

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION
Case Type: Special Administration

In the Matter of:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,

Decedent,

**MOTION TO COMPEL RE CLAIMS OF
BRIANNA NELSON AND V.N.**

Brianna Nelson and minor V.N., through her mother Jeannine Halloran, bring this motion to compel in order to obtain information and documents in accordance with the Court's Amended Scheduling Order Regarding the Claims of Brianna Nelson and V.N. and Corey Simmons to be Heirs of the Estate.

Brianna and V.N. have worked diligently to resolve disputes with the Special Administrator and other Non-Excluded Heirs. Given the deadline of November 4 for completing discovery, we feel it necessary to bring these issues to the Court's attention and request an order compelling the production of documents and information by Tyka Nelson, Sharon Nelson, John Nelson, and the appearance of Tyka Nelson for her deposition. We will continue to work with counsel for the Non-Excluded Heirs to reach a resolution of these issues.

We respectfully request that the Court order the following:

- That Tyka Nelson respond to discovery requests served on her counsel on August 30, 2016 and the production of names, phone numbers, email addresses, and street addresses of individuals who worked at Paisley Park or with Prince including, but not limited to, Gilbert Davison, who we believe was invited to the family memorial services in August 2016.

- That Tyka Nelson appear at a location to be determined in Minneapolis, Minnesota on Thursday, October 20 or Saturday, October 22 to be deposed by counsel for Brianna Nelson and V.N.
- That Norrine Nelson immediately produce the contact information including phone number, email address, and street address for Alberta Smith, the mother of Duane Nelson, Junior.
- That John R. Nelson immediately produce the contact information including phone number, email address, and street address for his daughter, Breanna Nelson.
- That Sharon Nelson immediately produce the contact information including phone number, email address, and street address for Billy Mills, a relative she identified as having information about the parentage of Duane Joseph Nelson.

Background

On August 30, 2016, Brianna Nelson and V.N. served discovery requests to Tyka Nelson, Sharon Nelson, Norrine Nelson, John R. Nelson, Omarr Baker, and Alfred Jackson. Those discovery requests concern the legal basis for claims set forth in our August 25, 2016 motion and our September 30, 2016 memorandum of law. On September 1, 2016, the Court set a schedule for briefing and discovery concerning the claims of Brianna and V.N., which are based upon the Minnesota Probate Code and *Estate of James A. Palmer*, 658 N.W. 2d 197 (Minn. 2003).

In accordance with the Court's September 1st Order, Brianna and V.N. have sought discovery about the following:

- the social/behavioral relationship between John L. Nelson and Duane Nelson;
- the social/behavioral relationship that John L. Nelson had with his other children;
- the recognition by Prince and other siblings that John L. Nelson was the father of Duane Nelson and Prince's brother;
- the recognition by those who knew and worked with Duane Nelson that he was the brother of Prince and the son of John L. Nelson; and
- party admissions and other statements made concerning the factual basis for Brianna and V.N.'s claims of heirship.

These are areas of “relevant evidence” in that they have “any tendency to make the existence of any fact that is of consequence to the determination of the [claims of Brianna and V.N.] more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401.

To date, Non-Excluded Heirs have provided some form of response to discovery requests served by Brianna and V.N. Traci Bransford was deposed on September 14. Sharon Nelson and Norrine Nelson were deposed on September 15. John Nelson was deposed on October 11. Based upon the response of Omarr Baker and Alfred Jackson to discovery requests, Brianna and V.N. have not sought to depose them or obtain further discovery from them.

Tyka Nelson’s Relevance Objections

On or about September 14, 2016, Tyka Nelson provided written responses and objections to these discovery requests. Attached as *Exhibit A*. The responses provide little or no information, in large part because Tyka Nelson objects to the relevance of the information requested by Brianna and V.N. To date, Tyka Nelson has not produced a single document in response to these requests.

Tyka Nelson initially objected to producing anything that she believes is not relevant to any claims or defenses in this proceeding. See *Exhibit A*, Response to First Request for Information and Documents, at General Objection No. 3. Tyka’s objections and responses to specific requests reveal that she considers the majority of the information and documents requested by Brianna and V.N. to be not relevant. That is improper.

