

STATE OF MINNESOTA

COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

FILED

OCT 03 2016

In Re: Estate of:

CARVER COUNTY COURTS

Court File No. 10-PR-16-46

Prince Rogers Nelson,

Deceased.

**AMENDED SCHEDULING
ORDER REGARDING THE
CLAIMS OF BRIANNA NELSON
AND V.N. AND COREY SIMMONS
TO BE HEIRS OF THE ESTATE**

The above entitled matter came on before the Honorable Kevin W. Eide on August 26, 2016 at the request of Celiza Bragança, Esq., one of the attorneys for Briana Nelson and V.N., submitted a proposed discovery, motion and hearing schedule to address the claims of her clients. On August 31, 2016, the Special Administrator submitted a response asking that the discovery process commence after the legal authority of Brianna and V.N.'s claims is determined. Thomas P. Kane, Esq. submitted a response for the "Putative Heirs" requesting a shorter period of time for the resolution of the claims. The Court subsequently received notice of a claim by Corey D. Simmons that he is also a child of Duane Joseph Nelson, Sr. Mr. Simmons seeks an amendment to the Court's Order Regarding Genetic Testing Protocol and Heirship Claims Following the June 27, 2016 Hearing and Judgment filed July 29, 2016 to include him in the section entitled "Applications Based Upon Claims of Being a Descendant of Duane Nelson."

Based upon the record and the arguments of counsel, the Court makes the following:

ORDER

1. This Order shall apply to the Special Administrator and the "non-excluded" heirs. The non-excluded heirs, for the purpose of this Order, are the heirs identified in the original Petition for Formal Appointment of Special Administrator as well as Brianna Nelson and V.N.
2. Discovery regarding the claims of Brianna Nelson and V.N. to be heirs of this Estate shall be completed by November 4, 2016.
3. The Special Administrator and the non-excluded heirs shall notify the Court and serve upon the Special Administrator and the non-excluded heirs no later than October 14, 2016, the type of

expert witness they intend to call at the evidentiary hearing in this matter. For each such expert witness, to the extent that it is known, the Special Administrator and the non-excluded heirs shall disclose the identity, training and experience, the opinion that will be offered, and the facts upon which the opinion is based, for each expert witness to be called. This disclosure shall be supplemented promptly if new information regarding an expert is obtained.

4. Counsel for Brianna Nelson and V.N. shall, by September 30, 2016, provide the Court with a Memorandum of Law regarding the legal basis for the claim that Brianna Nelson and V.N. should be considered heirs of this Estate. Counsel for the Special Administrator and the non-excluded heirs shall respond with any opposing Memorandum of Law they wish to submit by October 14, 2016. Oral argument on the issue of whether Brianna Nelson and V.N. could be considered an heir of this Estate *as a matter of law* shall be heard before the undersigned in Courtroom 1 at the Carver County Judicial Center on October 21, 2016 at 1:30 p.m. Corey D. Simmons motion to be included in this proceeding shall also be heard on October 21, 2016 at 1:30. The Court will endeavor to rule on whether Brianna Nelson and V.N.'s claims and/or Corey Simmons claims will be allowed to proceed promptly after the hearing.

5. For the purpose of the Memorandums of Law and for the oral argument, the facts shall be considered in a light most favorable to Brianna Nelson and V.N. While the Court is not making findings of fact at this time, based upon previous submissions, it appears to the Court that Brianna Nelson and V.N. are claiming:

Brianna Nelson and V.N. do not claim to be genetically related to John L. Nelson, the Decedent or any other non-excluded heir.

Brianna Nelson and V.N. allege they are the niece and grandniece, respectively, of the Decedent and are the daughter and granddaughter, respectively, of Duane J. Nelson. They allege that Duane J. Nelson is the half-sibling of the Decedent though a doctrine identified as equitable adoption or other legal theory that will be identified in their Memorandum of Law.

Duane J. Nelson's birth certificate indicates that John L. Nelson is his birth father and Vivian Nelson is his birth mother.

Brianna Nelson and V.N. allege that John L. Nelson held himself out to be Duane J. Nelson's father during his lifetime, was supportive of Duane's athletic accomplishments, and visited Duane a number of times in Milwaukee. It is further alleged that Duane J. Nelson was identified as the son of John L. Nelson in his own obituary, as well as the obituary of Lorna Nelson. Lorna Nelson listed Duane J. Nelson as her half-brother in pleadings in *Nelson v. PRN Productions, Inc.* 873 F.2d 1141, 1141 (8th Cir. 1989).

Brianna Nelson and V.N. allege that Duane J. Nelson had a close relationship with the Decedent during junior high school and high school. Later, it is alleged that the Decedent put Duane J. Nelson in charge of his personal security. It is alleged that Duane J. Nelson worked with the Decedent when he was at Paisley Park and when the Decedent was traveling.

6. The Court received The Motion of Brianna Nelson and V.N. to Clarify or Reconsider the July 29, 2016 Genetic Testing Order, filed August 26, 2016. In that Motion, counsel for Brianna Nelson and V.N. state that, “Brianna and V.N. – the daughter and granddaughter of Duane Nelson – make heirship claims neither under the Parentage Act nor as blood (or genetic relations).” From this, the Court construes that neither Brianna Nelson or V.N. will be offering by way of testimony, exhibits, or expert testimony that they are genetically related to John L. Nelson, the Decedent or any other non-excluded heir. Upon written statement signed by Brianna Nelson and V.N., through her legal guardian, consistent with the previous statement, the Court will vacate the requirement of its July 29, 2016 Order that Brianna Nelson, V.N., John Nelson, Norrine Nelson, Sharon Nelson and Tyka Nelson shall undergo genetic testing pursuant to the terms of the Genetic Testing Protocol.

7. Final submission of expert reports shall be served upon the Special Administrator and all non-excluded heirs no later than November 11, 2016.

8. If the Court finds that Brianna Nelson and V.N. have a claim, as a matter of law and in the light of the facts construed most favorably to Brianna Nelson and V.N. to be an heir of this Estate, motions *in limine* shall be served and filed no later than November 14, 2016 and shall be heard before the undersigned in Courtroom 1 at the Carver County Judicial Center on November 18, 2016 at 1:30 p.m.

9. If the Court finds that Brianna Nelson and V.N. have a claim, as a matter of law and in the light of the facts construed most favorably to Brianna Nelson and V.N. to be an heir of this Estate, the Court shall conduct an evidentiary hearing on November 30, 2016 and continuing until it is completed or until December 2, 2016 regarding the claims of Brianna Nelson.

10. The Putative heirs have asked the Court to limit the scope of document requests, interrogatories, and requests for admissions. The Court declines to limit the number of such requests but orders that any such requests be individually drafted for each party, not be overly

broad, and be specific in their nature to allow for prompt and meaningful responses in light of the shortened discovery schedule. The Court will make itself available to address discovery disputes so the discovery deadline set forth herein can be accomplished.

BY THE COURT:

Date: September 30, 2016

A handwritten signature in black ink, appearing to read "Kevin W. Eide", is written over a horizontal line.

Kevin W. Eide
Judge of District Court