

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF CARVER****FIRST JUDICIAL DISTRICT
CASE TYPE: PROBATE DIVISION**

In the Matter of:

Case File No.: 10-PR-16-46

Estate of Prince Rogers Nelson,

**DECLARATION OF ELLEN M.
AHRENS**Decedent.

I, Ellen M. Ahrens, have personal knowledge of the following facts and if called as a witness would testify that:

1. I, along with Christopher W. Madel and Jennifer M. Robbins, am counsel at MADEL PA representing Michael Lythcott in the above-captioned matter.

2. On February 25, 2019, at 9:13 a.m., I called Comerica's counsel Joseph J. Cassioppi. I advised Mr. Cassioppi that the flash drive provided to the Court contained privileged documents. I asked him not to review and documents provided to him by the Court for this reason, and he agreed. I further advised him that we would produce directly to him, as Comerica's counsel, a production that did not contain privileged documents.

3. Attached hereto as Exhibit 1 is a true and correct copy of the email I sent to Mr. Cassioppi on February 25, 2019 regarding our production of documents.

4. Attached hereto as Exhibit 2 is a true and correct copy of the letter I emailed to Mr. Cassioppi on February 25, 2019 regarding our production of documents.

5. Attached hereto as Exhibit 3 is a true and correct copy of the email I sent to Comerica's counsel on March 7, 2019 regarding our production of documents.

6. Attached hereto as Exhibit 4 is a true and correct copy of the letter I emailed to Comerica's counsel on March 7, 2019 regarding our production of documents.

7. Attached hereto as Exhibit 5 is a true and correct copy of the email string dated February 28 with Comercia's counsel.

I declare under penalty of perjury that the foregoing is true and correct and to the best of my knowledge.

Executed on March 8, 2019 in Minneapolis, Minnesota.

By: s/ Ellen M. Ahrens
Ellen M. Ahrens

EXHIBIT 1

Subject: In re the Estate of Prince Rogers Nelson, Court File No. 10-PR-16-46
Date: Monday, February 25, 2019 at 5:07:49 PM Central Standard Time
From: Ellen Ahrens <EAhrens@madellaw.com>
To: jcassioppi@fredlaw.com <jcassioppi@fredlaw.com>
CC: mgreiner@fredlaw.com <mgreiner@fredlaw.com>, Christopher W Madel <cmadel@madellaw.com>, Jennifer M Robbins <jrobbins@madellaw.com>, MADEL PA File <MadelPAFile@madellaw.com>
Attachments: 2019.02.25 EMA Letter to J. Cassioppi re Production.pdf

Joe,

Following our conversation this morning, please see the attached correspondence. The link referenced in the letter is:

<https://verityinc.sharefile.com/d-s249a86e2c644aeeb>

I will send the password in a separate email.

Sincerely,

Ellen M. Ahrens
Partner
MADEL PA
800 Pence Building
800 Hennepin Avenue
Minneapolis, MN 55403
612-605-0641 (direct)
612-605-0630 (main)
eahrens@madellaw.com
www.madellaw.com

EXHIBIT 2

MADEL PA

800 PENCE BUILDING
800 HENNEPIN AVENUE
MINNEAPOLIS, MINNESOTA 55403
(612) 605-0630
WWW.MADELLAW.COM

ELLEN M. AHRENS
DIRECT DIAL
(612) 605-0641
EAHRENS@MADELLAW.COM

February 25, 2019

Joseph J. Cassioppi
jcassioppi@fredlaw.com

Via Email

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

Dear Joe,

In compliance with the Court's February 13, 2019 Order Regarding Estate Confidential Information, I am sending to you via email a link to our production on behalf of Michael Lythcott. As we discussed by phone this morning, we are withholding documents based on privilege, and we will provide you with a privilege log as soon as we can via separate correspondence. Given our firm's recent involvement in this case and the deadline to produce documents, these documents are not Bates-labeled. We anticipate making a supplemental production that includes Bates labels.

As you are aware, these documents are confidential and should not be disclosed. Further, we reserve our right to claw-back any erroneously produced documents pursuant to Minn. R. Civ. P. 26.02(f)(2).

