STATE OF MINNESOTA DISTRICT COURT

COUNTY OF CARVER FIRST JUDICIAL DISTRICT

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In Re the Estate of Transcript of Proceedings

Prince Rogers Nelson, File No. 10-PR-16-46

Deceased.

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The above-entitled matter came on for probate hearing before the Honorable Kevin W. Eide, one of the Judges of the First Judicial District, at the Carver County Justice Center, 604 East 4th Street, City of Chaska, County of Carver, State of Minnesota, on June 27, 2016.

A P P E A R A N C E S:

Laura Krishnan, Douglas Peterson and David Crosby appeared on behalf of Bremer Trust National Association.

Anthony Jones, pro hac vice, appeared on behalf of Omarr Baker.

Steven Silton appeared on behalf of Anthony Jones.

Kenneth Abdo and Adam Gislason appeared on behalf of Sharon Nelson, Norrine Nelson and John R. Nelson.

Frank Wheaton and Justin Bruntjen appeared on behalf of Alfred Jackson.

Cameron Parkhurst appeared on behalf of Darcell Gresham Johnston.

James Selmer, Marc Berg and Charles Brown appeared on behalf of Venita Jackson.

Brian Dillon, Matthew Shea and Nevin Harwood appeared on behalf of Tyka Nelson.

Paul Shoemaker appeared on behalf of Carlin Q. Williams.

Andrew Stoltmann, Celiza Braganca and Jennifer Santini appeared on behalf of Brianna Nelson and V.N.

Also Present: Craig Ordal, Bremer National Trust Association; Deborah Fasen, Bremer National Trust Association; Tim Murphy, Bremer National Trust Association.

Jackie J. Knutson, Official Court Reporter

THE COURT: Good morning, folks. We're here to address the matter of the Estate of Prince Rogers Nelson; court file is PR-16-46.

I've got lots of attorneys here today, if I could ask that we have you announce appearances. Perhaps we can start over on this side of the room and then move around. Try not to talk over each other so that my staff attorney and court reporter can get your names.

MS. KRISHNAN: Good morning, Your Honor. Laura Krishnan, Douglas Peterson and David Crosby appear on behalf of Bremer Trust. Bremer Trust also appears in person by Craig Ordal, the president; Deb Fasen, the assistant vice president and Tim Murphy, internal trust counsel.

THE COURT: The middle name that you gave, could you spell that?

MS. KRISHNAN: Deb Fasen, F-A-S-E-N.

THE COURT: Thank you. Okay. And behind Ms. Krishnan. You're all with Bremer?

MS. KRISHNAN: Yes.

THE COURT: Okay. Starting at the next table.

MR. JONES: Anthony Jones, appearing pro hac vice, representing a sibling through Mattie Shaw.

MR. SILTON: Good morning, Your Honor. I am local Minnesota counsel for Anthony Jones.

THE COURT: Your name, sir.

MR. SILTON: I'm sorry. That would help. Steven Silton, at the law firm of Cozen O'Connor acting as local counsel for Anthony Jones.

MR. ABDO: Good morning, Your Honor. Ken Abdo along with Adam Gislason representing Sharon Nelson, Norrine Nelson, and John R. Nelson.

MR. WHEATON: Good morning, Your Honor. I'm Frank K. Wheaton, representing Alfred Jackson, along with my co-counsel and local counsel Justin Bruntjen.

THE COURT: Thank you.

MR. PARKHURST: Your Honor, sandwiched between Mr. Wheaton and Mr. Bruntjen here, my name is Cameron Parkhurst. I'm counsel for Darcell Gresham Johnston in this matter.

THE COURT: Could be a dangerous place to sit, Mr. Parkhurst.

MR. PARKHURST: I gave Frank a bottle of water, so I'm hoping he behaves.

MR. SELMER: Your Honor, I'm James Selmer here on behalf of Venita Jackson to my right, and to my immediate left is my co-counsel Marc Berg, along with lead counsel Charles Brown from Kansas City.

MR. JONES: Thank you, Your Honor. I was maybe following your rules too closely; we're here representing

Omarr Baker.

THE COURT: All right. Anywhere you want to start?

MR. DILLON: Brian Dillon and Matt Shea, Nevin Harwood from the Gray Plant Mooty firm on behalf of Tyka Nelson. Ms. Nelson is seated behind me; flanked by her husband Maurice and her son Prez.

MR. SHOEMAKER: Good morning, Your Honor, Paul Shoemaker here on behalf of Carlin Q. Williams.

Mr. Cousins will not be joining us at this hearing.

THE COURT: Thank you.

MR. STOLTMANN: Good morning, Your Honor. My name is Andrew Stoltmann. We represent Brianna and Victoria Nelson. Along with me is Lisa Braganca and Jen Santini.

THE COURT: Anybody we've missed?

MR. SILTON: I would state for the record, Your Honor, that Omarr Baker is here in the courtroom today.

THE COURT: Okay. Thank you.

Ladies and gentlemen -- I'm primarily addressing the public and media that are here today -- I issued an order denying access to the courtroom for audio and video recording, for sketching, and I did so for this reason: That this case perhaps is unique in the State of

Minnesota -- in my speaking with State Court Administration and in my speaking with Hennepin County, probate registrars that handle a much larger volume than we ever have, I think this case presents a unique crossroads between probate law and parentage or paternity law. There are separate rules under paternity law that makes certain parts of or all of records and hearings confidential. One way I could have gone was to exclude everybody out of the courtroom except for parties and the attorneys.

Challenging this is that there are three cases that most of the counsel here have cited to the Court that have been important decisions that have been made over the years regarding how we address paternity in probate cases. All of those cases were decided in 2006 or before. The law changed in 2010 and so we are all struggling with how the old cases apply to the new law. And so in many ways we're in somewhat uncharted water here, or uncharted water in the sense of who are going to be the identified heirs of Prince Rogers Nelson, but we're also in uncharted waters regarding what parts of hearings are confidential and what parts are public.

So with that explanation, my apologies to the media that did want to have cameras and sketch artists in the courtroom.

As I indicated in my order, I have asked counsel to try to address their issues before the Court. Not addressing a specific possible heir but addressing a class of heirs. For example, those that may have the father of -- the initial petition identified John Lewis Nelson as being the father of Prince Rogers Nelson. There are other folks that claim that John Lewis Nelson was not the father of Prince Rogers Nelson, that there was some other person that was the father and, therefore, there are other siblings or half-siblings under that different person.

I've asked the attorneys to address their comments, addressing a class of people that may -- that can be identified to the point of assisting counsel in making their arguments today.

I have told you, however -- you, the public and the media -- that it is possible that at some point during the hearing today we may have to cross that line and talk about specific claims -- about specific paternity claims, and then I may have to ask you to leave the courtroom for that under the Parentage Act law that would apply in this case. I hope that doesn't happen, but just to let you know that it might.

And with that, Counsel, are you prepared to proceed?

MR. CROSBY: Yes, Your Honor.

THE COURT: All right. I've asked that Bremer Bank address the Court first regarding the genetic testing protocol that has been identified by them and approved by the Court and to address any issues regarding when genetic testing may be appropriate for certain classes of heirs or whether -- or when certain presumptions under the Parentage Act may apply and, therefore, not require genetic testing. I'll then give remaining counsel an opportunity to be heard as well.

Mr. Crosby.

MR. CROSBY: Thank you, Your Honor. David Crosby for the Special Administrator, Bremer Trust, NA. And pursuant to your instructions beforehand, I'm going to speak from the easel, if that's okay. I'll try to keep my voice up.

