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April 3, 2018

VIA EFS
[REDACTED]

The Honorable Kevin Eide
Judge of the District Court
Carver County Justice Center
604 East 4th Street
Chaska, MN 55318

Re: In re the Estate of Prince Rogers Nelson
Court File No. 10-PR-16-46

Dear Judge Eide:

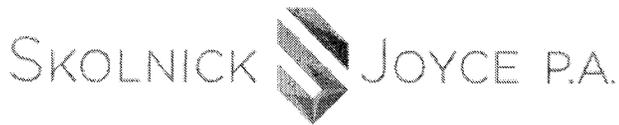
Per the conversation with your staff, Sharon, Norrine, and John Nelson (“SNJ”) are submitting this letter brief in support of their Motion to Resolve the NDA and Confidentiality Issues Involving SNJ’s Advisors. As the Court is aware, SNJ have retained the services of L. Londell McMillan and Charles F. Spicer, Jr. as their business advisors.¹ In that role, SNJ wish to obtain the business and entertainment advice of McMillan and Spicer concerning the Estate’s proposed entertainment transactions, proposed litigation settlements, and other Estate business generally. As the Heirs of the Estate, the Court noted that SNJ have a right to be involved in these matters, and to have the advice of advisors to counsel them. (Order Authorizing Personal Representative to Enter into Entertainment Transaction (dated June 9, 2017)). Specifically, the Court stated “...the Court expects the Personal representative to have an open discussion with the heirs about the terms of a proposed agreement, provide the heirs and their advisors an opportunity to review the terms and offer constructive advice as to how the terms can be improved or where the Estate might find another business partner that might offer better terms.” *Id.* The Court itself acknowledged that it “does not have the expertise to evaluate entertainment industry contracts...” and that it “...must rely upon the advice of knowledgeable attorneys and advisors to provide this information.” *Id.* Nonetheless, Comerica has been unwilling to agree to reasonable terms regarding an NDA for McMillan to allow both SNJ and the Court to obtain the advice they need.²

In its March 22, 2017 Order, the Court set the initial expectations with respect to confidential information:

As to the sharing and disclosure of confidential information (including confidential business information and genetic testing results) by the Personal Representative, either pursuant to this Order or in the exercise of the Personal Representative’s discretion to share confidential information when not required by this Order, the Personal Representative is authorized to limit such disclosure to the Non-Excluded Heirs and their counsel, with the understanding that the Personal Representative will have the discretion to share such information in a manner that does not compromise any applicable attorney-client and work product

¹ Initially, [REDACTED]

² The terms of an NDA between Comerica and Spicer have not previously been negotiated, but it is reasonable to believe that they would closely mirror the terms of an NDA between Comerica and McMillan.



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protections or hamper the confidentiality needed for future business and tax purposes. Specifically with respect to confidential business information involving any transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value, the Personal Representative shall disclose to the Non-excluded Heirs and their counsel such information as is necessary for them to make a knowledgeable assessment of the merits of the proposed transaction. The Non-excluded Heirs and their counsel shall not disclose such confidential business information to third parties without that party first entering into a non-disclosure agreement in a form approved by the Personal Representative.

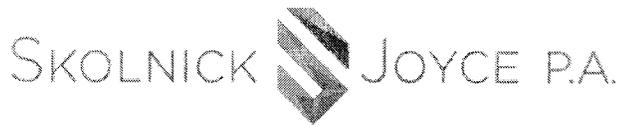
(Order Regarding Application of Existing Orders and Protocols to the Personal Representative, p. 7 (dated Mar. 22, 2017)). Following that Order, Comerica and McMillan engaged in negotiations regarding the form of an NDA, but quickly reached an impasse due to Comerica's unwillingness to recognize that McMillan has a long history with Prince that makes certain terms of a "form" NDA unworkable. Moreover, the lack of trust between Comerica and McMillan may have made the negotiations more difficult and contributed to the differences in the Parties' respective positions.

On May 10, 2017, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (See Order

Authorizing Personal Representative to Enter into Entertainment Transaction (dated June 9, 2017)). More importantly, there is nothing to suggest that McMillan has disclosed any of the terms of that agreement or otherwise used it to the detriment of the Estate. In reality, why would McMillan take such an action? He has been retained by half the Heirs of the Estate as a business advisor. If he improperly disclosed confidential information and it harmed an Estate transaction, it would ultimately be damaging to his own clients.

