeah.

01:13 8 Q Okay.

01:13 9 A I guess.

01:13 10 Q Okay. And actually, I think Lowery's last name is

01:13 11 Johnson.

01:13 12 A Oh, okay.

01:13 13 Q It could be. That could be accurate. Okay. Did

01:13 14 you have other conversations with Daryl Boudreaux?

01:13 15 A Yes.

01:13 16 Q What else did you talk about?

01:14 17 A We just talked recently at the Prince tribute.

01:14 18 Q And that was the beginning of October --

01:14 19 October 13?

01:14 20 A Correct.

01:14 21 Q Okay. And what did you talk about?

01:14 22 A Coming to the tribute after-set.

01:14 23 Q Coming to the what?

01:14 24 A The tribute after-set, after-party.

01:14 25 Q After-set? Okay. And did you talk to him about

COREY SIMMONS, 10/19/2016

26

01:14 1 anything else?

01:14 2 A Getting together with the Johnson family.

01:14 3 Q Um-hum. Okay. Did you ever meet Lowery Johnson?

01:14 4 A I talked to him on the phone.

01:14 5 Q Okay. And tell me about -- When did you first

01:14 6 have contact with Lowery Johnson?

01:14 7 A October 14.

01:14 8 Q Okay. Did you call him or did he call you?

01:15 9 A I called him.

01:15 10 Q And what did you talk about?

01:15 11 A How he missed me at the tribute, how Norrine was

01:15 12 acting about everything.

01:15 13 Q What do you mean? What was the --

01:15 14 A Denying my dad.

01:15 15 Q What do you mean, "denying your dad"?

01:15 16 A In the estate hearing -- that he's not a sibling.

01:15 17 Q That he's not what?

01:15 18 A A sibling.

01:15 19 Q Gotcha. Okay. And what did you say?

01:15 20 A "It's messed up."

01:15 21 Q Okay. Anything else that you can remember talking

01:15 22 about with Lowery Johnson?

01:15 23 A We talked about how Brianna was doing.

01:16 24 Q And what else?

01:16 25 A Just how much I resembled my dad when -- Daryl

COREY SIMMONS, 10/19/2016

27

01:16 1 sent him a picture of me.

01:16 2 Q Okay. Have you had any other conversations with

01:16 3 Lowery?

01:16 4 A No. Just the one.

01:16 5 Q Just the one? Okay. And have you had any other

01:16 6 conversations with Paul Mitchell?

01:16 7 A At the tribute, we were supposed to meet, but we

01:16 8 didn't.

01:16 9 Q Any other contacts with him?

01:16 10 A No.

01:16 11 Q Okay. Okay. So that's -- So far we have -- Okay.

01:17 12 Is there anybody else who has talked to you or

01:17 13 you've talked with about John Nelson -- or I'm

01:17 14 sorry -- about Duane Nelson being your father?

01:17 15 A In terms of "talked to," what do you mean?

01:17 16 Q Just about knowing something about whether -- and

01:17 17 the circumstances of Duane Nelson being your

01:17 18 father.

01:17 19 A I'm introduced as his son.

01:17 20 Q By who?

01:17 21 A Tyka Nelson, Daryl Boudreaux, Norrine, Sharon.

01:17 22 Q Okay. In Paragraph 7, you say, "Duane Joseph

01:17 23 Nelson received me into his home and acknowledged

01:18 24 me as his son. According to my mother, Carolyn

01:18 25 Simmons, he visited me often until I was age 4."

COREY SIMMONS, 10/19/2016

28

01:18 1 Can you -- Do you have any other basis for --
01:18 2 other than your mother -- for knowing that these
01:18 3 facts that I've read so far?

01:18 4 A No. I was 4.

01:18 5 Q Okay. All right. Okay. Stating the obvious.
01:18 6 Right?

01:18 7 A Right.

01:18 8 Q Okay. "He relocated back to Minnesota but
01:18 9 periodically visited back and forth to Milwaukee
01:18 10 to see me thereafter." Again, is that based on
01:18 11 what your mother's told you?

01:18 12 A Correct.

01:18 13 Q Okay. You don't have any independent recollection
01:18 14 of that.

01:18 15 A Just the memories in the cab, things of that
01:18 16 nature, but --

01:18 17 Q Okay. Okay. No. 8, you say, "During my teenage
01:18 18 years, I lost all contact and whereabouts of him
01:18 19 until his passing on March 4, 2011." So did you
01:19 20 -- You mentioned that you had looked for contact
01:19 21 information for Duane Nelson. Was that during
01:19 22 your teenage years or later?

01:19 23 A What do you mean?

01:19 24 Q Just -- You said you lost contact, and I'm looking
01:19 25 for --

COREY SIMMONS, 10/19/2016

29

01:19 1 A From 4 to March 4.

01:19 2 Q Right. But there was a period of time somewhere

01:19 3 in there where you were trying to make contact.

01:19 4 A Correct.

01:19 5 Q Okay. And I'm -- You mentioned that you contacted

01:19 6 Rhonda Jackson around 2008-2009. Was there any

01:19 7 other time --

01:19 8 A No.

01:19 9 Q -- that you tried to contact?

01:19 10 A No.

01:19 11 Q Okay. Okay. Then the next sentence in No. 8 is,

01:20 12 "I was notified by various family members of his

01:20 13 passing and reached out to Tyka Nelson requesting

01:20 14 information regarding the funeral arrangements."

