

**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,  
  
Decedent.**AMENDED<sup>1</sup> DECLARATION OF  
JENNIFER M. ROBBINS IN SUPPORT  
OF MOTION FOR RETURN OF FLASH  
DRIVE AND MOTION FOR COSTS**

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

1. I, along with Christopher W. Madel and Ellen M. Ahrens, am counsel at MADEL PA representing Michael Lythcott (“Lythcott”) in the above-captioned matter.
2. The documents produced to Comerica by Lythcott and his counsel on February 25, 2019, were provided in native format, and not Bates-labelled because there was not enough time to convert all of the documents to be produced that day to TIFF format, which is required to apply Bates-labels on the images of documents.
3. The documents that were provided to the Court on February 22, 2019, were also provided in native format.
4. Attached hereto as Exhibit A is a true and correct copy of the redacted version of Comerica’s counsel’s letter to the Court, submitted February 25, 2019.

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<sup>1</sup> This declaration is amended because the original declaration, filed on March 8, 2019, inadvertently omitted the document attached herein as Exhibit A. Comerica is not prejudiced by this omission, as Exhibit A was filed with the Court by Comerica’s counsel on February 25, 2019, meaning it was available for Comerica’s and the Court’s reference prior to this submission.

5. Attached hereto as Exhibit B is a true and correct copy of the redacted version of Comerica's counsel's letter to the Court, and exhibits, submitted March 7, 2019.

6. Attached hereto as Exhibit C is a true and correct copy of an email from Jeffrey J. Witt at Verity Group (our vendor on this matter) attaching: an invoice containing the costs billed for the document collection, front-end filtering, and processing of documents; a February Job Work Detail Report containing additional document processing fees, costs to prepare the productions, data hosting, and database set-up costs; and including an estimate for project manager time for March to prepare the most recent production and ongoing tasks related to the March 7<sup>th</sup> production, including identifying the duplicative documents and documents related to the claw back to which we have alerted Comerica's counsel.

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

Executed on May 8, 2019 in Minneapolis, Minnesota.

By: s/Jennifer M. Robbins  
Jennifer M. Robbins

# **EXHIBIT A**

# Fredrikson

& BYRON, P.A.

February 25, 2019

**VIA E-FILING**

The Honorable Kevin W. Eide  
Judge of the District Court  
Carver County Justice Center  
604 East 4<sup>th</sup> Street  
Chaska, MN 55318

**REDACTED VERSION**

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

Dear Judge Eide:

We are writing on behalf of Comerica Bank & Trust, N.A. as Personal Representative of the Estate to object to the requests made by Mr. Lythcott's counsel, Mr. Madel, in his February 22, 2019 letter to the Court.

Mr. Lythcott has admitted disseminating confidential Estate information to third parties. This is a violation of his non-disclosure agreement [REDACTED]

[REDACTED] Mr. Lythcott has served as an advisor to certain Heirs but was never appointed as an Heirs Representative by the Court, so his "status" as an Heirs' Representative cannot be restored as he requests. Furthermore, any request that his access to confidential Estate information be restored is premature, as Comerica has not yet ascertained the full extent of Mr. Lythcott's breaches of his non-disclosure agreement.

On February 13, 2019, the Court ordered Mr. Lythcott to "provide counsel for Comerica all communications and related documents with any third-parties . . . that included confidential information that belongs to the Estate" within ten days. The Court's Order is unambiguous. It does not provide for *in camera* review, nor does it permit Mr. Lythcott to recover fees incurred in complying with the Court's Order. In short, there is no basis for Ms. Lythcott's requests and no need for a hearing or briefing schedule.

It is unclear whether Mr. Lythcott produced documents to the Court on Friday as Mr. Madel indicated in his letter. Mr. Madel's letter also indicated that Mr. Lythcott would be producing additional documents by March 7, which is almost two weeks after the Court's deadline. We just received a production from Mr. Lythcott late this afternoon, but have not yet had an opportunity to review it. To the extent documents covered by the Court's Order are being withheld, we will seek appropriate remedies.