THE COURT: Thank you.

MR. CROSBY: May it please the Court and Counsel.

Again, Special Administrator's goal as part of the determination of heirs process is to treat all claimants fairly under the applicable law. As Your Honor pointed out, that applicable law involves both Minnesota common law and involves the Minnesota probate code; it involves the Minnesota Parentage Act. And it was a

combination of those acts that led to the Special Administrator developing the protocol -- the parentage protocol -- that has been put in place by this Court which requires claimants not only file an initial affidavit, but also prepare a second affidavit answering certain questions that the Special Administrator deems to be relevant to the inquiry of heirs.

Before we talk about the interplay of how those laws work, I think it's important just for everyone to review how intestacy works in Minnesota. As we've told the Court, the parties have spent a lot of time -- excuse me. The Special Administrator has spent a lot of time looking for a will. It's gone through literally thousands of boxes of documents. It's looked at four different physical locations. It's talked to counsel for the Decedent. It has not heard back from all counsel for the Decedent. But we have had no indication that a will exists. Perhaps there's some indication to the contrary based on some the correspondence we've seen, but certainly no indication that a will exists, and we've basically looked under now every box lid. So that process is coming to a close very soon.

But so let's say there is not a will -- this is just a general example. This is not necessarily the Decedent's, although it's kind of close to it. But here

on this chart -- and I know it may be difficult to see, although counsel, I believe, has copies -- Yes, Judge.

THE COURT: I don't know how you feel if you're writing left-handed or whatever, but can you rotate around the other side? No. Just you come to the other side --

MR. CROSBY: Oh, sure. Yeah.

THE COURT: So that you're not blocking the people.

MR. CROSBY: Very good. Kind of a Vanna White thing.

So on our chart here under my sort of hypothetical situation, we have a mother, we have a father. Let's say that they were married. They were married and then they later got divorced. Father remarries and has wife number two. While mother and father were married they have two children. They have the sibling and then they have the Decedent. I'll just draw a big "D" here. And then let's say the Decedent may have had some children. Okay? So it would be the grandchildren of the mother and father.

So under Minnesota intestacy law, how does that work? Decedent passes away. There is no will found. The way it works is if there are children, the children take by representation. And that's under 524.2-103(1) of

the Probate Code. Okay? And they share equally. They share the whole estate. So the sibling doesn't get anything. The mother and father don't get anything; it all goes to the children.

Let's change the example for a minute. There's now no children. Well, now where does it go? It goes entirely to the mother and father. Okay? That's if no descendants. To Decedent's parents equally if both -- and the word in the Probate Code is "both," -- not "all," "both" -- survive. Or to the remaining parent if one is not -- let's say father is dead, then mother gets everything. If there are no surviving parents -- in other words, we have no children, we have no parents -- it goes to, quote, "the descendents of Decedent's parents." So who are descendants of Decedent's parents? In my example, it's this sibling here, but it can also be half-siblings.

So in this example, father remarries, has a second wife; half-sibling; half-sibling; half-sibling. These four -- assuming that they don't have -- that they are still all alive and without children -- these four all share equally. And to the descendants of decedent's parents -- the key is, who are the parents if it's the descendants under the Probate Code who take. Now let's say in my example that we have descendants. We have a --

let's say we didn't get remarried; there is a sibling. Anybody else have more distant? Cousins, uncles, things like that? Not relevant to the analysis. As long as there is at least one sibling that's alive or one sibling that had children that are alive, that's the end of the inquiry.

So if we don't have -- we don't need to get into questions about uncles and, you know, great-aunts and cousins once removed and all of that stuff that I never understood anyway about once removed. Okay. So we've got, again, my hypothetical: Mother and father, they get -- they have the children during the marriage, they get divorced, father remarries and they have three children. So the question now -- because, again, in my example, let's say the children are gone and the parents are gone too, the question for who the siblings are, who are the parents? What does the Probate Code say about this?

Because some of the objections we've heard in this case, Judge, are saying we're not applying the Probate Code correctly. Well here is what the Probate Code says; 524.2-117, it's a new part of the 2010 modification to the Probate Code: "A parent-child relationship exists between a child and the child's genetic parents, regardless of the parents' marital

status." In my examples, they were married, but if they weren't married, the parent-child relationship would still apply to the genetic parents. What does that mean? Who are the child's genetic parents? Again, the Probate Code very clearly has an example of that -- or a definition, excuse me. 524.1-201(24). And the legislature, in its nice brevity, says, "The 'genetic parent' means a child's genetic father or genetic mother." Okay. Well, thank you for that, I guess. So we've got to go further. What does that mean? 524.1-201 (23): "'Genetic mother' means the woman whose egg was fertilized by a sperm of the child's genetic father." Okay. That makes sense. "Woman whose egg was fertilized by the sperm of the child's genetic father."

Here is the key, though, to our matter: Who is the genetic father? That's where, again, the new statute comes into play, and it's very relevant in our case. Minnesota Probate Code 524.1-201(22), it says you can only have one genetic father because genetic father means, "The man whose sperm fertilized the egg of a child's genetic mother." Okay. That makes sense so far. But then it goes on: "If the father-child relationship is established under the presumption of paternity under Chapter 257, 'genetic father' means only -- only the man for whom that relationship is established." So what does

that mean? And what is Chapter 257?

Well Chapter 257 is the Minnesota Parentage Act. And the Minnesota Parentage Act is a whole separate statutory scheme, but what this is saying is, if you've got a genetic father under 257, that's the father. Only. You can't have more than one genetic father; it's only that father. So how do we establish a parent-child relationship under the Minnesota Parentage Act? There are two ways. One, there is presumptions under the Parentage Act. That's 257.55. The second way is a judgment or order of a court having established a parent-child relationship. Under the first way, 257.55, for example, marriage, you're presumed to be -- if you're born, in my example, during the marriage, you're presumed to be -- have a parent-child relationship. There are rules who can seek to declare the non-existence of a presumed relationship. That's 257.57 of the Parentage Act. But those rules are very limited. Only a handful of people in the entire world can say, no, this presumed relationship between mother and father and child born during the marriage, that's wrong, it's not true. The mother can do that. The child can do it -- a representative of a child typically -- or another man presumed to be the father. But there are also very strict guidelines and timelines, I should say, as to the

amount of time you have to do that. Under 257.57, three years. Three years and a day is too late. Okay. At that point the presumption becomes what we call "irrebuttable."

THE COURT: Mr. Crosby, three years from when?

MR. CROSBY: Three years from -- in my marriage example -- from the birth of child. There are other presumptions, some of them have a little bit different timeline, but for the most part, it's a very limited number of years. In my example, though, the marriage example, it's three years.

Remember the second way I said; you can have a judgment or an order of a court determining a parent-child relationship. What does that mean? Well, remember my example. Mother and father get divorced. Go through a divorce proceeding; at the end of the proceeding, there's a judgment and an order saying, you know, you're going to pay this much a month, and you're going to get the house, and you get the car, you get the fish. It also typically says, though, there were children born of this marriage. And who are the children? Sibling and decedent. Once that becomes a judgment under the Parentage Act, 257, that judgment or order is determinative for all purposes. Not just for parentage, who pays child support. Under Minnesota law,

for everything. And the Minnesota courts have applied that when looking at parentage, probate. If there is a judgment or order declaring someone to be a child of the mother and father, that's the end of the story.