01:20 15 So you said you were notified by various family

01:20 16 members. Which family members?

01:20 17 A On my mom's side.

01:20 18 Q Okay. And you reached -- How did you reach out to

01:20 19 Tyka Nelson?

01:20 20 A Facebook and e-mail.

01:20 21 Q Okay. And did you receive a response?

01:20 22 A She posted it.

01:20 23 Q She posted the --

01:20 24 A The address.

01:20 25 Q -- address and time of when the funeral would be?

01:20 1 A Correct.

01:20 2 Q Okay. And that was at the Park Avenue Methodist
01:20 3 Church?

01:20 4 A Correct.

01:20 5 Q Okay. So you then in Number -- Paragraph No. 9,
01:20 6 you state that "I attended my father's funeral on
01:21 7 March 18, 2011," and I believe that the date is
01:21 8 not quite right, so I just want to say that. I
01:21 9 think it was a few days before that. But I don't
01:21 10 think that's a huge deal. So you came to the
01:21 11 funeral, and you came with your wife?

01:21 12 A Correct.

01:21 13 Q And who else came with you?

01:21 14 A My daughter --

01:21 15 Q Okay.

01:21 16 A -- Ja'Cey.

01:21 17 Q Ja'Cey? Okay. And did you try to contact anybody
01:21 18 else in the family before -- in the Nelson family
01:21 19 before the funeral?

01:21 20 A No.

01:21 21 Q Okay. What prompted you to go to the funeral at
01:21 22 that point?

01:21 23 A To connect with family.

01:21 24 Q Okay. So that was the first time then that you
01:21 25 had contact with Brianna Nelson and Norrine Nelson

COREY SIMMONS, 10/19/2016

31

01:22 1 and anybody in the Nelson family?

01:22 2 A Correct.

01:22 3 Q Okay. Tell me what -- Tell me about what you

01:22 4 remember about the funeral and first meeting the

01:22 5 family.

01:22 6 A Just attending a normal, regular funeral.

01:22 7 Q Okay. Who was the first person you introduced

01:22 8 yourself to?

01:22 9 A Brianna.

01:22 10 Q And what did you say?

01:22 11 A Basically explained the situation and who I was.

01:22 12 Q Yeah. And what happened then?

01:22 13 A She was real receptive.

01:22 14 Q Okay. And then did she do anything after that?

01:22 15 A We took pictures, introduced me to family members.

01:22 16 Q Okay. So Brianna took you around and introduced

01:22 17 you to family?

01:22 18 A Correct.

01:23 19 Q And did you -- Did there come a time where you

01:23 20 were in the prayer room?

01:23 21 A No.

01:23 22 Q Okay. Were you present or aware at that event of

01:23 23 Tyka Nelson saying something about Duane Nelson

01:23 24 not being her half-brother?

01:23 25 A No.

COREY SIMMONS, 10/19/2016

32

01:23 1 Q Okay. You stated, "I have been informed and shown
01:23 2 by my sister, Brianna, that my dad carried
01:23 3 pictures of me with him every day, along with my
01:23 4 Aunt Norrine." Can you tell me, what picture did
01:23 5 -- or what are you referring to there?

01:24 6 A They found pictures in his briefcase. I guess he
01:24 7 carried it every day with him.

01:24 8 Q Okay. And did she tell you that or did Brianna
01:24 9 say that to you?

01:24 10 A Brianna and Norrine did.

01:24 11 Q Okay. Brianna and Norrine. And did -- Do you
01:24 12 know what photos those are?

01:24 13 A I've seen them. Just kind of a progression of me
01:24 14 growing up.

01:24 15 Q Okay. Where are those photos?

01:24 16 A Brianna has them.

01:24 17 Q Do you have copies of any of them in the stack of
01:24 18 photos that we have?

01:24 19 A Brianna has them.

01:24 20 Q Okay. Well, she can have them, but I was just
01:24 21 wondering if there was copies that anybody else
01:24 22 had.

01:24 23 A No.

01:24 24 Q Okay. Okay. And these are photos that you're
01:24 25 saying Brianna told you that your dad carried

COREY SIMMONS, 10/19/2016

33

01:25 1 around with him every day?

01:25 2 A Correct.

01:25 3 Q And your Aunt Norrine told you that, too.

01:25 4 A Correct.

01:25 5 Q Okay. And you're saying Brianna showed you those

01:25 6 photographs.

01:25 7 A Correct.

01:25 8 Q Did your Aunt Norrine also show you those

01:25 9 photographs?

01:25 10 A No. She lives in Minnesota.

01:25 11 Q Okay. So after the funeral, did you attend any

01:26 12 other family gatherings before returning to

01:26 13 Milwaukee?

01:26 14 A No.

01:26 15 Q And you said -- Now I'm looking at Exhibit 26, and

01:26 16 let me just ask you about this. Exhibit 26 at the

01:26 17 top reads "Deposition Summary of Corey D. Simmons,

01:26 18 October 19, 2016." Have you ever seen this

01:26 19 document before?

01:26 20 A Yes.

01:26 21 Q Okay. And what is it?

01:26 22 A It's my recollection of what transpired throughout

01:26 23 the years.

01:26 24 Q Okay. And you provided this to your lawyer?

01:26 25 A Correct.