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fax 612.492.7077  
www.fredlaw.com

Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, Minnesota  
55402-1425

The Honorable Kevin Eide  
February 25, 2019  
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Respectfully submitted,

*/s/ Joseph J. Cassioppi*

Joseph J. Cassioppi

**Direct Dial:** 612.492.7414

**Email:** jcassioppi@fredlaw.com

66008845.1

# **EXHIBIT B**



March 7, 2019

**VIA E-FILING**

The Honorable Kevin W. Eide  
Judge of the District Court  
Carver County Justice Center  
604 East 4<sup>th</sup> Street  
Chaska, MN 55318

**(REDACTED)**

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

Dear Judge Eide:

We are writing on behalf of Comerica Bank & Trust, N.A. as Personal Representative of the Estate of Prince Rogers Nelson, to provide an update regarding our initial review of the documents provided thus far by Michael Lythcott in response to the Court's February 13, 2019 Order. Despite the filing of our contempt motion, Gregg Walker has not supplemented his original production of three emails, nor has he indicated an intention to do so.

On February 25, 2019, Mr. Lythcott provided us a production consisting of 9,561 of the more than 20,000 documents that he produced to the Court on February 22, 2019. We sought clarification from counsel for Mr. Lythcott on the difference between what was provided to the Court and what we were provided and were told: (1) certain of the 20,000+ documents provided to the Court are being withheld as privileged; (2) some of the 20,000+ documents are not responsive to the February 13, 2019 Order; and (3) we would be receiving a supplemental production today including any responsive, non-privileged documents that were not produced to us on February 25, 2019.

Today, we received a production of 5,346 documents from Mr. Lythcott, although his counsel has claimed that it is a replacement for the production sent to us on February 25, making it unclear if Mr. Lythcott has actually provided us any new documents. (Ex. A.) Additionally, despite our demand, Mr. Lythcott is refusing to produce a privilege log for what he now claims are 9,647 privileged communications and other documents the he is withholding from production unless the Estate agrees to pay for it. We will attempt to address this matter with counsel for Mr. Lythcott and, that failing, will seek relief from the Court.

To date, we have by no means reviewed all of the at least 9,561 documents produced by Mr. Lythcott, but, as set forth in greater detail in the Personal Representative's March 5 motion to

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The Honorable Kevin Eide  
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hold Gregg Walker in contempt, those documents we have reviewed reveal that Mr. Lythcott and Mr. Walker's unauthorized disclosure of confidential Estate information was far worse and more widespread than we ever imagined. Specifically, Mr. Lythcott and Mr. Walker [REDACTED]

[REDACTED] (See March 4, 2019 Declaration of Joseph J. Cassioppi, ¶ 9 & Ex. G.) Mr. Lythcott and Mr. Walker violated not only their non-disclosure agreements with the Estate, but at least four confidentiality orders entered by the Court (dated March 22, 2017, June 15, 2017, and May 15 and 25, 2018). Mr. Lythcott and Mr. Walker knew they were violating Court orders and confirmed as much in a letter [REDACTED]

[REDACTED]:

[REDACTED]

(*Id.*, Ex. E-4 at p. 5.)

As set forth above, we have not reviewed all of the 9,561 documents produced by Mr. Lythcott on February 25 nor any new documents in the supplemental production we received today. We also expect to eventually receive additional records from Mr. Walker. However, based on what we have reviewed, the Personal Representative intends to undertake two preliminary actions in an attempt to identify the scope of, and mitigate, Mr. Lythcott and Mr. Walker's misconduct.

First, we have been able to identify [REDACTED]

[REDACTED] The Personal Representative is

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<sup>1</sup> The data site access log provided by Mr. Lythcott, for the most part, includes only first and last names (including common names like [REDACTED]) making it difficult to determine who the individuals are. If the Personal Representative is unable to obtain contact information for all individuals on the access log from other documents in Mr. Lythcott's production, it will seek that information from Mr. Lythcott and Mr. Walker directly and, that failing, will seek relief from the Court.