Sincerely,

s/ Ellen M. Ahrens

Ellen M. Ahrens

CC: The Honorable Kevin W. Eide (via Odyssey, link to production excluded)
All Counsel of Record (via Odyssey, link to production excluded)

EXHIBIT 3

Subject: In re the Estate of Prince Rogers Nelson, Court File No. 10-PR-16-46
Date: Thursday, March 7, 2019 at 12:38:55 PM Central Standard Time
From: Ellen M. Ahrens <EAhrens@madellaw.com>
To: jcassioppi@fredlaw.com <jcassioppi@fredlaw.com>, Emily Unger <eunger@fredlaw.com>
CC: mgreiner@fredlaw.com <mgreiner@fredlaw.com>, Christopher W Madel <cmadel@madellaw.com>, Jennifer M Robbins <jrobbins@madellaw.com>, MADEL PA File <MadelPAFile@madellaw.com>
BCC: Ellen M. Ahrens <EAhrens@madellaw.com>
Attachments: 2019.03.07 E. Ahrens Letter to J. Cassioppi re Production.pdf

Joe and Emily,

Please see the attached correspondence. The link referenced in the letter is:

<https://verityinc.sharefile.com/d-sbc54fab4e024cf9b>

The document production is Bates-labeled ML0000001-ML0028709. Please note, the documents have been marked CONFIDENTIAL.

I will send the password in a separate email.

Sincerely,

Ellen M. Ahrens
Partner
MADEL PA
800 Pence Building
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612-605-0630 (main)
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EXHIBIT 4

MADEL PA

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EAHRENS@MADELLAW.COM

March 7, 2019

Joseph J. Cassioppi
jcassioppi@fredlaw.com

Via Email

Emily Unger
eunger@fredlaw.com

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

Dear Joe and Emily,

In compliance with the Court's February 13, 2019 Order Regarding Estate Confidential Information and consistent with our previous correspondence, I am sending to you via email a link to what we hope will be our final production on behalf of Michael Lythcott.

As we have discussed by phone on February 25 and via email on February 28, we have now removed non-responsive documents as well as documents based on additional privilege terms. Thus, this production contains 5,346 documents. For this reason, our production today supersedes and replaces our February 25 production. We will send you a letter requesting the claw-back of specific privileged documents pursuant to Minn. R. Civ. P. 26.02(f)(2) as soon as we have identified them. Additionally, for your ease of reference, we anticipate being able to provide information that will show which documents were produced in both productions.

There are 9,647 privileged documents that were withheld. We have determined that it is cost prohibitive to do a privilege log. Further, because of this volume, it would have been impossible for us to create a privilege log and maintain our timeline to provide this production to you. Our vendor estimates that reviewing and coding these documents in order to create a privilege log would cost between \$9,400 and \$18,800. The reason there is such a broad range is because we do not know the rate at which a team of document reviewers can substantively review the documents. If you continue to believe that a privilege log is necessary, then Comerica will have to bear this expense. We are, however, willing to work with you on the most cost-effective manner to provide you with the information that you need regarding the privileged documents.

March 7, 2019

Via email

As you are aware, these documents are confidential and should not be disclosed. Consistent with Alfred Jackson and Omarr Baker's motion to amend the February 13, 2019 Order, we request that you limit the disclosure of these documents to the attorneys in your firm working on this matter, i.e. outside attorneys for Comerica, and we request that the use of these documents be limited to determining whether Mr. Lythcott or Mr. Walker violated their non-disclosure agreement with the Estate. Further, we reserve our right to claw-back any erroneously produced documents pursuant to Minn. R. Civ. P. 26.02(f)(2).

Sincerely,

s/ Ellen M. Ahrens

Ellen M. Ahrens

EXHIBIT 5

Subject: Re: Lythcott letter / 10-PR-16-46
Date: Thursday, February 28, 2019 at 4:39:23 PM Central Standard Time
From: Ellen Ahrens <EAhrens@madellaw.com>
To: Unger, Emily <EUnger@fredlaw.com>
CC: Jennifer M Robbins <jrobbins@madellaw.com>, Cassioppi, Joseph <JCassioppi@fredlaw.com>, Christopher W Madel <cmadel@madellaw.com>

Thanks, Emily. I was able to get the metadata earlier than anticipated. The link is below, and I will send the password in a separate email.