COREY SIMMONS, 10/19/2016

34

01:26 1 Q Okay. So now I am looking on Exhibit 26, under
01:26 2 the year 2011, and we've talked about the funeral.
01:26 3 The last sentence -- two sentences on that page is
01:26 4 "After the funeral, I didn't hear/speak to Brianna
01:26 5 for approximately two months. Communication was
01:26 6 sporadic between us." So that's during the rest
01:27 7 of 2011?

01:27 8 A Correct.

01:27 9 Q Okay. What was the -- After the funeral, what was
01:27 10 the next time that you remember having contact
01:27 11 with Brianna?

01:27 12 A I don't remember.

01:27 13 Q Did you have contact with any other members of the
01:27 14 Nelson family during 2011 other than Brianna?

01:27 15 A Norrine.

01:27 16 Q Okay. And what was your contact with Norrine?

01:27 17 A What was my contact?

01:27 18 Q Yeah. Like, what were you talking about?

01:27 19 A Reasons why my dad wasn't around.

01:27 20 Q Yeah. What did she tell you?

01:27 21 A He wasn't mentally stable.

01:27 22 Q Okay.

01:27 23 A He wouldn't accept responsibility.

01:28 24 Q Anything else?

01:28 25 A That's it.

01:28 1 Q Let's flip the page then. We'll go to 2012. And
01:28 2 under that "2012" section, you state, "On a phone
01:28 3 conversation, Brianna informed me that my Aunt
01:28 4 Norrine wanted to talk with me and gave me her
01:29 5 phone number." So is it possible that you didn't
01:29 6 talk to Norrine until 2012?

01:29 7 A Could be.

01:29 8 Q Okay. The paragraph goes on, "I called, and
01:29 9 communication between was consistent until this
01:29 10 September when I retained an attorney per her
01:29 11 suggestion." So tell me about -- You retained an
01:29 12 attorney per her suggestion. What was her
01:29 13 suggestion?

01:29 14 A It was time for me to get an attorney, and her
01:29 15 attorney couldn't represent me.

01:29 16 Q When did she tell you to retain an attorney? When
01:29 17 in September?

01:29 18 A Towards the later end of September.

01:29 19 Q And why did she tell you that you needed an
01:29 20 attorney?

01:29 21 A There was a conflict of interest for hers.

01:30 22 Q Did she tell you that her attorneys were ever
01:30 23 representing you?

01:30 24 A They were at one time. They were going to.

01:30 25 Q Did they ever actually undertake to represent you?

COREY SIMMONS, 10/19/2016

36

01:30 1 A No. No.

01:30 2 Q Okay. So the first attorney you've had in this

01:30 3 matter at all is the attorney sitting next to you

01:30 4 and one more, Eric.

01:30 5 A Correct.

01:30 6 Q Okay. Did you talk with the attorneys that are

01:30 7 representing Norrine at any time?

01:30 8 A No.

01:30 9 Q Okay. Did you meet with any of the attorneys or

01:30 10 talk with any of the attorneys who have -- who are

01:30 11 involved in this case?

01:30 12 A No.

01:30 13 Q Okay. Other than -- and I'm carving out -- the

01:30 14 lawyer you talked to at the Special Administrator,

01:30 15 at Stinson Leonard Street. Lauren Ruthier, I

01:30 16 think, you called?

01:30 17 A Correct.

01:31 18 Q Okay. We have that.

01:31 19 A I'm sorry. Susan Link.

01:31 20 Q Susan Link. Who is Susan Link?

01:31 21 A An attorney that was referred to me to get in

01:31 22 contact with the Bremer Trust.

01:31 23 Q Okay. Who referred you to Susan Link?

01:31 24 A I don't know. I can't remember.

01:31 25 Q She's a Minneapolis attorney, I think.

COREY SIMMONS, 10/19/2016

37

01:31 1 A Yes.

01:31 2 Q Okay. And then Susan Link put you in contact with
01:31 3 the lawyers for Bremer Trust?

01:31 4 A Correct.

01:31 5 Q All right. Did you talk -- Did Norrine talk to
01:31 6 you at all about her deposition?

01:31 7 A She mentioned that she met with Brianna's
01:31 8 attorneys.

01:31 9 Q And what did she tell you?

01:31 10 A Nothing, really.

01:32 11 Q Okay. Has anybody else talked to you about their
01:32 12 deposition?

01:32 13 A No.

01:32 14 Q Okay. Since Prince died, can you tell me the
01:32 15 conversations that you've had with Norrine about
01:32 16 Brianna's claim and Victoria's claim as heirs?

01:32 17 A Conversations are hard to remember, but it was
01:32 18 just back and forth. They are or they're not.

01:32 19 Q And what do you mean "back and forth"? Like,
01:32 20 Norrine says they are sometimes and then they're
01:32 21 not?

01:32 22 A Sometimes.

01:32 23 Q Tell me about when Norrine says that Brianna and
01:33 24 Victoria are heirs.