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going to begin sending letters to those third-parties notifying them that they were not authorized to receive confidential Estate information and demanding that they destroy all information they received, as well as confirm that they have not forwarded the information to any additional parties. We sent counsel for Mr. Lythcott and Mr. Walker a letter on Tuesday, March 5, demanding that they notify us by today whether they were willing, themselves, to send letters to the individuals to whom they provided confidential Estate information demanding the destruction of that information. (Ex. B.) We have not received a response from Mr. Walker or his counsel. Counsel for Mr. Lythcott emailed us today stating that they would respond by Monday. While we are skeptical that Mr. Lythcott will agree to assist with the mitigation of the damage he has done to the Estate—he reacted to the filing of the pitch book with the Court by threatening to sue everyone who received a copy of the Court filing (Ex. C)—the Personal Representative will welcome any assistance Mr. Lythcott agrees to provide. We do not, however, intend to wait to hear back from Mr. Lythcott before proceeding with the demand letters.

Second, we intend to review all the records we receive from Mr. Lythcott, Mr. Walker, and any third-parties and provide a report of that review to the Court. Our goal is to file the report in advance of the hearing currently scheduled for May 20, 2019 (although we may need to supplement our findings based on additional documents received thereafter, including based on any order entered on the motion to hold Mr. Walker in contempt).

Please do not hesitate to let us know if Your Honor has any questions related to this matter.

Respectfully submitted,

*/s/ Joseph J. Cassioppi*

Joseph J. Cassioppi  
**Direct Dial:** 612.492.7414  
**Email:** jcassioppi@fredlaw.com

Enclosures  
66142757.1

# **EXHIBIT A**

**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

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*

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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 B**

# **REDACTED**

# Fredrikson

& BYRON, P.A.

March 5, 2019

**VIA EMAIL**

Steven H. Siltan, Esq.  
Cozen O'Connor  
33 South Sixth Street, Suite 3800  
Minneapolis, MN 55402

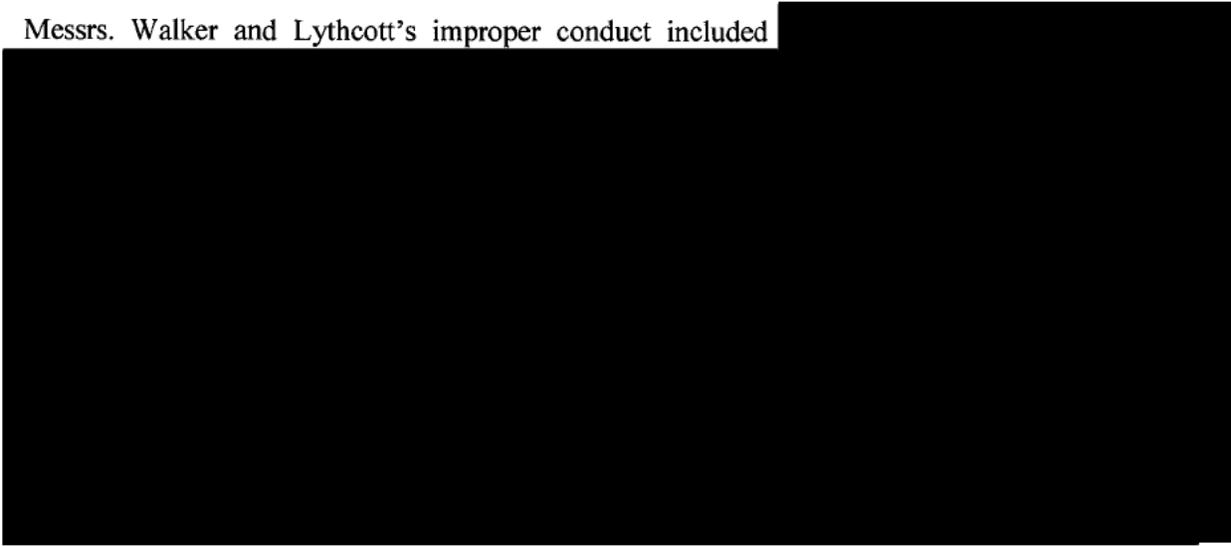
Christopher W. Madel, Esq.  
Madel PA  
800 Pence Building  
800 Hennepin Ave.  
Minneapolis, MN 55403

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

**Counsel:**

Although we have, to this point, conducted only a preliminary review of the records produced thus far by Mr. Lythcott in response to the Court's February 13, 2019 Order, that review has confirmed that your clients committed numerous serious violations of both their non-disclosure agreements with the Estate, as well as their confidentiality obligations under multiple Court Orders (including, without limitation, the Orders dated March 22, 2017, June 15, 2017, May 15, 2018 and May 25, 2018).