The last time SNJ sought Court intervention with respect to the NDA, the Court appointed Justice Gilbert to attempt to mediate the dispute. Upon Justice Gilbert's appointment as moderator/mediator, McMillan and Comerica resumed NDA negotiations. Through mediation, the Parties were able to get closer to a final agreement, but Comerica has refused to agree to certain terms that McMillan considers essential. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

As the Court will see, there are only a few points of contention remaining between Comerica and McMillan. However, the issues that remain are of critical importance. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



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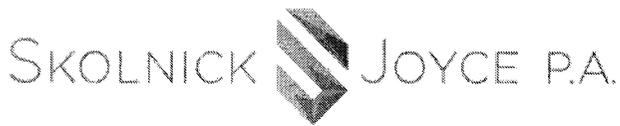
[REDACTED]

[REDACTED] If the Court does not intervene now, by establishing the terms of a protective order or in setting the reasonable terms of an NDA, SNJ will be forced to continue in this complicated process without their chosen advisors. It is hard to imagine that the Court's intent was to deprive half the Heirs of the ability to consult with the advisors of their choosing. Yet that will be the result without the Court's immediate involvement.

The most appropriate way to resolve this dispute is to have the Court issue a protective order to govern the disclosure of confidential information from Comerica to McMillan and/or Spicer. ³ Minn. R. Civ. P. 26.03 governs the issuance of protective orders in discovery situations, which is analogous to the situation in this case. Specifically, Minn. R. Civ. P. 26.03(g) covers the information disclosed in proposed entertainment transactions and settlement proposals, which ostensibly contain confidential commercial information. The Court has "broad discretion to fashion protective orders based on good cause." *State ex re. Humphrey v. Philip Morris Inc.*, 606 N.W.2d 676, 687 (Minn. Ct. App. 2000) (citing *Erickson v. MacArthur*, 414 N.W.2d 406, 407 (Minn. 1987)). The Court must consider all of the circumstances, including the type of action and the issues involved, in deciding whether to issue a protective order. *Id.* (citing *Baskerville v. Baskerville*, 75 N.W.2d 762, 769 (Minn. 1956)).

Here, consideration of the relevant circumstances strongly favors a protective order. SNJ comprise half of the Heirs of the Estate and need to obtain business and entertainment advice from McMillan and Spicer to make informed decisions regarding the proposed deals and settlement. The concern that McMillan will use confidential information against the Estate is undercut both by his obligations to SNJ as well as the utter lack of any evidence that he has used confidential information previously obtained to the detriment of the Estate. If McMillan were to use this information to

³ In the alternative, the Court could articulate the reasonable terms of an NDA using the various draft NDAs submitted with this letter briefing.



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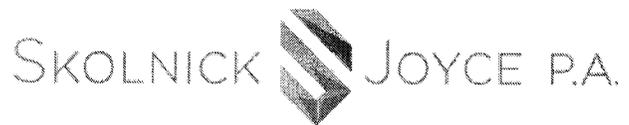
the detriment of the Estate, any harm caused would be half born by SNJ themselves. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allowing McMillan and Spicer access to this information will also likely save the Estate money and may even help to generate additional revenue. At present, SNJ are forced to decide whether to object to proposed deals and settlements without McMillan and Spicer's expertise. If they are permitted to review this information, it is likely that certain objections could be avoided or additional revenue streams could be uncovered. Whether or not the Estate and Comerica use McMillan's and Spicer's advice, at the very least they will have the benefit of the information, all without paying anything to McMillan or Spicer. Finally, the Court has expressed its sincere desire that the Heirs and Comerica begin to work more closely together, rather than remain in an adversarial standoff. Finally allowing SNJ to have the fully-informed advice from their chosen advisors is a step in the right direction.

On April 18, Comerica has scheduled a hearing to have the Court approve [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

So that they may obtain the advice they need, and to prevent additional expense related to this issue, SNJ respectfully request that the Court resolve the NDA issue once and for all. Since Comerica has not agreed to reasonable terms for an NDA, the Court is within its authority to issue a protective order establishing the terms by which confidential information must be disclosed to McMillan and Spicer by Comerica. If the Court grants this motion, [REDACTED]
[REDACTED]



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Sincerely,
SKOLNICK & JOYCE, P.A.

/s/ Samuel M. Johnson

Samuel M. Johnson

SMJ:mac

Cc: Clients (via Email)

Joseph Cassioppi

Counsel of Record for the Heirs