01:33 25 A Kind of in a roundabout way. She describes it as

COREY SIMMONS, 10/19/2016

38

01:33 1 "If they get money, we're going to make sure that
01:33 2 they wait a long time," things of that nature --
01:33 3 Q And --
01:33 4 A -- for settlement for all three of us.
01:33 5 Q So she brought up that if Brianna and Victoria get
01:33 6 money, you should get money, too.
01:33 7 A Correct.
01:33 8 Q And what else? Tell me -- You said --
01:33 9 A Just back and forth.
01:33 10 Q Okay. You said something about, you know, "We're
01:33 11 going to make her wait a long time." Tell me more
01:33 12 about that.
01:33 13 A That's what she said.
01:33 14 Q Okay. Did she say that more than once?
01:33 15 A I don't recall.
01:33 16 Q What else has Norrine said about the claims of
01:33 17 Brianna and Victoria?
01:34 18 A That's pretty much it.
01:34 19 Q Okay. What has she -- Has she talked to you about
01:34 20 Brianna at all since Prince died?
01:34 21 A Yes. Before Brianna filed the motion, they had
01:34 22 some argument. We were all on the phone.
01:34 23 Q Tell me about the argument.
01:34 24 A I don't know.
01:34 25 Q You were all on the phone. Is that the prayer

01:34 1 line?

01:34 2 A No.

01:34 3 Q No? Okay. "All on the phone." Who is the "all"?

01:34 4 A Me, Norrine and Brianna.

01:34 5 Q Okay. And why were you all on the phone together?

01:34 6 A This is when Prince first passed away.

01:34 7 Q Um-hum. Okay. And what was that call about?

01:34 8 A Just Prince passing away.

01:34 9 Q And what did Norrine say?

01:34 10 A Just that it was true, everything -- There's a lot

01:35 11 on her right now.

01:35 12 Q A lot on Norrine?

01:35 13 A Correct.

01:35 14 Q Okay. Anything else you can remember?

01:35 15 A That's all I can remember.

01:35 16 Q What was the argument about?

01:35 17 A That was between those two. I wasn't on the phone

01:35 18 at that time.

01:35 19 Q Well, you said -- You know there was an argument.

01:35 20 A Brianna told me.

01:35 21 Q Okay. What did Brianna tell you?

01:35 22 A She asked about were we going to inherit anything.

01:35 23 Q And what was the argument about?

01:35 24 A She told her "No."

01:35 25 Q Norrine told Brianna "No"?

COREY SIMMONS, 10/19/2016

40

01:35 1 A Correct.

01:35 2 Q And why was it an argument?

01:35 3 A I don't know what they argued about. That's what
01:35 4 she told me.

01:35 5 Q Okay. Okay. Any other -- You've had quite a bit
01:36 6 of contact with Norrine Nelson since Prince's
01:36 7 death. Right?

01:36 8 A Oh, yeah.

01:36 9 Q Okay. Regular -- Frequent phone calls?

01:36 10 A Correct.

01:36 11 Q And you've gone out to Minneapolis multiple times.
01:36 12 Right?

01:36 13 A Correct.

01:36 14 Q Okay. When you go up to Minneapolis, do you stay
01:36 15 with Norrine Nelson?

01:36 16 A No.

01:36 17 Q Okay. Where do you stay when you're visiting
01:36 18 Minneapolis?

01:36 19 A With other cousins.

01:36 20 Q Okay. Which other cousins?

01:36 21 A On my wife's side.

01:36 22 Q Okay. But when you're up there, you see Norrine
01:36 23 Nelson?

01:36 24 A Correct.

01:36 25 Q Okay. Has Norrine talked to you at all about

COREY SIMMONS, 10/19/2016

41

01:36 1 being involved with Paisley Park?

01:36 2 A In terms of --

01:36 3 Q Just any involvement with Paisley Park.

01:36 4 A She stated about them hiring family members.

01:36 5 Q Um-hum.

01:36 6 A And we had to do the process of normal people and

01:37 7 just put her down or Sharon down as a reference.

01:37 8 Q Okay. So she encouraged you to apply --

01:37 9 A Correct.

01:37 10 Q -- to be hired by Paisley Park?

01:37 11 A Correct.

01:37 12 Q Okay. Did you?

01:37 13 A No.

01:37 14 Q Okay. And what else? Any other talk about

01:37 15 connection to Paisley Park?

01:37 16 A Not that I can remember.

01:37 17 Q Have you visited Paisley Park since Prince died?

01:37 18 A Yes.

01:37 19 Q Okay. How many times?

01:37 20 A Once.

01:37 21 Q Oh. Just for the family event?

01:37 22 A Correct.

01:37 23 Q Okay. Have you had any discussions with Sharon

01:38 24 Nelson?

01:38 25 A Conversations.

COREY SIMMONS, 10/19/2016

42

01:38 1 Q Okay. What do you talk about?

01:38 2 A Just family.

01:38 3 Q Have you met Sharon's children?

01:38 4 A Yes.

01:38 5 Q Okay. Where did you meet them?

01:38 6 A At Prince's memorial.

01:38 7 Q Have you met them any other time?

01:38 8 A No.

01:38 9 Q Okay. Have you met John R. Nelson?

01:38 10 A Yes.

01:38 11 Q Okay. At Prince's memorial?

01:38 12 A I met him at the tribute.

01:38 13 Q The tribute? Okay. Okay. Have you had any

01:38 14 discussions with Sharon Nelson or John Nelson

01:38 15 about Duane Nelson?

01:38 16 A No.

01:38 17 Q Okay. Have you had any discussions with them

01:38 18 about Brianna Nelson?

01:38 19 A No.

01:39 20 Q Any discussions with Sharon Nelson or John Nelson

01:39 21 about Victoria Nelson?

01:39 22 A No.

01:39 23 Q Any discussions with Sharon Nelson or John Nelson

01:39 24 about Jeannine Halloran?