So how does all of this work in practice? Well, let's take a few examples. Let's say that decedent passes away, there aren't any known children, he doesn't have a will, but somebody raises their hand and says, "I think I am the son or daughter of decedent." If that person does not have -- already have an existing parent-child relationship that's either been presumed, that is not irrebuttable, or that has already been determined to be the child of somebody else, then in that case if they can establish the requisite sexual relationship between decedent and somebody else, they can seek to be genetically tested. And genetic testing in those situations is appropriate. If they can't make that allegation though, they can't say, "Well, I just think I am because I look like him. I never knew my mother, though, and I don't know if she ever slept with the decedent or not, but I'd like to be tested." That's not good enough. You have to at least allege the requisite sexual contact. Okay? So that's example number one.

Let's talk about siblings. Let's say in my example we've got a mother and father and they had two

children and they were divorced and they're both named to be children of the marriage. Siblings, determinative for all purposes, this sibling is an heir, if there aren't any children and there aren't any parents. This sibling doesn't need to be tested. The law in the state of Minnesota has already determined her to be a sibling. There is no reason to have this brother or sister tested against decedent because they're already determined as a matter of law to be a sibling.

What about the half-siblings? Well, again, are there any parentage presumptions, because that's under 524.1-201. I have to determine that first. Are there any parentage presumptions? Again, in my example father and wife remarried and these are all children of the marriage. Maybe they didn't get divorced, maybe father dies or whatever, but they're all siblings of the marriage -- or children of the marriage. The time to challenge their parentage as being a descendent of father has passed. Nobody can come and say, "I don't think you're a child of father. I think you were somebody else's son." As a matter of law, these siblings are heirs. They don't need to be tested -- again, assuming there aren't any mothers or fathers or children that are alive. So in my example, all four of these siblings -- the one sibling and the three half-siblings -- they don't

need to be tested because nobody can challenge their parentage.

Let's take a third example. Let's focus on now the father. Let's say that there are no children. Let's say mom and dad are still alive. Okay? And they're -- remember in my "and where did you go," they're second in line, mother and father are going to take equally. Well let's say another gentleman raises his hand and says, "I didn't want to say anything because you were married at the time but" -- again, I'm sorry if I'm embarrassing anyone -- "but mother and I've had a dalliance during the marriage. And I'm pretty sure that it's not father, it's me. I'm the dad. And thus, even though I wasn't there for college and paying for that, and I wasn't there for the 3 a.m. feedings, and I wasn't there for teaching him how to throw a baseball, I now am an heir." Okay? "I'm new dad. I'm the dad that was -- whose sperm actually fertilized mother's egg." The law doesn't permit that. You can only have one genetic father. And here we've got a determination through the divorce decree and also the presumption that's irrebuttable in my example that this gentleman is the father. So this gentleman, even if it's true, doesn't have a claim under Minnesota law. So there is no basis on which to test the new father because he can't be the father. He cannot be the genetic father

under Minnesota law.

Here's the next example. Let's say the new father is dead but his children come forth. "You know, it has always been a family legend at our house that my dad, new here, was the actual father of decedent." And he's dead. He can't say whether he was or not. But we know he couldn't be the father anyway under his own challenge but now it's the children saying, "You know what? I'm pretty sure that I'm a half-sibling because it was my dad who impregnated mother those 50-some years ago. And as a result, me and my brother, we're the half-siblings. We've never met decedent. We live halfway across the world. Because new father had us -- he had us through a different relationship. He had us when after his dalliance with mother, ten years later he got married and he had us. We're the half-siblings. So all of you half-siblings are out, and, instead, I should come in and my brother should come in." Minnesota law does not permit that.

The *Jotham* case makes it clear -- that's a Supreme Court case decided in 2006, and while it was decided under a different probate code, the point of the *Jotham* case is you cannot challenge an established presumption of parentage as part of a probate action. What happened on that case was there was a man, he had

two children during his marriage to mother. The second child was born after they were divorced but within the presumption time. The man dies later. One sister says, "This girl, she was never my true sister. She looks a lot like my next-door neighbors did and the person that my mom, you know, was having an affair with. I want it tested. I want it established that sister -- my alleged sister -- really isn't my sister. I should take everything if that's the situation." In the *Jotham* case the Minnesota Supreme Court says, no, you're trying to challenge an established paternity of parentage and you can't do that. There are policy reasons why the cases that we cited to the Court explain those policy reasons. I'm not here to argue policy. I'm just saying what does the law say, and we're trying to apply the law fairly to everybody.

Now, there had been confusion, Judge said so earlier, about the previous version of the Probate Code. The Probate Code used to say, "The parent-child relationship may be established by the Parentage Act." So people jumped on that and said, "I'm trying to establish a parent-child relationship and the Court let me do it. Not that I was trying to challenge one. I'm just trying to say I'm here too and there is not an existing presumption of parentage." Well, the "may be

established" caused a lot of confusion. The legislature took it out. It's no longer in the Probate Code. So the *Palmer* and *Martignacco* cases, that some of the objectors are trying to rely upon, that language that those decisions were based on is no longer there. Even under that old language, though, you could not challenge preexisting parent-child presumptions or past determinations -- judicial determinations of parentage. With the 2010 amendment to the Probate Code, there is no longer ambiguity.

If there is a parent-child relationship established under the Parentage Act, that man for whom the parent-child relationship is established is the one and only genetic father. That's why we developed this protocol, Judge. It seeks to answer the first question that we have to under the statute. Whether a parent-child relationship exists under the Parentage Act in one of those two ways that I explained, because if it does exist and cannot now be challenged, our inquiry is over. It's only if there is no parent-child relationship under the Parentage Act might genetic testing be relevant.

That is all I had for this part, Judge, unless you had any questions for me.

THE COURT: Thank you. There have been several

objections filed along the way. Several of those objections may directly impact the conversation we've had -- that Mr. Crosby had, and it may not. I don't know if they're all relevant for today's hearing, but I'll go in the order in which I think I received those objections. So, Mr. Shoemaker, you had raised an objection; however, your client went ahead with genetic testing, and so I don't know if there is anything further that you want to be heard on at this point.

MR. SHOEMAKER: Good morning, Your Honor. Paul Shoemaker on behalf of Carlin Williams.

Your Honor, as the Court has indicated in prior communication, the Court signed the order over the top of the objection. The proposed order that was submitted by our office and Mr. Cousins included several of the definitional statutes. The actual statute that is referenced right here. We wanted that included in the order. I do have a position and I'll speak to that later as to the interpretation given to this particular protocol by the Special Administrator but I think our objection was covered sufficiently now by the Special Administrator.

THE COURT: Are you suggesting that we need to close the courtroom before you address the other issue?

MR. SHOEMAKER: No, I'm not, Your Honor.

THE COURT: Okay. Then why don't you address it now.

MR. SHOEMAKER: All right. If I may remain seated so I can make reference to my notes?

THE COURT: You may.

MR. SHOEMAKER: Your Honor, I think that this particular statute right here interpreted strictly would rule out a person like *Martignacco* who challenged the fact that he was related to the intestate. He had a presumptive father. His father was -- his notarized birth certificate. His mother and father were married at the time that he was born. So he had a presumptive parent. And yet permissibly the Court allowed him to receive some testing based on all of the anecdotal evidence that was brought to bear on that issue. And he was later determined through the testing to be the heir of Mr. Martignacco.

Right now we have a change in the law in 2010, and this particular statute says that there can only be one genetic father. However, in Section 524.2-117 it provides for a parent-child relationship with a genetic parent without regard to the marital status. And it strikes me that as the Court progresses on this subject, it has to determine the intention of the legislature. Was the legislature in 524.2-117 instructing that

regardless of the presumptions because of the marital status is irrelevant, a party can seek testing asserting their right as a genetic match to that parent? And it seems to me that there is a little disconnect between this particular provision which defines only one genetic father where there is a provision that says, "without regard to the marital status." And with respect to the client that we represent, that's not really relevant. But it strikes us that that is somewhat of a confusion between one set of statutes and the next.

