

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISIONFile No.: 10-PR-16-46
(Judge Kevin W. Eide)

In re:

Estate of Prince Rogers Nelson,

Decedent.

**[PROPOSED] FINDINGS OF FACT,
CONCLUSION OF LAW, ORDER
FOR JUDGMENT AND
JUDGMENT ESTABLISHING
ATTORNEYS' LIENS**

The above-referenced matter came on for hearing on January 23, 2019 at 8:30 a.m. before the Honorable Judge Kevin W. Eide, on Gray, Plant, Mooty, Mooty & Bennett, P.A.'s ("GPM") application pursuant to Minn. Stat. §§ 481.13 and 525.491 for the establishment of GPM's cause-of-action attorney's lien, the amount of said lien and the entry of judgment adjudging the amount due GPM on said lien arising from GPM's prior representation of Tyka Nelson ("Ms. Nelson") in the above-captioned estate proceeding (the "Application").

Brian A. Dillon of GPM appeared on behalf of GPM;

John C. Holper of Winthrop & Weinstine, P.A appeared on behalf of Holland & Knight, LLP.

Shane Solinger of Barnes & Thornburg, LLC appeared on behalf of Barnes & Thornburg, LLC.

Ms. Nelson, appearing pro se, was also in attendance.

Other appearances were noted on the record.

The Court, having considered GPM's Application and supporting papers, and based upon the arguments presented at the hearing and all the Court's files, records, and proceedings herein,

makes the following Findings of Facts, Conclusions of Law, Order For Judgment and Judgment.

FINDINGS OF FACT

A. GPM's Attorney's Lien

1. GPM served as legal counsel for Ms. Nelson in the above-captioned estate proceeding (the "Proceeding") from its commencement in April 2016 through September 27, 2016 and provided valuable legal services to or for the benefit of Ms. Nelson in connection with this Proceeding for which GPM remains unpaid.

2. It is uncontested that GPM's representation of Ms. Nelson was governed by a written engagement agreement that set forth the conditions of GPM's representation.

3. The compensation due GPM for unpaid attorney's fees and costs incurred on behalf of Ms. Nelson in connection with this Proceeding is \$116,652.11, exclusive of collection costs.

4. All of the unpaid attorney's fees and costs incurred on behalf of Ms. Nelson in connection with this Proceeding were necessary and reasonable for the proper and competent representation of Ms. Nelson by GPM in the Proceeding.

5. GPM's unpaid attorney's fees and costs incurred on behalf of Ms. Nelson in connection with this Proceeding are specifically and adequately supported by the Affidavit of Matthew Shea dated December 21, 2108, submitted in support of the Application.

B. The Priority of GPM's Attorney's Lien

6. GPM's cause-of-action attorney's lien attached on April 25, 2016, when GPM noticed its appearance on behalf of Ms. Nelson and commenced this Proceeding by filing a Petition for Formal Appointment of Special Administrator.

7. On October 5, 2016, Roc Nation LLC filed a UCC-1 financing statement asserting an interest in "all assets and properties" of Ms. Nelson.

8. On January 11, 2017, G.W. Walker, LLC and Audubon Loan Funding, L.P. filed a UCC-1 financing statement asserting an interest in “all of Ms. Nelson’s beneficial interests in the estate.”

9. On June 7, 2017, G.A. Walker, LLC was added as an additional secured party to the UCC-1 financing statement filed by G.W. Walker, LLC and Audubon Loan Funding, L.P.

CONCLUSIONS OF LAW

1. Minn. Stat. § 481.13, subd. 1(a) provides that: “An attorney has a lien for compensation whether the agreement for compensation is expressed or implied (1) upon the cause of action and money and property involved in or affected by the action from the time of the ... commencement of the proceedings.”

2. Minn. Stat. § 525.491 extends this provision for attorneys appearing on behalf of an heir in a probate proceeding, providing:

“When any attorney at law has been retained to appear for any heir or devisee, such attorney may perfect a lien upon the client’s interest in the estate for compensation for such services as may have been rendered respecting such interest, by serving upon the personal representative before distribution is made, a notice of intent to claim a lien for agreed compensation, or the reasonable value of services. The perfecting of such a lien, as herein provided, shall have the same effect as the perfecting of a lien as provided in section 481.13, and such lien may be enforced and the amount thereupon determined in the manner therein provided.”