01:39 25 A No.

COREY SIMMONS, 10/19/2016

43

01:39 1 Q Now, going back to Norrine, have you had other
01:39 2 conversations with Norrine about Duane Nelson?
01:39 3 A We had tons of conversations.
01:39 4 Q Okay. Tell me what you can remember about those
01:39 5 conversations.
01:39 6 A Each one, the description, I can't do that.
01:39 7 Q Well, any recollection that you have.
01:39 8 A An explanation of who is my family, different
01:39 9 things of that nature. I mean, that's it.
01:39 10 Q Okay. Okay. It's important that we get as much
01:39 11 detail as we can, so that's why I'm asking. I
01:40 12 know it's hard to remember, but I'm just asking
01:40 13 you to do the best you can.
01:40 14 A We had multiple conversations, hundreds of
01:40 15 conversations --
01:40 16 Q Yeah. Okay.
01:40 17 A -- over the past five years, six years.
01:40 18 Q Okay. But since Prince died. Let's focus on that
01:40 19 for the moment.
01:40 20 A Okay.
01:40 21 Q Since Prince died. Because by the time Prince
01:40 22 died, you were well acquainted with Norrine
01:40 23 Nelson. Correct?
01:40 24 A Correct.
01:40 25 Q You had gone up and seen her numerous times?

COREY SIMMONS, 10/19/2016

44

01:40 1 A Correct.

01:40 2 Q Okay. And you'd been in family gatherings in the
01:40 3 Nelson family by then.

01:40 4 A Correct.

01:40 5 Q Okay. So we're just talking about from the point
01:40 6 that Prince died to today, what have you talked
01:40 7 about with Norrine Nelson about Duane Nelson?

01:40 8 A That he didn't meet John L. until he was grown.

01:41 9 Q Is that what Norrine said -- has said?

01:41 10 A Correct.

01:41 11 Q Okay. And what else?

01:41 12 A That's pretty much it.

01:41 13 Q Did she -- Did Norrine Nelson ever ask you about
01:41 14 Brianna Nelson -- what Brianna Nelson knows about
01:41 15 John L. Nelson?

01:41 16 A She may have mentioned that John L. was on his
01:41 17 birth certificate and that she was mad about that.

01:41 18 Q And why -- Did she say why she was mad that John
01:41 19 L. Nelson was on Duane's birth certificate?

01:41 20 A I'm not sure.

01:41 21 Q When you say you're not sure --

01:42 22 A I don't recall.

01:42 23 Q -- you don't remember? Okay. But you're sure
01:42 24 that she said that Norrine was upset that John L.
01:42 25 Nelson's name appeared on Duane's birth

COREY SIMMONS, 10/19/2016

45

01:42 1 certificate?

01:42 2 A Correct.

01:42 3 Q Did Norrine Nelson ever talk about how your father
01:42 4 -- how Duane Nelson reacted when John L. Nelson
01:42 5 died?

01:42 6 A No.

01:42 7 Q Okay. Did Norrine ever say when she first saw
01:43 8 John L. Nelson's name on Duane's birth
01:43 9 certificate?

01:43 10 A No.

01:43 11 Q Had anybody advised you to retain an attorney
01:43 12 before September of 2016?

01:43 13 A No.

01:43 14 Q So all during the summer of 2016, all the way up
01:43 15 until mid- to late September 2016, Norrine Nelson
01:43 16 never said anything to you about "You need an
01:43 17 attorney"?

01:43 18 A No.

01:43 19 Q Okay. Did anybody tell you that you didn't need
01:43 20 an attorney?

01:44 21 A No.

01:44 22 Q Okay. So you mentioned in 2012 or you mentioned
01:44 23 here -- Actually, let's go back to that first
01:44 24 paragraph. You said communication was consistent
01:44 25 until you retained an attorney per her suggestion.

COREY SIMMONS, 10/19/2016

46

01:44 1 So what changed?

01:44 2 A She said we were enemies.

01:44 3 Q She told you to retain an attorney and then said,
01:44 4 "We're enemies"?

01:44 5 A Correct. "We can only talk about family."

01:44 6 Q Okay. So you still -- You still can talk to
01:44 7 Norrine Nelson.

01:44 8 A Yeah.

01:44 9 Q You just won't talk about the case.

01:44 10 A Correct.

01:44 11 Q Okay. And -- But you haven't talked to her since
01:44 12 you retained your attorney?

01:45 13 A We've talked.

01:45 14 Q Okay. And what have you talked about?

01:45 15 A Getting my tickets for the tribute. That's it.

01:45 16 Q Okay. And you saw her at the tribute.

01:45 17 A On stage. I didn't -- I didn't see her. We
01:45 18 didn't talk.

01:45 19 Q Okay. Did Norrine ever talk to you -- or ever say
01:45 20 to you that she met your mother when she was
01:45 21 pregnant with you?

01:45 22 A No.

01:45 23 Q Did Norrine ever mention any attempts that she
01:45 24 made to meet you when you were a child?

01:45 25 A I never asked.