In the *Jotham* case, that was the non-existence of a parental relationship that was being challenged. The sister challenged her sibling, saying that sibling is not really my sibling. She should not inherit from our father. That's the non-existence of the relationship, and that has a time bar of three years. In all of our cases including *Palmer*, *Martignacco* -- and the subject was not addressed in *Jotham* because the statute was not involved -- the non-existence of a parent-child relationship is number one, the sister did not have standing because she was not included in the very narrow group of people who could challenge the non-existence of the parent-child relationship.

But, furthermore, that only dealt with the non-existence, not the existence. And if we're going for

the existence of a parent-child relationship, 524.2-117 defines that relationship without regard to marital status. And, for that reason, it seems to add a great deal of confusion as to whether there is only one genetic father; that is, the father who is presumptively the father, i.e., Mr. Martignacco, you don't have standing to come before us because you're knocked out of the box regardless of the fact that you are tested and you have that strong showing that Mr. Martignacco is your parent.

It seems to me that the legislature has attempted through the enacting of these new laws that define the parent-child relationship to more comprehensively address this issue, but I don't get the sense that it was to overrule any of its prior precedence. It was to allow and sanction through the statute the genetic parent relationship that had been recognized in *Palmer* -- even earlier in prior cases -- and then affirmed in *Martignacco*. But it does not seem to me that it was the intention of the legislature to change the rulings that courts had made but to provide more definition for a court in this very instance.

And there is a second question -- it doesn't necessarily concern my client -- but the question of whether this travels further than just the parent-child relationship. That is the deceased to a potential child

of the deceased. Does it, in fact, go up the line and work with other more distant relatives? And that is a question that is not addressed in our statutes. And as far as I know, it hasn't really been addressed in our case law either.

Those are the comments that I wish to make, Your Honor. Thank you.

THE COURT: When you try to distinguish proving the existence or the non-existence of a presumption, the original petition in this case claimed that John Lewis Nelson was the father of Prince Rogers Nelson. If there is another person that claims a sibling relationship with Prince Rogers Nelson claiming that John Lewis Nelson is not the father but rather a different individual was, is that claimant now trying to disprove the presumption?

MR. SHOEMAKER: Well, Your Honor, that's not a client interest that I represent.

THE COURT: I know, but you brought up the question.

MR. SHOEMAKER: And I would say that, no, that they're attempting to declare the existence.

THE COURT: They're trying to declare the existence of their heirship, if that's a proper term, by disclaiming the heirship of anyone who is a descendent of John Lewis Nelson. You can't have one without the other,

right?

MR. SHOEMAKER: I think you can add to the pool. I don't think you can knock the pool -- those in the pool out. In other words, in the case of *Jotham*, there were two sisters, 279 days after the divorce one of the daughters was born, one day before the presumption would not apply, the sister who was firmly within the marriage term, said, "That can't be my heir. She can't be an heir. I'm knocking her out of the box." No, I think the *Jotham* case says you can't knock her out of the box. Could someone else come into the box and declare the existence of a relationship? And I believe that our case law says it can, under 524.2-117. Because if a parent-child relationship exists, through genetic relationship, that person can come in.

And I don't believe that just because they have a presumptive father i.e., in the *Martignacco* case, that they're precluded from developing that relationship. I don't know if that answers the question, but if you're in the box under a presumption, others in the box with you cannot bump you out of the box. But if you're trying to get into the box, I believe you're entitled to create the relationship through genetics.

THE COURT: Let's go back to Mr. Crosby's first board. And we've got mother and father -- thank you, Ms.

Shirk -- and we presume that mother is Mattie Shaw, and under the petition the father is John Lewis Nelson. The only way that somebody else could get into the box -- to use your term -- is to exclude John Lewis Nelson as the father and claim that some third party is the father of Prince Rogers Nelson; am I correct?

MR. SHOEMAKER: No, I don't believe that's my argument, Your Honor. I think that the presumption there as to the sibling matched on the level with the red D box. That sibling remains in the box. Not because of mother, but because of the presumption between mother and father. The presumption carried through from the Parentage Act. But those that are one-half and one-half boxes at the top, they're entitled to get in the box by simply showing that they're related to the deceased through the parent-child relationship. Those two can be added to the box of those who would take pursuant to that statute. I believe that's the only interpretation that we can draw from *Palmer*, *Martignacco* -- and *Jotham* really says if one of the three boxes from wife, two challenged another of those boxes -- let's say the left one-half sibling challenges the one on the right -- says, "That sibling over there on the right is not my sibling. We all know there was somebody else involved in that." That sibling cannot knock that half-sibling, on the right, off

the map. That's the *Jotham* case. But everyone else who attempts to get in the box can do that under *Palmer* and *Martignacco.* And I believe the new statute, the statute that references without regard to marital status, you can't make it consistent if you don't recognize that people can come to the -- can be added to the list without regard to bumping people off. There's still a relationship presumed by law between mother and father; that is, Mr. Nelson and Mattie Shaw. So those under that will take. If Mr. Nelson moves over and has other children with wife two, those people may be entitled to presumptions as well. In that regard, that list of heirs grows. But none of those people in those boxes can move laterally and knock people out of that box. That's the *Jotham* decision, in my view.

THE COURT: I agree with that part of it; yep. Mr. Crosby, I think we'll go around the room first, and then give you a chance. Okay?

Mr. Parkhurst.

MR. PARKHURST: Yes, Your Honor. May I approach the easel?

THE COURT: You may.

MR. PARKHURST: Your Honor, I think -- may it please the Court, Counsel -- I think when you look at the new statute that came about in 2010, the key here is a

couple of things. Presumption of paternity under Chapter 257. The probate filing is not a presumption of paternity under Chapter 257. It's simply a prima facie case of some facts to get people into court. As you yourself have said in this particular instance here, at that first hearing, I look around this courtroom and a lot of these people weren't here. So they weren't here to say yes; they weren't here to say no; they weren't here to object.

So to answer your question about that petition, that filing creating the presumption, I would say no, Your Honor, it does not. Because if we go with that statute -- which I'm not saying we should. I'll get to that in a minute -- it says under Chapter 257, and that was not done under Chapter 257. But then we would be saying that a lot of people in this room and people who may come later because no will has been found and we've not shut the door on any potential heirs or children or siblings. They may come forward after this hearing and are they foreclosed from objecting or, you know, that kind of a line of argument? I think we have a problem there that until there is no will and there is adjudication there and the door is closed for anybody else to come forward, we're kind of in a bind where we can't make some determinations. We have some potential

children, which as Mr. Crosby ably showed, certainly came before half-siblings, if they're deemed to be children. So that would be my answer to that question there.

Your Honor, in your June 22nd order on the audio and video recordings you stated that "The Probate Code does not mandate the exclusive use of the Parentage Act to determine paternity, and paternity may also be established in probate court by clear and convincing evidence, citing to the *Martignacco* case and the *Palmer* case. The Parentage Act may or may not apply to these proceedings." That gave rise to three things to address and deal with today: The legal application of the Parentage Act generally for these proceedings, whether or not there's a specific application or presumptions of paternity, or the lack of a presumption. And then some questions about the genetic testing protocol that was previously approved.

