

STATE OF MINNESOTA
COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
DISTRICT COURT
PROBATE DIVISION

Court File No. 10-PR-16-46
Judge Kevin W. Eide

In re:

Estate of Prince Rogers Nelson,

SKOLNICK & JOYCE, P.A.’S
AND LOMMEN ABDO P.A.’S
MEMORANDUM OF LAW IN SUPPORT
OF THE MOTION TO APPOINT
AN ARBITRATOR

Decedent.

INTRODUCTION

Skolnick & Joyce, P.A. (“S&J”) and Lommen Abdo, P.A. (“LA”), both former counsel for Sharon, Norrine, and John Nelson (collectively “SNJ”), bring this motion seeking to have the Court appoint an arbitrator to decide the matters referred to arbitration by this Court in its April 5, 2019 Findings of Fact, Conclusions of Law, and Order Re: SNJ Attorney Liens (the “Order”). More than a month has passed since the Order was issued, and SNJ have not responded to correspondence from S&J and LA attempting to move this matter forward. Consequently, it is within the Court’s authority to appoint an arbitrator so that these matters may be decided.

FACTS

The relevant facts underlying S&J’s and LA’s attorneys’ lien petitions have been fully briefed and argued to the Court earlier this year. After taking those issues under advisement, the Court issued its Order on April 5, 2019. After receiving the Order, S&J and LA determined that it would be most cost efficient and expeditious to have both matters decided by the same arbitrator in the same arbitration. Since the Court has already appointed The Honorable Richard

B. Solum to decide certain attorneys' fees matters, it makes sense for Judge Solum to arbitrate these issues as well. S&J and LA sent correspondence to SNJ suggesting that the parties agree to submit these matters to Judge Solum, on the pleadings previously submitted to the Court, which would save further expense and time. No response to that correspondence has been received by S&J or LA.

ARGUMENT

Minnesota Statutes Chapter 572B (The Uniform Arbitration Act) establishes the statutory framework for arbitration in Minnesota. With respect to the appointment of an arbitrator, Minn. Stat. § 572B.11 states:

If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. The arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

In these matters, neither arbitration provision specifies how the arbitrator is to be chosen nor do they specify a particular arbitrator. Consequently, it is within the Court's authority to select an arbitrator to decide these matters.

On June 5, 2018, Judge Solum was appointed by the Court as a special master to determine certain attorneys' fees issues that were then pending before the Court. While this matter is undeniably different than the issues presented to Judge Solum last year, Judge Solum is familiar with this aspect of the Estate proceedings and is qualified to decide the issues to be submitted to arbitration. This familiarity will force the parties to incur less cost in reaching a decision on these matters. Consequently, Judge Solum should be appointed as the arbitrator over these matters.

Similarly, rather than incur expenses deciding the issues related to S&J's and LA's representation of SNJ in two separate arbitration proceedings, it is logical to have the arbitrator decide both matters in the course of one arbitration. In a combined proceeding, each of the five parties will bear one-fifth of the arbitration cost. The establishment of an attorneys' lien and the amount of the lien is to be determined summarily. Minn. Stat. § 481.13. S&J and LA request that in appointing Judge Solum as an arbitrator, the Court also direct that the two arbitration matters be heard together and be based on the submissions of the parties previously submitted to the Court.

CONCLUSION

For these reasons, the Court should appoint The Honorable Richard B. Solum (Retired) as an arbitrator to decide the issues referred to arbitration by the Court in its April 5, 2019 Order.

SKOLNICK & JOYCE, P.A.

Dated: May 20, 2019

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