I, Shalonda McKinney, being sworn, depose and state the following:

I am a second cousin to Duane Nelson Sr., and third cousin to Brianna Nelson and Corey Simmons. My grandmother (Juanita Camp) and Duane Sr's mother (Vivian Nelson) are sisters. Corey and I have been in contact with each other since January of 2014. He was introduced to me as my cousin, the eldest child of Duane Nelson Sr. by Brianna Nelson as well as her big brother. I trust that he is my cousin because I believed Brianna had no reason to say otherwise. He and I keep in contact often. We also see each other every June, when he comes to Minneapolis for his daughters' Regional Finals Track meets. I have attended all the track meets and afterwards we spend time together. Brianna, Corey, and I have had many conference calls for hours over the past two years.

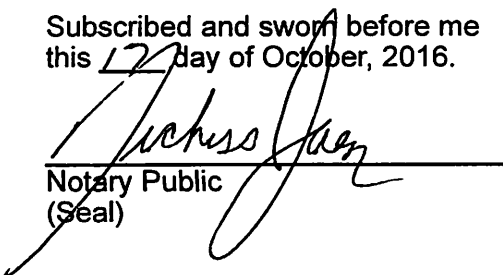
I also visited Brianna and Corey in Milwaukee on Labor Day weekend, September 5-7, 2015, the details of my trip are as follows: Upon my arrival Brianna picked me up from the airport, we went to dinner, and went to my hotel. The next day Brianna and I attended a cookout Corey and his wife (Tanya) put on at the park. My last day of my trip Corey picked me up from my hotel and we went to Brianna's house. We were at Brianna's house for hours talking, looking at pictures, and mementos of Duane Sr., that Brianna keeps in his briefcase. There were some things she mentioned she was going to give to Corey such as: jewelry, pictures, and some coins their dad collected. As we carried on in conversation, Brianna's mom (Carmen Weatherall) came home from work and partook in our conversation. During a point in Carmen's conversation she began to apologize to Corey for the past. She apologized for knowing about Corey being Duane's son and stopped him from coming over her house with his dad when he was a little boy and not letting him be in Brianna's life. She also apologized to him for some mean things she said to him as a kid. Carmen asked Corey if he would forgive her for the past and asked if they could move forward as friends and get to know each other. Carmen hugged Corey as she cried. Carmen also stated to Brianna, "Give Corey some of their dad's belongings for him to cherish as well." By the time Corey and I left Brianna's house all four of us were crying, hugging, and praying for a better future for all of us as cousins. We didn't grow up together but we felt as if we had a good future together for them as brother and sister and me as their cousin. Corey,

Brianna, and Carmen thanked me several times for coming to visit them, in which allowed them to have this conversation and get things out into the open and hope to heal as a family. From that time forward I have been in communication with Corey on a regular basis.

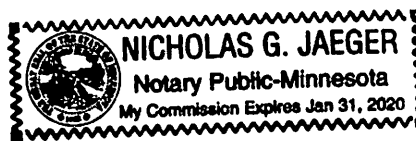


Shalonda Mckinney

Subscribed and sworn before me
this 17 day of October, 2016.



Notary Public
(Seal)



10-PR-16-46

Exhibit A**REQUEST FOR PARENTAGE INFORMATION**

Special Administrator Bremer Trust requests that you provide answers to the following questions and requests for information by affidavit signed under oath.

1. What is your full name? **Corey D'Andrea' Simmons**
2. What is your birth date? **June 15, 1977**
3. Where were you born? **Milwaukee County General Hospital
9200 W. Wisconsin Avenue
Wauwatosa, Wisconsin 53226**
4. Please provide a certified copy of your birth certificate. **Enclosed**
5. What are the full names of your biological parents? **Duane Joseph Nelson - Father; Carolyn Renee Simmons - Mother**
6. Were your biological parents married when you were born? (If yes, answer the subparts below.) **No**
 - a. When were your parents married? **N/A**
 - b. Where were your parents married? **N/A**
 - c. What was your biological mother's maiden name? **N/A**
 - d. Please provide a certified copy of your parents' marriage certificate or other proof of marriage. **N/A**
 - e. Were your parents divorced? If so, please provide the date of the divorce and a certified copy of the divorce decree or other proof of divorce. **N/A**
7. Were your biological parents married after you were born? (If yes, answer the subparts below.) **No**
 - a. When were your parents married? **N/A**
 - b. Where were your parents married? **N/A**
 - c. What was your biological mother's maiden name? **N/A**

10-PR-16-46

- d. Did the man who married your biological mother acknowledge his paternity of you in writing filed with a state registrar of vital records? **N/A**
- e. Was the man who married your biological mother named as your father on your birth record with his consent? **N/A**
- f. Was the man who married your biological mother obligated to support you under a written voluntary promise or by court order? **N/A**
- g. Please provide a certified copy of your parents' marriage certificate or other proof of marriage. **N/A**
- h. Were your parents divorced? If so, please provide the date of the divorce and a certified copy of the divorce decree or other proof of divorce. **N/A**
8. If your parents were not married when you were born, had they attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable or otherwise invalid? (If yes, answer the subparts below.) **No**
- a. What was the date of the attempted marriage? **N/A**
- b. Where did the attempted marriage take place? **N/A**
- c. Please provide proof of the attempted marriage. **N/A**
- d. If the invalid marriage was terminated by death, annulment, declaration of invalidity, dissolution or divorce, please provide the date of the termination and any proof of such termination. **N/A**
9. If your parents did not marry or attempt to marry, did any man receive you into his home and openly hold you out as his biological child? If yes, please name the man and provide details and other evidence (e.g. sworn statements, photographs, documents) to support your answer. **Yes. Duane Joseph Nelson received me into his home and acknowledged me as his son. He visited me often until I was age 4 (per my mother's information and then he abruptly relocated back to Minnesota. He periodically visited back and forth to Milwaukee thereafter; however during my teenage years I lost all contact and whereabouts of him until his passing on March 4, 2011. At that time, I was notified by various family members of his passing and reached out to Tyka Nelson informing her who I was and requesting information regarding the funeral arrangements. Lastly, as a child I do recall speaking to Prince Rogers Nelson a few times over the phone. Prince would send memorabilia from concerts one in particular was with Chaka Khan he sent Big Red Lips when I did have communication with my dad. I knew that my dad and Prince played basketball on the same team together along with being the Head of Security for Paisley Park for several years. My wife and I along with my daughter did attend his memorial at Park Avenue United**