What I would say, Your Honor -- and this came and I briefed this in my memo -- is that the Probate Code is the only statutory scheme necessary to determine heirs in an intestate proceeding. The definitions have already been ably read and discussed here. But I would like to emphasize one thing about the genetic relationship when the statute -- and then we'll talk a little bit about the statute -- but 524.2-120, I believe that's the right

site, specifically states that "The genetic parents of adopted children cannot inherit from those adopted children." And I think that's important that that statute is in there by choice of the legislature. Because clearly they recognize in connection with the other definitions. "The genetic father; the one who fertilized the egg." The fact that the relationship, "regardless of marital status, a parent-child relationship existences between a child and a child's genetic parents regardless of the parents' marital relationship. If a parent-child relationship exists or is established under this part" -- this is 524.2-116.

THE COURT: Can I ask you to slow down?

MR. PARKHURST: I'm sorry, Your Honor; yes.

"If a parent is a parent of a child and a child is a child of a parent for the purpose of intestate succession."

What we have here, though, Your Honor, is, as we said, they have changed 524.1-201(22) when they changed the law in 2010. And as we well know before that there was language in the Probate Code that said, "May apply to the Parentage Act." And the *Palmer* case in that particular instance said, "No, clear and convincing evidence is the standard." *Martignacco* built on and again addressed the use of the word "may" in the Probate

Code is permissive and that the clear and convincing evidence standard from *Palmer* is correct.

Jotham supports this as well. *Jotham*, under that circumstance, we still had the "may," and we had a situation where two people were claiming who have -- we had two people ran under a presumption under the Parentage Act. And the *Jotham* case simply stands for the fact that in that case if you benefit from a presumption, you can't -- you're stuck with the whole statute, including the limitations that Mr. Crosby talked about.

And then Special Administrator cited the trusteeship of the trust case created under agreement dated December 31st, 1974. I would say that this also supports the clear and convincing evidence standard because in that particular instance they looked at the Trust Code, which at that time was 501B.16 -- that's how they came forward -- and the Court said that the Trust Code did not have the similar language that was in the Probate Code that permitted the "may" use of the Parentage Act so that the trustees and the trusteeship case, we're stuck with that.

So where does that leave us? The Special Administrator has made some assumptions here about this particular statute. In 2010 when they changed it, they took out "may," they could have gone -- and I don't read

it the way they do -- they could have gone "you will use," "you are required to use," "you must use." They did not do that. They went with two -- two definitions. "Genetic father means the man whose sperm fertilized the egg of a child's genetic mother." That's pretty straightforward and clear. If they just stop there, life would be a little bit easier for us. Then they threw in now "If the father-child relationship is established under the presumption of paternity under Chapter 257, genetic father means only the man for whom that relationship established."

Well, what does that mean? The Special Administrator has suggested that if there has been a judicial determination under Chapter 257 that that determines who the genetic father is. That does make some sense if prior to a probate proceeding there has been a judicial determination of a court of similar jurisdiction. It would be unseen for the probate court to overrule that earlier judicial decision that may have come up in family court or some other setting. But from what we've seen here today, the arguments of counsel and memorandums, there's been no evidence given to us of a prior judicial determination. It's been talked about that that's a possibility, but we haven't seen one and we haven't been given one.

So what are we left with then? We're left with the Special Administrator concluding that there's a presumption. The problem that I have is who's making that presumption? Are they making that presumption based on the information that we submitted to them? Are they applying Chapter 257? If the father-child relationship is established, it's not particularly clear about who gets to establish it. I would submit that only under the circumstance of a prior judicial ruling would Chapter 257 take over here. But without that, it's limited and we look at the clear and convincing evidence standard which would not rule out, I believe, people who have already submitted some information. So that's sort of one of the issues that I've got.

So we have -- you talked once about this burden of proof, whose job it is. And under a clear and convincing evidence standard, the person who is coming in has to submit evidence, and that evidence has to be heard by a court in an evidentiary hearing to make a determination. And if there's no prior judicial determination, then we're left still with the clear and convincing evidence standard; which I think you recognized from your earlier order, and I still think the *Martignacco*, the *Jotham* cases, the *Palmer* case, and even the trusteeship case are all supportive of.

Finally, Your Honor, the genetic testing; the protocol. The genetic testing has different applications, I think, to where your claim is coming from. And the problem with the protocol is that it was designed by the Special Administrator and assumed it ran everything through a Chapter 257 blueprint and assumed that's the only way in. In this proceeding and use of this application, that protocol prevented potential heirs from using the full breadth of the Probate Code to make their claims. There's a distinction that needs to be made about genetic testing. When you're looking at clear and convincing evidence, it's not clear and convincing evidence to get to genetic testing. Genetic testing can simply be one part of that clear and convincing evidence.

I will acknowledge that a parent-child relationship is much more or almost exclusive -- that it can be established conclusively through DNA and genetics a parent-child relationship. But the understanding that when you get to siblingship testing, and they call it that, or half-siblingship testing, it's not nearly as conclusive. It's entirely possible for two siblings to not share any genetic material. They could have gotten separate halves, and it could have been -- they got that separate half and they got that separate half and none of the two shall meet. So in terms of a sibling to sibling,

it's like a puzzle. The more people, potential siblings, potential half-siblings that are tested whose DNA and genetics is included into that puzzle gives us a clearer picture of the strength of the relationship between those siblings. It may even show that some don't belong; but it gives a clearer picture.

So when you look at genetic testing for siblings, there's an interesting question of is it just one, is it two, is it three? How many people do you need to get a clearer picture? And I'd submit if you've got a 25-piece puzzle and you only have two pieces, five pieces, ten, twelve, you don't have a very good -- a very clear picture of the connections between everybody else. And that's one of the hazards, I think, with the genetic protocol as it particularly applies to siblingship and half-siblingship relationships. It's a piece, but, unlike what the media seems to think, it's not exclusively dead-on, a lock-certain deal.

And so, Your Honor, in closing, I would just like to submit that the Probate Code is all you need to look at here. That this, the new statute, doesn't immediately take us to Chapter 257. It doesn't say "must use." It says "if." And I submit that "if" relates back to a prior determination before we get into probate court. "If" does not mean now we go to Chapter 257.

Because if that's the case, all of those other parts of the Probate Code would serve no purpose. All that language about genetic father, genetic relationship, adopted children -- adopted children, genetic parents not being counted.

So that is where I go with that, is that it's limiting, it's not mandatory, and it's not where we go.

So, respectfully, I'm going to request an order that is clear and convincing evidence is the standard that should be applied here.

If you have any questions, I'd be happy to --

THE COURT: One question before you sit down. Assuming -- and counsel and I talked about this this morning -- that if the birth certificate of Prince Rogers Nelson is even filed with the Court at this point. But assuming that that birth certificate says that the mother of Prince Rogers Nelson is Mattie Shaw and that the father is John Lewis Nelson, looking at the language, if the father-child relationship is established under the presumption of paternity under 257, if I have a birth certificate that says that John Lewis Nelson is the father, don't I have a presumption under 257? It's not an "if." I've got it. Am I right?

MR. PARKHURST: I think if you interpret that the birth certificate fits as a presumption that has been

established under 257, but I would submit that that has not been judicially determined. I would say no, Your Honor. I would say then it's still just a piece of clear and convincing evidence to be considered with other pieces as well. When you look at the *Palmer* case, they talk about a lot of different things in terms of what might be considered clear and convincing evidence.

THE COURT: I do know that under 257 if there are multiple presumptions, I get to use such loosey-goosey things as logic and stuff like that. But if all I've got is one presumption, that's my question to you, it's not an if, it is.

