

**FILED**

April 2, 2019

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA  
IN COURT OF APPEALS

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In re the Estate of Prince Rogers  
Nelson, Deceased.

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**ORDER**  
**A19-0503**  
**A19-0507**

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE  
THERE IS A QUESTION WHETHER THIS COURT HAS JURISDICTION:**

1. On March 28, 2019, appellants CAK Entertainment, Inc., et al. (CAK) filed an appeal (A19-0503) from an order filed on March 11, 2019, that granted in part a motion by the second special administrator for return of fees. The March 11, 2019 order directed CAK and NorthStar Enterprises Worldwide, Inc. (NorthStar) to refund to the estate all compensation received as a result of certain terminated transactions within 30 days.

2. On March 29, 2019, NorthStar Enterprises Worldwide, Inc., et al. (Northstar) filed a separate appeal (A19-0507) from the March 11, 2019 order from which appeal A19-0503 is taken.

3. Related appeals from a single district court action may be consolidated by the appellate court's order on its own motion or upon motion of a party. Minn. R. Civ. App. P. 103.02, subd. 3. Because the appeals pertain to the same district court order and raise similar issues, consolidation is warranted in the interests of judicial economy.

4. The March 11, 2019 order states that the order shall be deemed a temporary order to protect the assets of the estate. The order provides that the refunded commission shall be held in a designated escrow account and shall not be distributed until further order of the court.

5. An appeal may be taken from such orders or decisions as may be appealable by statute or under the decisions of the Minnesota appellate courts. Minn. R. Civ. App. P. 103.03(j).

6. The probate code authorizes appeals from certain types of orders, judgments, and decrees. Minn. Stat. § 525.71(a) (2018).

7. An appeal may be taken from an order directing, or refusing to direct, the payment of representative's fees or attorney's fees, and in such case the representative and the attorney shall each be deemed an aggrieved party and entitled to appeal. Minn. Stat. § 525.71(a)(15). According to appellants' statements of the case, the March 11, 2019 order is appealable under Minn. Stat. § 525.71(a)(15).

8. Appellants state that the March 11, 2019 order is appealable under Minn. R. Civ. App. P. 103.03(b). According to CAK's statement of the case, the March 11, 2019 order is appealable under Minn. R. Civ. App. P. 103.03(e) and (g) as well. An appeal in a probate matter to the court of appeals may be taken from any properly appealable order pursuant to the rules of civil appellate procedure. Minn. Stat. § 525.71(b) (2018).

9. This court held that an order that unequivocally disallowed \$17,722.50 in fees and charges was appealable under Minn. Stat. § 525.71(a)(9) and (15), even though the order allowed the possibility that the district court's consideration of the remaining fees

would be reconsidered based on resubmitted accounts. *In re Guardianship of Doyle*, 778 N.W.2d 342, 346 (Minn. App. 2010). CAK argues that the March 11, 2019 order is analogous to the order at issue in *Doyle*. But the March 11, 2019 order is styled as a temporary order to protect the assets of the estate, rather than a final ruling on appellants' entitlement to the funds at issue.

10. An appeal may be taken from an order which grants, refuses, dissolves, or refuses to dissolve, an injunction. Minn. R. Civ. App. P. 103.03(b). Appellants argue that the March 11, 2019 order constitutes a temporary mandatory injunction that is immediately appealable under Minn. R. Civ. App. P. 103.03(b). The March 11, 2019 order is not styled as a motion for injunctive relief, nor does the order address the equitable factors for granting or denying a motion for a temporary injunction under *Dahlberg Bros. v. Ford Motor Co.*, 137 N.W.2d 314, 321-22 (Minn. 1965).

11. The March 11, 2019 order provides that appellants' failure to comply with the order and return funds within 30 days will result in appellants being held in contempt of court until such time as the refunds are made in full. CAK states that the March 11, 2019 order is an appealable contempt order under Minn. R. Civ. App. P. 103.03(e) and *Maher v. Maher*, 393 N.W.2d 190, 195 (Minn. App. 1986). But the March 11, 2019 order does not find appellants in contempt or impose contempt sanctions.

12. An appeal may be taken from a final order, decision, or judgment affecting a substantial right made in a special proceeding. Minn. R. Civ. App. P. 103.03(g).

13. The trial court's order in a criminal case pertaining to payment of expert-witness fees arose from a special proceeding and is appealable under Minn. R. Civ. App.

P. 103.03(g). *In re Application of Jobe*, 477 N.W.2d 723, 725 (Minn. App. 1991). CAK argues that the March 11, 2019 order is appealable under Minn. R. Civ. App. P. 103.03(g) and *Jobe*. But unlike *Jobe*, the March 11, 2019 order does not finally determine the ultimate distribution of the funds in question.

14. As directed below, the parties shall file informal memoranda on the question of whether the March 11, 2019 order is immediately appealable.

**IT IS HEREBY ORDERED:**

1. Appeals A19-0503 and A19-0507 are consolidated.
2. On or before April 22, 2019, the parties shall serve and file (by E-MACS, if required by the supreme court's order on mandatory e-filing) signed informal memoranda addressing the following:

(a) Does the March 11, 2019 order finally determine the second special administrator's motion for return of fees? *See In re Estate of Janecek*, 610 N.W.2d 638, 642 (Minn. 2000) (defining a final order as one that ends the proceeding as far as the court is concerned or that finally determines some positive legal right of appellant relating to the action).

(b) If the answer to (a) is no, is the March 11, 2019 order appealable under Minn. Stat. § 525.71(a)(15) or Minn. R. Civ. App. P. 103.03(g)?

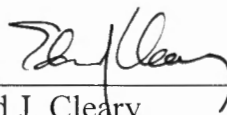
(c) Is the March 11, 2019 order appealable under Minn. R. Civ. App. P. 103.03(b) as a mandatory temporary injunction? *See Howard v. Svoboda*, 890 N.W.2d 111, 115 (Minn. 2017) (holding that because the district court's order was neither styled as, nor had the characteristics of an injunction, the court of appeals lacked appellate jurisdiction to consider it under rule 103.03(b)).

(d) Does the March 11, 2019 order constitute an appealable contempt order? *See Maher*, 393 N.W.2d at 195 (holding that an order finding a party in contempt and immediately imposing a sanction is appealable).

3. Memoranda filed after April 22, 2019, may not be considered by the court.
4. Appellants' failure to file a jurisdiction memorandum may result in such sanctions as the court deems appropriate, including dismissal of the consolidated appeals.
5. If, after completion of research, appellants conclude that this court lacks jurisdiction over the appeal, appellants shall immediately file a notice of voluntary dismissal of their respective appeals.
6. This order does not stay or extend briefing deadlines or other procedural requirements under the rules.
7. The clerk of the appellate courts shall provide copies of this order to the Honorable Kevin W. Eide, counsel of record, and the district court administrator.

**Dated:** April 2, 2019

**BY THE COURT**



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Edward J. Cleary  
Chief Judge