Messrs. Walker and Lythcott's improper conduct included



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March 5, 2019

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[REDACTED]

To attempt to mitigate the damage done by your clients, we demand that they immediately:

- Disable all third-party access to the site (but not modify, alter, or otherwise destroy any of the data associated with the site, which must be preserved pending resolution of your clients' violation of their confidentiality obligations);
- Provide us a log from the data site showing all individuals who downloaded information from the site (rather than the access log previously provided), as well as what information was downloaded;
- Provide contact information for all individuals to whom confidential Estate information was provided by your clients, along with what information they were provided;
- Preserve all information and communications related to the Estate, including, but not limited to hard-copy records, emails, text messages, social-networking messages, and voicemails; and
- Notify all third-parties in writing to whom they provided any confidential Estate information (with a copy to us) that your clients were not authorized to provide access to Estate confidential information (enclosing the Court's February 13, 2019 Order), and demanding that the third-parties destroy all confidential information they have in their possession, as well as disclose to whom the third-parties themselves provided any Estate confidential information.

Please confirm by Thursday, March 7 at noon that your clients will take the actions set forth in this letter.

The Estate reserves all rights.

Regards,

*/s/ Joseph J. Cassioppi*

Joseph J. Cassioppi

Direct Dial: 612.492.7414

Email: [jcassioppi@fredlaw.com](mailto:jcassioppi@fredlaw.com)

CC: Mark W. Greiner, Esq.

66123440.1

# **EXHIBIT C**

**Cassioppi, Joseph**

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**From:** Michael Lythcott <michael@lythcott.com>  
**Sent:** Tuesday, February 12, 2019 9:11 AM  
**Subject:** Request for Return and Disclosure of Stolen Documents

To Whom it May Concern

It has come to my attention that you may be in possession of internal documents that were recently stolen from the legal "virtual" data room of Omarr Baker. In violation of the terms of service of said digital data room, that was provided to the law firms of J. Selmer Law and White Wiggins & Barnes, LLP, and the lawyers Ward White, Kennedy Barnes and James Selmer and Marc M. Berg who have admitted to taking the court presentation materials from Omarr Baker (Pro Se) who is representing himself in a probate case to which he is a party.

Since I facilitated White Wiggins & Barnes, LLP access to Mr. Baker's files; I am in part contractually responsible for the damages caused by J. Selmer Law and White Wiggins & Barnes, LLP, and the lawyers Ward White, Kennedy Barnes and James Selmer and Marc M. Berg to Mr. Baker.

**Please be advised if you have received any files or information from these individuals relating to Omarr Baker or the Estate of Prince Rogers Nelson- return them to Mr. Baker immediately, as they are highly confidential and are the property of Mr. Baker or other parties to which Mr. Baker and myself are subject to third party confidentiality agreements. If you ignore this notice and use or refer to these documents in any way you may be subject to pending litigation claims against J. Selmer Law and White Wiggins & Barnes, LLP.**

For any attorney who may have received any of this stolen information, please consider the ethical violations. In addition to the obvious attorney client privilege issues in question, after they were terminated - J. Selmer Law and White Wiggins & Barnes, LLP have shared expressly confidential legal files and strategies with counsel for parties that are or may become adverse to Mr. Baker.

We expect to report these activities to their respective Bar associations as well as the appropriate criminal authorities.

Respectfully,

Michael Lythcott

# EXHIBIT C

Friday, March 8, 2019 at 12:53:33 PM Central Standard Time

**Subject:** Feb and March Cost  
**Date:** Friday, March 8, 2019 at 10:53:29 AM Central Standard Time  
**From:** Jeff Witt  
**To:** Amanda Jeffers  
**Attachments:** image001.png, image002.png, 02190205.pdf, Hosting Cost Lythcott February.pdf

Hi Amanda,

I have attached our invoice for the collection phase and technical time and the work detail for February's data hosting cost which will be invoiced soon.