MR. PARKHURST: Your Honor, it depends on -- I think we're disagreeing on is that a presumption that rises to the level of a judicial determination, that's all.

THE COURT: Okay. Thank you.

MR. PARKHURST: Thank you, Your Honor.

THE COURT: All right. Ms. Santini, or anyone else in that group; Ms. Braganca.

MS. BRAGANCA: Thank you, Your Honor, Lisa Braganca.

The one area that I would like to address is the urgency that this issue has been brought before the Court. We think it's extremely important that the Court

take the time. As the Court has noted, this is uncharted waters, these are complex issues, and it's fairly likely that the Minnesota legislature did not think about this situation when it amended the statute in 2010. That would be remarkable if they had any idea that this type of a complex scenario could arise.

Earlier in these proceedings there was truly a sense of urgency in order to get the Special Administrator to be able to marshal the assets of the Estate, to be able to manage the Estate, to put the appropriate people in place. To be able to manage the Estate of monetization experts. Now that that is in place, I would ask that the Court determine this issue -- take more time to determine this issue. We don't see that determining who the heirs are is of paramount importance right at this moment given the complexity of the issues and the fact that there may be additional people who appear.

We certainly do want to raise the fact that parentage and family are social constructs. Clearly the statutes and the Minnesota legislature has addressed this through adoption law, through the Parentage Act, through the Probate Code. And, again, we feel like we need -- for our own benefit -- more time to be able to assess what the legislature meant when it made those 2010

amendments.

We'd like to go back and just say that one of the things that the Court in *Martignacco* noted was this nationwide trend. I mean, Minnesota is not alone in dealing with these complex issues. Issues are arising as to surrogacy and rights to genetic parents in those circumstances. And the Court noted in *Martignacco* that there's a nationwide trend among appellate courts that are addressing these nonmarital child rights to establish parentage under Probate Code. So I think it would be instructive to be able to step back and look to see what are other states doing in wrestling with these same issues. We have not really had adequate time to be able to do that and bring that before the Court for the Court's consideration.

For example, you know, in the *Palmer* case -- I'd like to go back to that. The *Palmer* case considered a number of different social relationships between the decedent and his father -- I'm sorry, and his son. You know, the decedent -- they looked at the relationship that they had during childhood. They looked at helping to move the child's mother into her home. Calling -- they referred to each other as father and son. Teaching the child auto mechanics, hunting together, golfing, making trips to a lake cabin. So there's a number of

social and behavioral issues that we need to address. What we need to raise -- and I'll limit this -- we feel we also need more time to be able to obtain the substantial records that the Special Administrator has that could relate to our particular circumstances and to be able to obtain discovery from third parties and from parties in this proceeding that we have not yet been able to obtain to be able to address this. So it is difficult, and I would ask the Court to not rush to make a ruling in this case when there hasn't been adequate opportunity to fully brief this and to do the kind of factual discovery that would inform this process.

Thank you, Your Honor.

THE COURT: Before you sit, the Court has identified in previous orders, or correspondence, that today we're talking about the application of the presumptions, the Probate Code, and genetic testing. And I think really the function today here is to determine whether under the Probate Code and under the Parentage Act there are certain classes or groups of people that are legally excluded as possible heirs, then to focus on those that remain. And the Court has indicated that there needs to be an evidentiary hearing to flesh out the things that you've talked about.

And I'll tell you and I'll tell counsel that I

think one thing that -- one direction the Court is seriously considering is making an order such that I just described and immediately certify it as questionable and doubtful to the Court of Appeals and send it up and get an answer while we're doing the discovery and fleshing out the other things.

So, you're right. I'm not trying to rush to determine whether a specific person is an heir, but there may be some rush in trying to get some direction from this Court and then from the Court of Appeals as to whether we're properly interpreting the Probate Code and the Parentage Act, so all right.

Mr. Selmer, or someone else appearing.

MR. SELMER: Mr. Selmer, Your Honor.

THE COURT: Okay.

MR. SELMER: I'll be brief. As you know, we filed an objection to the genetic testing protocol. All of our arguments are set forth in that memorandum. I'd just like to say before the Court today that it's extremely important to get to the truth, to get to the truth of who is entitled to heirship given this unusual circumstance. And in your order of April 27th you charged the Special Administrator -- and I echo Mr. Parkhurst's point that at the time when the Special Administrator came to the Court, he came to the Court

with very few people in this room present. And I certainly would have -- as representing my client, who is in a very unusual circumstance -- would have objected to the protocol that was put in place by the Special Administrator that assumed the appropriate code or act was the Parentage Act.

THE COURT: Let me stop you.

There's three steps, as I see it, to the protocol. One is we wanted to get the testing started for the blood sample of Prince Rogers Nelson. We've done that.

Number two, I wanted to authorize those parties that wanted to proceed to genetic testing to be able to go ahead and do that. That has happened to a very limited degree.

Number three is we set the hearing today to determine whether the protocol was properly drafted or not. So that's where we're at. The Court has made no final decision as to what the protocol should be.

MR. SELMER: Thank you, Your Honor. I appreciate that.

So given that, I just want to emphasize to the Court that it's important and it's appropriate for the Special Administrator to do whatever it can on behalf of Bremer Trust and counsel to protect the assets of the

Estate and at the same time find out who are the lawful heirs. It is not the Decedent's fault. It is not his established siblings' fault. It's not the lawyers' fault that we are in the circumstances that we are now. But it's extremely important to find out if, in fact -- and as you know, our client is in an unusual circumstance to this extent; she is the child of an individual who apparently may be Prince's father, other than John Nelson. And so, consequently, it's not a static point in time. In other words, our client could not have known 35, 50 years ago, or 40 years ago that, in fact, her father may have been the same father as the Decedent. When, in fact, that did come to surface, it's at that point that she became concerned that she may, in fact, be the sibling of Prince.

In addition to that, there's no dispute that she is, in fact, the sibling of another individual who the Court recognizes as a true sibling of the Decedent.

So what we're asking, Judge, is that the Court and the parties here, the law be applied appropriately to figure out who is truly a rightful heir so that individuals who aren't rightful heirs don't be unjustly enriched.

And it's our position we're not trying -- as counsel discussed earlier today using the board -- we're

not trying to eliminate those that are rightfully heirs to the Estate. We're trying to make sure that those are also included to share in the Estate.

So, consequently, Your Honor, what we're asking you to do is to avoid inviting more litigation given what is currently in place on a temporary basis. And, therefore, we would ask that the Court issue an order that the Parentage Act does not apply to the heirship determination in this instance; that the special master must follow the clear and convincing evidence standard set forth in *Palmer*, and that our client at some point be permitted to proceed with a DNA test, which is only a portion of how you establish clear and convincing evidence that she is a lawful heir. Thank you.

THE COURT: I interrupted you, and I'm sorry, Mr. Selmer, when you were addressing the protocol. And I'll just address it to you but to also all of the other counsel. I have heard no argument today that the protocol as drafted by Bremer Trust is in some way flawed. In other words, the security used to make sure that we're getting a swab sample, or whatever, of the individual that's being tested, how that's being transported to the testing center, how the testing is being completed and the results reported, et cetera. So I'm just letting everybody know that so far I haven't

heard any objection to that itself.

MR. SELMER: May I comment on that, Your Honor?

THE COURT: Yes.

MR. SELMER: Having come to this matter later in the process, after almost two months, we don't have any substantial or subsequent information as to actually how that chain of custody has been handled. So once we learned of exactly what's happened -- we don't even know which testing site it's actually going to in terms of the DNA analysis.