10-PR-16-46

Methodist Church located at 3400 Park Avenue South, Minneapolis, Minnesota 55407 on March 18, 2011. While attending that funeral I first met my sister Brianna Nelson, my two aunts Norrine and Tyka Nelson, along with a few others. I have since established numerous of relationships and meeting other family members to date. In addition, I have been informed and shown by sister Brianna that my dad carried pictures of me with him everyday along with my aunt Norrine.

10. If your parents did not marry or attempt to marry, did any man and your biological mother acknowledge the man's paternity of you in a writing signed by both of them under Minn. Stat. § 257.34 (copy attached) and filed with the state registrar of vital records? If yes, please provide a certified copy of such writing. **No**

11. If your parents did not marry or attempt to marry, did any man and your biological mother execute a recognition of parentage of you pursuant to Minn. Stat. § 257.75 (copy attached)? If yes, please provide a certified copy of such recognition of parentage. **No**

12. Is any other man presumed to be your father under any of the presumptions found in Minn. Stat. § 257.55 (copy attached)? **No**

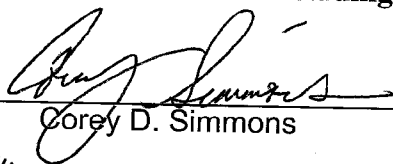
If yes, please provide details, and also whether the other man signed a written consent if your father and mother signed a written acknowledgment of paternity under Request No 10 above.

13. Was your biological mother married to any man other than your biological father when you were born or within 280 days before your birth? **No**

14. Does a judgment or order exist determining a parent and child relationship between you and one or more parents? If so, please provide details and a certified copy of such judgment or order. **No**

15. Detail the actions taken by you to confirm that the responses to the above requests are true and accurate. **I have confirmed with Milwaukee County Circuit court that there has never been any record of marriage pertaining to my mother.**

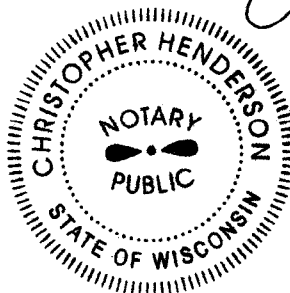
16. If you contend additional information is needed or should be considered by the Special Administrator to support your claim to be an heir, please provide such information. **My sister confirmed that she found pictures of me in my dads belongings and acknowledged me as her brother. She has been included in family gathers and intimate affairs including the birth of my recent child on October 17, 2014.**


Corey D. Simmons

Subscribed and sworn before me
this 26th day of September, 2016.


Notary Public

**My Commission Expires
January 31, 2020**





October 6, 2016

Via Electronic Mail

Andrew M. Lehner
 1069 S. Robert Street, Ste. 100
 West St. Paul, MN 55402

Re: Heirship Claim of Corey D. Simmons

Dear Mr. Lehner:

Thank you for submitting the Affidavit of Corey D. Simmons.

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 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.

Under Minnesota law, if it is determined that Decedent is not the father of any living children (or their descendants), then Decedent's siblings and half-siblings (and descendants of any deceased siblings and half-siblings) may be determined to be heirs, in the event no Will is found. Minn. Stat. § 524.2-103(3). To be a sibling or half-sibling, a person must share at least one genetic parent with Decedent. *Id.* Because they were married when Decedent was born, Mattie Della (Shaw) ("Mattie") and John Lewis Nelson ("John") are presumed to be Decedent's genetic parents. Minn. Stat. § 257.55, subd. 1(a).¹ Only a very limited group of persons have standing to challenge that presumption, and, in any event, the time to make such a challenge passed long ago. Minn. Stat. § 257.57, subd. 1(b). As such, there is an irrebuttable presumption that John and Mattie are Decedent's genetic parents. *Id.*; Minn. Stat. § 524.1.201(22) and (23); *see also In re Estate of Jotham*, 722 N.W.2d 447, 455-56 (2006). Thus, to potentially qualify as an heir of Decedent as a sibling or half-sibling, the claimant must be a descendant of either Mattie or John (or both).

Based on the materials submitted by your client, there is no presumption under Minnesota law that Mr. Simmons is the child of Duane Joseph Nelson ("Duane"). Consequently, it is the Special Administrator's determination that, unless such evidence of a presumption under Minn. Stat. § 257.55 can be produced, the alleged parent-child relationship between Mr. Simmons and Duane will need to be established through genetic testing, in a manner determined by the Court.