Invoice 002190205	= \$4,521.50
February work order detail	<u>= \$3,015.70</u>
	<b>\$7,537.20</b>

March cost Hosting and user access	= \$570.00
March estimate PM Hours 8 -12	= \$1,000.00 to \$1,500.00
March estimated cost	= <b>\$1,570.00 to \$2,070.00</b>

Please let me know if you need anything additional, best regards.



**Jeffrey J. Witt**  
**Managing Director**  
**Information Lifecycle Governance Certified**  
 125 South Wacker, Suite Lower Level C  
 Chicago, IL 60606  
 Cell: (630) 885-5652  
 Direct: (312) 754-1001  
 Office: (312) 704-0247 ext: 201  
[jwitt@verityinc.com](mailto:jwitt@verityinc.com)  
[www.verityinc.com](http://www.verityinc.com)



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**INVOICE**

Chicago

Date	Invoice #
2/28/2019	02190205

[www.verityinc.com](http://www.verityinc.com)

(312) 704-0247

Job #: 02190205

**Bill To**

Kelsey Lund  
Madel PA  
800 Pence Building, 800 Hennepin Avenue  
Minneapolis, MN 55403

Client Ref. #	Terms	Rep	Ordered By
Michael Lythcott	Net 30	RS	Amanda Jeffers

Description	Qty	Rate	Amount
Processing:Filtering Services	85.86	\$25.000	\$2,146.50
Processing:Technical Time (Hourly)	15	\$125.000	\$1,875.00
Forensics:Data Collection per Media	1	\$500.000	\$500.00

Please Remit to: Verity Group LLC 125 S. Wacker Drive Suite: Lower Level C (LLC) Chicago, IL. 60606

For invoice questions, please contact your Verity Representative or [info@verityinc.com](mailto:info@verityinc.com)

We appreciate your business. Our Terms are net 30 days from date of invoice. All delinquent accounts shall bear interest at a rate of 1.5% per month (18% annum), or the maximum legal rate of interest, if less, commencing 10 days after the invoice date.

**Subtotal:** \$4,521.50**Tax(0):** \$0.00

**Customer  
Signature:  
Session ID:**

**Date: 3/1/2019****Total:** \$4,521.50

Tax ID Number:

**Job Work Detail Report**

Job Number: 02190155 Due Date: 2/28/2019  
 Client Matter: Michael Lythcott Time Due: 1:00:00 AM  
 Firm Name: Madel PA Date Created: 2/20/2019

Total Billed

**\$3,015.70****Services Summary**

<u>Operator</u>	<u>Start Time</u>	<u>End Time</u>	<u>Total Hours</u>	<u>Billable Qty</u>	<u>Rate</u>	<u>Billable \$</u>
<b>Data Storage-Monthly (Relativity)</b>						
Amanda Spitzer			0	14.23	\$15.00	\$213.45
•Data Storage-Monthly (Relativity)						
<b>Totals:</b>			<b>0</b>	<b>14.23</b>		<b>\$213.45</b>
<b>Database Setup (One Time Fee)</b>						
Amanda Spitzer			0	2	\$500.00	\$1,000.00
•Database Setup (One Time Fee)						
<b>Totals:</b>			<b>0</b>	<b>2</b>		<b>\$1,000.00</b>
<b>Native File Review (per GB)</b>						
John Houston			0	7.5	\$100.00	\$750.00
•Native File Review (per GB) - Intralinks and Gmail (after search)						
John Houston			0	1.65	\$100.00	\$165.00
•Native File Review (per GB) - PRN Folders						
<b>Totals:</b>			<b>0</b>	<b>9.15</b>		<b>\$915.00</b>
<b>Project Manager Hours</b>						
Amanda Spitzer			0	4.25	\$125.00	\$531.25
•Project Manager Hours						
<b>Totals:</b>			<b>0</b>	<b>4.25</b>		<b>\$531.25</b>
<b>Relativity User Access Fee</b>						
Amanda Spitzer			0	4	\$89.00	\$356.00
•Relativity User Access Fee						
<b>Totals:</b>			<b>0</b>	<b>4</b>		<b>\$356.00</b>

**Vended Services Summary**

No vended services associated with this job.

**QC Summary**

<u>QC By</u>	<u>Start Time</u>	<u>End Time</u>	<u>Revenue</u>	<u>Errors</u>
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