THE COURT: It's all in the record, Mr. Selmer.

MR. SELMER: And it's all in the record in terms of who is being used, but in which actual location is the DNA testing facility, which one is being used?

THE COURT: I think you can call DNA -- what is it called -- Diagnostic Center and talk to them.

MR. SELMER: Thank you, Your Honor.

THE COURT: All right. Mr. Gislason or Mr. Abdo.

MR. ABDO: We'd like to wait until we hear from Special Administrator and what they're planning to respond.

THE COURT: Okay. Folks, we've been going for quite a while. Normally I'd go a few minutes longer before we take a break, but this seems to be a good time

to do it, so we'll take a 15-minute recess and we'll start again.

(Recess in proceedings.)

THE COURT: I know Mr. Crosby wants to respond. I know Mr. Parkhurst wants to respond. But are there counsel that I have not heard yet that would like to address the Court?

MR. SILTON: Yes, Your Honor. We will be very brief.

THE COURT: Go ahead. Could you identify your name for the reporter?

MR. SILTON: Steve Silton, on behalf of Omarr Baker, along with Van Jones. And I'm pretty new to this case, so if I'm being either repetitive or off topic, I apologize.

Listen, we appreciate the argument from all parties. A couple things, however, seem to be clear at least when it comes to the presumptions, which is that the mother's children are both presumptive and actual heirs. And that pursuant to that statute, while there can be some interpretation of who the father is, there can be only one that is kind of the Highlander Rule of fatherhood --

THE COURT: Sir, Mr. Selmer, do you want to come back up?

Sorry.

MR. STILTON: That's okay. I'm sure that won't be the last distraction of the parties to this case.

As I was saying, that the mother's children are both presumptive and actual heirs, and that pursuant to that statute, while it might be subject to different legal interpretations, there can be only one father. In that being the case, the parties who are heirs do have an interest in the expedited nature of this proceeding and any attempt to slow down either the genetic testing protocols or the proceeding in general would be detrimental to our client here.

So we appreciate Your Honor's sensitivity to the legal issues which might be subject to appellate interpretation and appreciate that you're willing to certify those as quickly as possible as they can be determined.

One thing we would say -- and there was an argument to the contrary -- for the most part this Estate is not dealing with fungible assets. We are dealing with art which has -- the deployment of such can be subject to very different and divergent desires and interpretations. So to the extent that any efforts were made to delay this proceeding -- and we would strongly object to that. And we would support the Court's stated desires -- at least

so far that I've heard -- to get these matters resolved as quickly as possible.

THE COURT: Anyone else?

MR. DILLON: Your Honor, Brian Dillon on behalf of Tyka Nelson.

We filed the initial petition in this case to have the Special Administrator appointed, and in our petition we identified those siblings, or half-siblings, who we believe are recognized under Minnesota law as we interpret it. And we interpret Minnesota law the Parentage Act and the Probate Code consistent with the way counsel for the Special Administrator has interpreted it here today and in their briefs. So we support the protocol and join in the argument that the Special Administrator made. I don't want to repeat any of the legal arguments but there are two factual points that I think are important as the Court considers the legal issues before it today.

The first is that although we would be the first to recognize that our petition is not a judicial determination, there have been at least two judicial determinations of John Nelson as the presumptive father of Prince Rogers Nelson. The first comes in the form of John Nelson and Mattie Shaw's divorce decree, and the second comes in John Nelson's probate records. In both

of those contexts, the divorce proceedings and the probate proceedings, there was a judicial determination of John Nelson as the father of Prince Rogers Nelson. And that is something that I think the Court has to take judicial notice of.

Second, we agree with Mr. Selmer. There is some urgency in determining who are the rightful heirs and beneficiaries under Minnesota law. And while I think all of us would agree that there has to be due process and that everybody who has a claim ought to be entitled to some time to prove up that claim, but we are now two and a half months out from Mr. Nelson's death, and if you look around this courtroom and the number of lawyers and the number of people making claims, the Special Administrator has a fiduciary duty to all beneficiaries of the Estate. And it's difficult for the Special Administrator to exercise its duties when it doesn't know with clarity who it owes those duties to.

One example -- and there has been public records of this -- is the retention of the music managers. That decision and the ultimate retention of those managers to do very critical and important business of the estate administration was delayed for two weeks because of an objection raised by Mr. Williams. Mr. Williams has made a claim, and he is entitled to make

that claim, but because the Special Administrator has -- at least until that determination is made formally that Mr. Williams has no claim -- the Special Administrator has to pay certain respect to the concerns of anybody who claims to be an heir.

And so that's just one example of the delay and the complexity that is only enhanced by a slow resolution of this heirship decision. It's costing not only in terms of time but in terms of dollars. The more cats there are to be herded, the more expense, the more delay, and, quite honestly, the family needs some closure to this difficult determination that the Court has to make. But it's one that the courts are well suited to make. The law is, I think, pretty clear that there can be only one genetic father. And it's the man for whom paternity is established under 257. We've got two judicial determinations in the Probate Code -- or in the probate documents and in the divorce decree that John Nelson is the father. That will clarify the landscape on this matter very quickly.

Certainly certifying the question would facilitate the ability to move forward in the shorter term while some of these other legal issues can be presented to the Court of Appeals. I would encourage certifying those questions so we can move on with the

business of the day. But in some -- on behalf of Ms. Nelson, we are on all fours with the interpretation of Minnesota law that has been offered by the Special Administrator and counsel and we believe that the protocol that they have established is the proper way to get to the final determinations of heirship that this Court has to make.

THE COURT: Thank you. Anybody else that's not been heard? Mr. Gislason.

MR. GISLASON: Thank you, Your Honor. We represent clients whose genetic father is irrebuttably determined to be John L. Nelson. And we would like to offer in response to Mr. Parkhurst's question about evidence in the record as to who Mr. Prince Rogers Nelson's father is. There was a probate proceeding in this Court in 2001 to 2003. The order from that probate proceeding is included in our Affidavit of Heirship. The Court file number for that probate proceeding is P0-01-1660.

THE COURT: Could you give me that again?

MR. GISLASON: Yes, Your Honor. It's Court File No. P0-01-1660.

The Petitioner in that probate proceeding was Prince Rogers Nelson. And in that probate proceeding there's an order determining heirs, and Prince Rogers

Nelson is determined to be the son of John L. Nelson, Your Honor. Thank you.

MR. ABDO: Your Honor, I'd like to address the issue of urgency. Unique is a word that has been used quite a bit in these proceedings by yourself and by others. The procedure is unique. Clearly the Decedent was unique. The art is extremely unique. And the opportunities that are available with the exploitation of that art is very unique. It is not an insignificant issue the realities of the entertainment industries and the realities of the opportunities that would benefit the Estate and ultimately the heirs if they were addressed sooner than later. There is a dissipation that can occur.

We do support and have filed a support for the Special Administrator's position; that has already been stated. We would just like to put an exclamation point on it that delay can damage the Estate and that is a reality of this business. And while we want the truth to be known, as Mr. Selmer has stated, we believe that we have the protocol to determine that truth. There's actually no need to go to the appellate court, that it's clear the direction that is being taken to us that it's correct and we would like to get to it so that this national treasure that is here in Minnesota can be taken

care of as soon as possible.

THE COURT: Thank you. Anybody else we missed? Mr. Crosby, back to you.

MR. CROSBY: Thanks, Judge. I'll be brief. If you don't mind if I stand?

THE COURT: No.