Furthermore, while a birth certificate has been produced stating that Duane is the child of John and Vivian Nelson, no evidence has been provided that John and Vivian Nelson were married at the time of Duane's birth or that any of the other presumptions contained in Minn. Stat. § 257.55 exist between

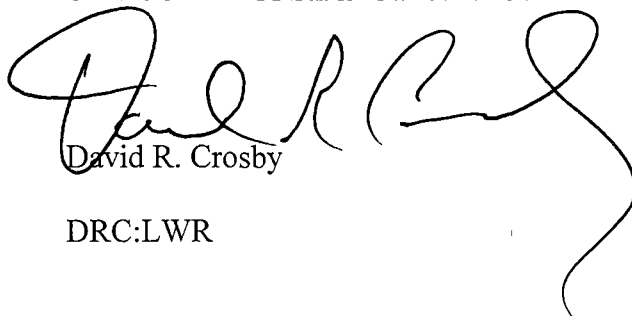
¹ Further, as part of Mattie and John's divorce, a Minnesota court adjudicated that they were Decedent's parents.

Andrew M. Lehner
October 6, 2016
Page 2

John and Duane (including that John received Duane into his home and openly held him out as his biological child before Duane turned 18 years old). As such, it is the Special Administrator's determination that, unless such evidence of a presumption under Minn. Stat. § 257.55 can be produced, the alleged parent-child relationship between John and Duane will also need to be established through genetic testing, in a manner determined by the Court.

Very truly yours,

STINSON LEONARD STREET LLP

A handwritten signature in black ink, appearing to read "David R. Crosby", written over a circular stamp. The signature is fluid and cursive, with a long tail extending downwards and to the right.

David R. Crosby

DRC:LWR

Hi Corey

You are such a blessing to the family.
You have the character and integrity
to be used mightily by God when He
pours out His Spirit "upon all flesh"
& "your sons & daughters" (Jacob, Cori
& other 2 chn) shall prophesy, & see
visions" Joel 2:28 and also upon the
servants (you) & handmaids (Tanja).
Joel 2:29

Get Ready, Get Ready, Get Ready!

6/15/15

And hoping that
the more you have
the happier you are.

Happy Belated Birthday
Love, Peace, & Joy

Your
Auntie
Florence

enc.

Friday, November 11, 2016

RE: Duane Nelson

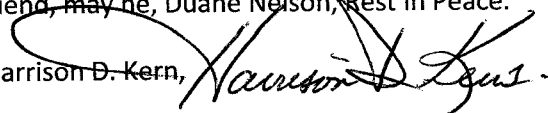
TO: Whom it may concern

My name is Harrison D. Kern, I had the pleasure of meeting Duane Nelson, while attending the University of Wisconsin Milwaukee in or around 1976. Duane, who was a star basketball recruit from Minneapolis, MN., and I hit it off very well from our initial meeting and became good friends. This was furthered by Duane's eventual dating of one of my long time neighborhood and residential block friends, Angela Jones (Church) and the fact that I learned he was the brother of one of my favorite up and coming Artists, Prince Rogers Nelson. Duane and I on a number of occasions traveled to the Chicago Area to go out to the popular urban nightclubs during that era. I often found it humorous how Duane would be so "geeked" up to go, as Chicago was so new and exciting to him. We always had a great time, as Duane and I seemed to be rather popular with the female persuasion. Duane was a great personality to be around and I believe we both benefited from same. There however, came the time in 1977 that Duane learned that he had impregnated Carolyn Simmons, a young lady, with whom he was dealing. The pregnancy troubled Duane, as it altered his view of his future possibilities as being a new father would greatly influence the beginning of his College experience. Duane didn't talk often of the situation, other than to say, "I'm not ready for this" and I rarely brought it up as I knew that it was difficult for him. In reflecting the times and circumstances it appeared to me, that is was the difficulty in dealing with the aforementioned pregnancy, that caused Duane to spiral out of control and into significant substance abuse. Continuing down an uncertain path, Duane subsequently lost his Basketball scholarship and left the University. As I was not into drug use and avoided being around same, Duane and I Lost contact at this point for a number of years, until a chance encounter in Saint Paul, MN., several years later. Duane had advised me that after a stint in Rehab, he was doing well. I was so happy to hear this that I actually cancelled the planned return to Milwaukee and stayed in Minneapolis another day, at which time Duane and I visited his grandmother and his sister Norrine's home. Over the years that followed I had the opportunity to hang out with Duane in Minneapolis/ St. Paul and in Los Angeles, CA. when Duane was involved in the operations of a night club which Prince had attached his name to. During this time frame while back in Minneapolis, Duane actually personally introduced me to Prince while we were upstairs in the VIP section of Princes' nightclub, "Glam Slam." After a rift had occurred between Duane and Prince sometime later, I again lost contact with Duane and unfortunately I never was able to meet up with him again.

Upon learning of Duane's untimely passing several years ago, I traveled to Minneapolis for his Memorial service, and was happy to see among those paying respects, friends from Duane's UWM days, Twin Cities Music Industry friends, as well as Duane's son, Corey Simmons and his family.

I miss my friend, may he, Duane Nelson, Rest In Peace.

Sincerely, Harrison D. Kern,



8940 N. 96th St, Milwaukee, WI. 53224, 414/355-0564

Exhibit 19 Lehner Aff.

State of Wisconsin
County of Milwaukee

Signed before me on November 14, 2016
by Harrison D. Kern.

Barbara A. Cook
Notary Public
My Comm. exp. 06-23-2019