3. A cause-of-action attorney’s lien arises at the time the attorney first appears in the proceedings. *Williams v. Dow Chemical Co.*, 415 N.W.2d 20, 25-26 (Minn. Ct. App. 1987).

4. The value of a cause-of-action attorney’s lien is determined based on the terms of the fee provisions of a retainer agreement. *Thomas A. Foster & Assocs., LTD v. Paulson*, 699 N.W.2d 1, 6 (Minn. Ct. App. 2005).

5. An attorney holding a cause-of-action lien need not file separate notice of the

attorney's lien for that attorney's lien to have priority over third-party claims. *City of Oronoco v. Fitzpatrick Real Estate, LLC*, 883 N.W.2d 592, 596 (Minn. 2016).

6. Once formed, a cause-of-action attorney's lien exists until it is satisfied and is not extinguished by the entry of judgment on the cause of action. *Williams*, 415 N.W.2d at 26 (citing *Desaman v. Butler Bros.*, 131 N.W. 463, 464 (Minn. 1911)).

7. Pursuant to Minn. Stat. §§ 481.13, subd. 1(a) and 525.491, GPM has established a valid and enforceable cause-of-action attorney's lien on any proceeds that Ms. Nelson receives from the estate and on any distribution, award, judgment, settlement, or recovery she receives or that is obtained on her behalf in her capacity as a beneficiary of the estate, solely to the extent of GPM's reasonable attorney's fees and costs incurred on Ms. Nelson's behalf and that remain unpaid at the time of any such distribution to Ms. Nelson or at the conclusion of GPM's representation of Ms. Nelson.

8. The reasonable amount of GPM's cause-of-action attorney's lien is \$116,652.11, exclusive of collection costs.

9. GPM's cause-of-action attorney's lien attached and was effective against third-parties as of April 25, 2016, when GPM first appeared in the Proceeding on Ms. Nelson's behalf. *City of Oronoco v. Fitzpatrick Real Estate, LLC*, 883 N.W.2d 592, 596 (Minn. 2016).

10. GPM's cause-of-action attorney's lien is prior and superior, and has priority over, any claim, interest, or lien of Roc Nation, LLC, G.W. Walker, LLC, Audubon Loan Funding, L.P., G.A. Walker, LLC, and other third parties, excluding the attorney's lien of Holland & Knight, LLP, which attorney's lien shall share coordinate priority with GPM's cause of action attorney's lien.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

ORDER FOR JUDGMENT

1. GPM's Application is hereby GRANTED in its entirety.
2. Pursuant to Minn. Stat. § 481.13, subd. 1(c) judgment in favor of GPM shall be immediately entered and docketed establishing that GPM is the holder of a valid, enforceable, and duly perfected cause-of-action attorney's lien in the amount of \$116,652.11, exclusive of collection costs. GPM is entitled to tax statutory costs incurred in seeking the establishment and determination of its cause-of-action attorney's lien.
3. Upon entry and docketing of judgment herein, GPM's cause-of action attorney's lien shall be satisfied from any proceeds Ms. Nelson receives from the estate and on any distribution, award, judgment, settlement, or recovery she receives or that is obtained on her behalf in her capacity as a beneficiary of the estate.
4. GPM's cause-of-action attorney's lien is prior and superior, and has priority over, any claim, interest, or lien of Roc Nation, LLC, G.W. Walker, LLC, Audubon Loan Funding, L.P., G.A. Walker, LLC, or any other third party, excluding the attorney's lien of Holland & Knight, LLP, which attorney's lien shall share coordinate priority with GPM's cause of action attorney's lien.
5. Based upon the stipulation between GPM and Holland & Knight, LLP, GPM's and Holland & Knight, LLP's respective cause-of-action attorneys' liens shall be satisfied on a pro rata basis from any proceeds Ms. Nelson receives from the estate and on any distribution, award, judgment, settlement, or recovery she receives or that is obtained on her behalf in her capacity as a beneficiary of the estate.

IT IS SO ORDERED.

THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE IMMEDIATELY ENTERED AND DOCKETED.

Dated: _____, 2019

BY THE COURT

Kevin W. Eide
District Court Judge

JUDGMENT

I hereby certify that the above order constitutes the judgment of the Court.

Dated: _____, 2019

COURT ADMINISTRATOR

By: _____
Deputy Clerk