MR. CROSBY: Mr. Shoemaker referenced 524.2-117, which is this language about if a parent-child relationship exists between the child and the child's genetic parents regardless of the parents' marital status and how somehow that undercuts or is in conflict with 201(22), the statute that I talked about earlier. I really don't think it is, and, in fact, if you look at the Parentage Act, 257.53, that has the same kind of language. Relationship not dependent on marriage. This is the Parentage Act. "The parent-child relationship may exist regardless of the marital status of the parents." Well, that statute has been in existence since 1980. That's not anything new here. What that is is largely a recognition or tip of the cap, or basically an almost "I'm sorry" to law from decades ago where illegitimate children -- they used to frankly be called under the terminology, it's not PC now -- but bastards. Bastards were illegitimate children who somehow don't get the same rights as legitimate children. That's all this means.

It's saying, yeah, whether you are an illegitimate or a legitimate child, you still can have rights under a parent-child relationship. But it's not dispositive or somehow trumps 201(22) where it says somehow you can now have two parents for purposes of intestacy. This can't be clearer. Genetic father means only the man for whom the relationship is established.

So this concept that you could have two parents, you know, I'm not sure if it was Mr. Shoemaker or Mr. Parkhurst who said, well, let's just open the tent up more. You can't. You can't. This concept of what's the truth? Well, the legislature has determined what the truth is. And the truth is what we, the legislature, say it is under the Parentage Act and the Probate Code.

As pointed out by Mr. Dillon and Mr. Abdo, or his co-counsel, there are judicial determinations in play here. That's why I referenced that on 257.66. If there is a judicial determination, that's the end of story. It's determinative for all purposes. I'm not -- I didn't get into that in my presentation today, but it is in front of the record, and these gentlemen are correct; there are judicial determinations showing as to who the Decedent's father is here.

As to is this really a complex matter or not? It's really not that complex. I mean, the question is

you have to be a child of either one of the two parents to be taking here. Whether there needs to be more time to establish if you are a child of one of those two parents, that may be an open question. So Ms. Braganca's point about you may need some more time for that, that's really not on the docket here today, but I don't necessarily disagree with that. But unless you're coming from either -- on my chart -- mother or father, you don't have any more time. This is a fairly straightforward question. And the delay here, we do think that that can hurt the Estate. And the more people that are at the table raising objections or saying, "Well, I'm not sure that's really the right way to do it," that causes problems, and those are real problems.

So I think that's it unless, Judge, you have any questions for me. I already said what I needed to both in my papers, and earlier I talked for a long time. That's all I have.

THE COURT: Mr. Parkhurst.

MR. PARKHURST: Yes, Your Honor, briefly. Just a couple of things.

Judicial determination. If you read this under Chapter 257, probate petition not under Chapter 257. The judicial -- the divorce decree, I believe it was 1956, Your Honor. Mr. Crosby already referred to the fact that

the Parentage Act showed up in 1980. We haven't seen it. We don't understand what it says. You know, we haven't seen what it relied upon, how it said -- anything that it said. Frankly, he didn't bring it up in his argument or attached to the Special Administrator's memorandum. So I think in some ways, Your Honor, you really need to -- that needs to be fleshed out, and it's not under Chapter 257.

Moving along a little bit, you asked me a question about birth certificate and a presumption. And I would point out in the *Martignacco* case -- granted it was back when it was May -- go to the Parentage Act, but in the *Martignacco* case when you look at the facts in that particular instance, this claimant showed up and he had no idea. His mother told him after Mr. Martignacco's death. Throughout most of the Respondent's life he believed a Harold Reed was his father. There's testimony in evidence that the Decedent's name and Mr. Martignacco was not on the Respondent's birth certificate in order to avoid embarrassment and humiliation. So in the *Martignacco* case when they had the words that say "may" they didn't even go there. They did not consider a birth certificate as a presumption of paternity under Chapter 257 sufficient to close out Reed from claiming and taking successfully, as he did, from the *Martignacco* estate. So

just that piece of information.

And then as far as the genetic testing protocol, you're right. There really haven't been objections, but most of us haven't had that opportunity to even participate. And I know you said here today that those who wanted to could get tested, but that's not, in effect, how it's been working. And when I looked at your order, they get to make a decision -- "they" being the Special Administrator -- whether or not somebody gets to go get tested. And as far as I know, Mr. Williams is the only person that has been tested. If there have been others, that hasn't been shared with us. Yes, we can go online and look at, you know, some of the things; that the DNA center that has been doing the testing, but we're not even being permitted, you know, to get that far. So it really hasn't been our choice to go get testing because I think that there may be some people that that's an option. There is risks with it, as I pointed out earlier with the puzzle pieces in the siblingship, but that option has not been made available.

So I'll close with that, Your Honor.

THE COURT: And to that point, Mr. Parkhurst, you're correct. I think I may have said something along those lines, and that would particularly relate to parties that are claiming to actually be a child of

Prince, because that's the only way we're going to answer that question. Otherwise, I agree that nobody else has been invited to go get genetic testing.

MR. PARKHURST: Thank you, Your Honor. I just thought it was an important point.

THE COURT: Thank you. All right. Anybody else wish to be heard in rebuttal?

(No response.)

THE COURT: Folks, my thought at this point is that I would leave the record open for a period of time, perhaps two weeks, if anybody wants to submit any written memorandum in response.

I think it was Ms. Braganca -- I'll give her credit for it anyway -- said that we want to do this right. I want to do it right because it's important to a lot of people. I want to do it right and then, as I said, perhaps have the Court of Appeals take a look at it and just make sure it's right before we start excluding people.

Another thing that was said by several of you, Ms. Braganca and Mr. Abdo, is that there is some urgency here. I want to thank Bremer Trust for their professionalism in how they've proceeded so far. I think they've done a fine job, but their appointment is only for a period of six months. And as Mr. Abdo pointed out,

there are so many different business entities and different things and things to value, things to sell, things to -- licenses to enter into, all sorts of things. And we need to have some entity -- whether it's Bremer or somebody else -- continue in a role to try to keep this estate and business enterprise moving for the purpose of paying estate taxes; for the purposes of paying the cost of all of this administration that's going on and for the purpose of protecting the interest of the heirs.

And so whoever it is -- again, whether it's Bremer or somebody else that continues in that role -- has a fiduciary obligation to protect the interest of the heirs. And we need to have some idea of who those heirs are so they know who they need to work with, whose marching orders they need to take. Of course, the Court will maintain some role of supervision, but we need to kind of narrow that down sooner rather than later so that we can decide whether they'll continue to be involved in the Estate and then who they need to work with. So the Court recognizes that very clearly.

For the folks of you that were here, thank you very much for your appearance today. If you -- if your eyes started to glaze over about three minutes into Mr. Crosby's presentation, I hope you found most of this interesting. I hope you found --

MR. CROSBY: Pun taken.

(Laughter.)

THE COURT: -- I hope that some of you found it confusing, because I think I and the attorneys here have struggled with this for several weeks trying to sort it all out. I think we're getting close, and I appreciate all of the input from all of the counsel today.

Thank you, very much.

(Whereupon, the proceeding concluded.)

REPORTER'S CERTIFICATE

I, Jackie J. Knutson, Official Court Reporter in and for the County of Carver, First Judicial District, State of Minnesota, do hereby certify that the foregoing transcript consisting of 63 pages constitutes a true, complete and accurate transcript of my Stenographic notes taken at the time and place indicated above in the matter of the Estate of Prince Rogers Nelson.

Dated this 31st day of October, 2016.

/s/ Jackie Knutson
Jackie J. Knutson
Official Court Reporter
First Judicial District