<https://verityinc.sharefile.com/d-s4274b8db2854034a>

Yes, we anticipate making a production with Bates labels on March 7 that includes the February 25 production and addressing privilege at that time. We will let you know if we run into any unforeseen problems that could alter that date. With respect to a privilege log specifically, we are looking into whether that is feasible and appropriate under the rules considering the timing and volume of the production. We will update you as soon as we know more about that.

Ellen M. Ahrens
612-605-0641

From: Emily Unger <EUnger@fredlaw.com>
Date: Thursday, February 28, 2019 at 3:32 PM
To: Ellen Ahrens <EAhrens@madellaw.com>, Christopher W Madel <cmadel@madellaw.com>
Cc: Jenny Robbins <jrobbins@madellaw.com>, "Cassioppi, Joseph" <JCassioppi@fredlaw.com>
Subject: RE: Lythcott letter / 10-PR-16-46

Ellen,

I'm writing to confirm what we just discussed on our phone call: You will send the missing metadata tomorrow. By March 7, you will produce the remaining responsive documents (including bates labeling for the documents already produced). And, in response to Joe's email below, you indicated the discrepancy between the production to the Court and to Comerica was due to the removal of both non-responsive documents and privileged documents.

We also discussed a privilege log. You indicated to Joe on Monday that you would be producing a log and when we just spoke you indicated that privilege will be addressed with the production by/on March 7. Please confirm whether you will be producing a privilege log for all responsive documents withheld by/on March 7?

Thanks,
Emily

Emily Unger

Fredrikson & Byron, P. A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425
Direct: 612-492-7470
Main: 612-492-7000
Fax: 612-492-7077

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From: Cassioppi, Joseph
Sent: Thursday, February 28, 2019 10:33 AM
To: Ellen Ahrens; Christopher W Madel
Cc: Jennifer M Robbins; Unger, Emily
Subject: RE: Lythcott letter / 10-PR-16-46

Ellen:

The Court's Order mentions 20,000 documents, and we received less than 10,000. Were more than 10,000 documents withheld as privileged? Also, my colleague Emily will be reaching out to you today to discuss the problems with the metadata in the production we received.

Thank you,

Joe

Joseph J. Cassioppi
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425
Direct Dial: 612.492.7414
Main Phone: 612.492.7000
Fax: 612.492.7077

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From: Ellen Ahrens [mailto:EAhrens@madellaw.com]
Sent: Thursday, February 28, 2019 10:29 AM
To: Cassioppi, Joseph; Christopher W Madel
Cc: Jennifer M Robbins
Subject: Re: Lythcott letter / 10-PR-16-46

Joe,

I didn't have a chance to get into all of the details on Monday morning when we spoke.

We ran privilege terms and withheld documents before providing the Court with the flash drive. Based on further conversations with our client, we ran additional privilege terms and withheld documents from our production to you based on both the original and additional terms. That's why I called on Monday morning – to ask you to not review any production that the Court gave to you because we knew we would be clawing back documents and to let you know that we would providing you with the production later that day.

Ellen M. Ahrens
612-605-0641

From: "Cassioppi, Joseph" <JCassioppi@fredlaw.com>
Date: Wednesday, February 27, 2019 at 4:45 PM
To: Christopher W Madel <cmadel@madellaw.com>, Ellen Ahrens <EAhrens@madellaw.com>
Cc: Jenny Robbins <jrobbins@madellaw.com>
Subject: RE: Lythcott letter / 10-PR-16-46

Chris & Ellen:

What (if any) difference is there between what Mr. Lythcott provided the Court and what was provided to us?

Thank you,

Joe

Joseph J. Cassioppi
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425
Direct Dial: 612.492.7414
Main Phone: 612.492.7000
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From: Shirk, Yvonne [mailto:Yvonne.Shirk@courts.state.mn.us]
Sent: Wednesday, February 27, 2019 3:18 PM
To: Christopher W Madel; Ellen Ahrens; Jennifer M Robbins; Cassioppi, Joseph
Subject: Lythcott letter / 10-PR-16-46

Counsel,

We just filed the attached order. Court administration will handle official service, but Judge Eide wanted me to make sure you received this asap.

Yvonne Shirk
Law Clerk to the Honorable Kevin W. Eide
Carver County Courthouse

604 East 4th Street
Chaska, MN 55318
952-361-1438