Despite the fact that the Court has not yet issued a ruling on the legal basis for the claims of Brianna and V.N., Tyka objects to providing any documents concerning the relationship that John L. Nelson had with Duane’s mother, Tyka, Prince, or any of John L. Nelson’s other children. In response to a request for such documents, Tyka states that only documents

“regarding the relationship between John L. Nelson and Duane Joseph Nelson are relevant to the claims of Brianna and V.N.” *Exhibit A*, Resp. to Doc. Req. No. 1. This objection deprives Brianna and V.N. of information that is relevant to their claims in this proceeding.

Tyka improperly objected to producing communications that she had with John L. Nelson unless they specifically relate to the relationship between Duane and John. *Exhibit A*, Resp. to Doc. Req. Nos. 8, 9. As such, Tyka refused to produce communications between herself and John L. Nelson, as well as other family members and John L. Nelson, that are relevant to John L. Nelson’s relationship with his children and how he conducted himself as a parent.

Counsel for Brianna and V.N. requested that Tyka reconsider her objections and limitations in a discussion with her former attorney, Brian Dillon, on September 21. Her former counsel sent an email stating that he “asked her to think more broadly about your document requests” and that she does not have any responsive documents or photographs. It is unclear from this email exactly what documents and photographs he asked her to look for and whether she has withdrawn her previous objections. It is highly unlikely that Tyka does not have a single document relating to her father, letter or communication with her father, or any photographs of her father.

We do not believe we should have to wait until Tyka’s deposition to discover, as we have in other cases, that there are documents that have not yet been produced. We have discovered through our depositions of Sharon Nelson, Norrine Nelson and John R. Nelson that they are in possession of documents and information that had not been produced or disclosed in response to our requests. Given the impending end of discovery, we ask that the Court order Tyka to produce these documents before her deposition.

Tyka Nelson identified Gilbert Davison as a person who worked with Duane, but denied having his contact information:

13. Identify any individuals who worked with Duane Joseph Nelson while he was employed by Decedent Prince Rogers Nelson.

RESPONSE: Tyka identifies Gilbert Davison. His contact information is unknown.

We believe that Tyka Nelson invited Gilbert Davison to attend the family memorial services in August 2016. Thus, she may have access to his contact information. We ask the Court to order Tyka Nelson to disclose this information if it is in her possession, custody, or control, or identify any person who may have that information.

We learned today that Tyka's newly retained counsel have taken no steps to obtain documents or additional information in response to our discovery requests. We were told today that Tyka's new attorneys assumed that Gray Plant had produced everything:

As for the document requests, I simply do not know if there are additional documents to produce. I was operating under the assumption that all responsive documents had already been produced. I will speak with Gray Plant and determine if there are additional responsive documents. If there are, then they will be produced next week. If there are none, then we will let you know. If you are still dissatisfied with our production, then by all means file your motion.

See *Exhibit B*, 10/14/2014 email from Robert Barton (emphasis added). We ask that Tyka, who retained new counsel in the midst of this tight discovery timeline, be ordered to immediately produce documents responsive to our August 30 requests, not just those documents that discuss the relationship between John L. Nelson and Duane.

Deposition of Tyka Nelson

Tyka Nelson's deposition has been delayed several times. Given the imminent deadline and the possibility that her testimony may reveal other discovery avenues, we seek an order that she appear to be deposed on October 20 or 22. We sought a date for Tyka's deposition in early

September. We first agreed to a September 28 date for her deposition. Tyka sought to postpone the deposition because the Gray Plant Mooty attorneys withdrew and new attorneys filed appearances. Tyka's new attorneys eventually agreed to make her available on October 20. Several days ago, we were informed that Tyka is not available on October 20. Because we felt we had no choice, we agreed to take her deposition on November 1.

Given the November 4 deadline for discovery not just of Brianna and V.N. claims but also the claims of Corey Simmons and a number of third party depositions that we are scheduling for October 31-November 4, we ask that Tyka Nelson's deposition be ordered to take place on Thursday, October 20 or Saturday, October 22.

Contact Information for Individuals with Relevant Information

At their September 15 depositions, Sharon Nelson and Norrine Nelson identified several individuals with information concerning Duane Nelson's parentage. Sharon Nelson testified that a relative of hers, Billy Mills, spoke to her about Duane's father. We immediately asked for contact information for Billy Mills and reiterated that request several times. To date, we have not received that contact information.

Norrine Nelson testified that she was in regular contact with Alberta Smith, the mother of Duane Nelson, Junior and grandmother of V.N. Because we had been unable to get in touch with Ms. Smith, we immediately requested her contact information. We reiterated that request several times. To date, we have not received that information.

At John R. Nelson's deposition, we requested the contact information for his daughter, Breanna Nelson. Breanna Nelson spoke at John L. Nelson's funeral and at Duane Nelson's funeral. We have not yet received this information. We ask that the Court order Norrine, Sharon,

and John to provide phone numbers, email addresses, and street addresses for these individuals immediately.

Order Identifying Potential Witnesses

In working with opposing counsel at Lommen Abdo to limit the number of depositions, we proposed that they identify witnesses they intend to call at an evidentiary hearing. We recognize that there is no requirement under the Court's Scheduling Order that the parties identify witnesses they intend to call. In order to facilitate discovery, we have already provided information about an additional third party witness we intend to call at an evidentiary hearing in response to a simple request from Lommen Abdo. Thus, we were surprised to learn today that Lommen Abdo refuses to reciprocate and provide us with similar information:

As far as your demand [sic.] that we identify now who we are going to call as witnesses at the evidentiary hearing – and enter into a stipulation that we commit to that list now so that you can avoid further depositions – that request is unreasonable and unwarranted. Discovery is open until November 4. We will be receiving information from you pursuant to our discovery requests, which we will have to review and consider. You have also advised that you will be seeking third-party depositions. Finally, there is no order that requires the parties to identify the hearing witnesses at this time, and quite frankly, the Judge may issue an order next Friday that impacts these decisions.

Exhibit C, 10/14/2016 email from Adam Gislason. While we never made this as a “demand,” we did request the identification of potential witnesses in the next few days on October 11 at the deposition of John R. Nelson. Mr. Gislason said he would consider our request. We made that request and informally provided the name of another witness we intend to call in an effort to work cooperatively with counsel. It was only after this Friday's call with the Court that we felt we needed to make a motion asking that the Court enter such an order to expedite these proceedings.

Discovery Sought from Brianna and V.N.

While we issued discovery requests on August 30, 2016 to all Non-Excluded Heirs, it was not until this week that we received a request for Brianna's deposition and not until October 13 that we received discovery requests. Nevertheless, we have agreed to produce Brianna to be deposed in the Minneapolis/St. Paul area on Friday, November 4. We are reviewing Lommen Abdo's discovery requests, which were sent to us yesterday and will respond as quickly as possible.

Wherefore, Brianna Nelson and V.N. respectfully request that the Court enter the proposed order concerning Tyka Nelson, Norrine Nelson, and Sharon Nelson.

Dated: October 14, 2016

Respectfully submitted,

ATTORNEYS FOR BRIANNA NELSON
AND V.N.

/s/ Jennifer S. Santini
Jennifer Santini
Sykora & Santini, PLLP
125 Main Street SE, Suite 339
Minneapolis, MN 55414
Telephone: (612) 492-1844

Andrew Stoltmann, admitted *pro hac vice*
Celiza Bragança, admitted *pro hac vice*
Deanna LaPage, admitted *pro hac vice*
Stoltmann Law Offices, PC
10 S LaSalle St. Suite 3500
Chicago, IL 60603
Telephone: (312) 332-4200

Joanna Sunderland, admitted *pro hac vice*
850 N. Lake Shore Drive, Unit 301
Chicago, IL 60611
Telephone: (219) 201-7580

Kenneth R. White
Law Office of Kenneth R. White
212 Madison Avenue, Suite 200
Mankato, MN 56001
Telephone: (507) 345-8811