

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

Case Type: Supervised Administration

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In the Matter of:

Court File No. 10-PR-16-46

Judge Kevin W. Eide

Estate of Prince Rogers Nelson,

Decedent.

**COMERICA BANK & TRUST, N.A.'S  
RESPONSE TO ASA J. WESTON'S  
MOTION FOR APPROVAL OF  
ATTORNEYS' FEES AND EXPENSES  
FOR PERIOD MAY 22, 2019 THROUGH  
AUGUST 7, 2019**

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Comerica Bank & Trust, N.A., in its capacity as “Personal Representative” of the Estate of Prince Rogers Nelson (the “Estate”) respectfully submits this response to Asa J. Weston’s motion for reimbursement by the Estate of attorneys’ fees charged in connection with his representation of Alfred Jackson. As has been the case with most fee submissions filed by attorneys for the Heirs, the Personal Representative neither supports nor opposes the motion, but submits this response to provide context and related considerations for the Court.

First, as a procedural matter, it does not appear that the motion was served on the personal representative of the Estate of Alfred Jackson (Leonardo Starke is not listed as a service contact and a separate affidavit of service was not filed noting service of Mr. Starke). Because the motion may impact the Jackson Estate’s interest in this Estate and to ensure that the Jackson Estate does not later challenge the order entered on the present motion, the Court should direct Mr. Weston to provide copies of his motion to Mr. Starke and provide a short period of additional time to allow Mr. Starke to provide any response he deems warranted.

Second, neither the Court of Appeals, nor this Court in reviewing and adopting the orders on fee applications issued by Special Master Solum, specifically addressed participation in mediation as a category which does, or does not, qualify for reimbursement of fees. Mr. Weston asserts that, because the mediation was ordered by the Court and ultimately resulted in a settlement, he should be awarded his fees for preparing for and attending the mediation and corresponding thereafter in an attempt to finalize the settlement agreements. But the Court should decline to adopt a rule that attendance at a mediation, regardless of whether it is successful or not, automatically entitles an attorney for an Heir to compensation for attorneys' fees and, instead analyze each situation on a case-by-case basis. This particular mediation illustrates why.

Mr. Weston contends that the Walker/Lythcott mediation and subsequent settlement agreements benefitted the Estate, as a whole, and Mr. Jackson's benefit was only "derivative." This argument, however, ignores the fact that Gregg Walker (in his role as Mr. Jackson's Heir's advisor) and Michael Lythcott (who Mr. Jackson utilized to attempt to sell assets belonging to the Estate) were acting as agents for Mr. Jackson when they committed the misconduct that led to the order to show cause entered against Mr. Walker and dispute regarding Mr. Lythcott's document production. It was, therefore, very much in Mr. Jackson's personal interest to ensure that the Personal Representative's dispute was resolved to insulate himself from personal liability. Having employed agents whose improper conduct cost the Estate tens-of-thousands of dollars working to ensure the return and destruction of confidential Estate information that was surreptitiously sent to dozens of third-parties, Mr. Jackson (through whom Mr. Weston is seeking reimbursement of fees) had a personal obligation to attempt to remediate the harm Mr. Walker and Mr. Lythcott's actions caused the Estate. Stated otherwise, the "benefit to the estate" from

Mr. Weston's services under Minn. Stat. § 524.3-720, should be viewed in light of what necessitated the mediation and settlement agreements in the first place—*i.e.*, the misconduct of two individuals purporting to be acting on behalf of Mr. Jackson.<sup>1</sup>

Finally, the Personal Representative notes that Mr. Weston has been practicing law since 2011, but the rate he is charging the Estate substantially exceeds that of other attorneys with similar or more experience who have sought reimbursement from the Estate. By way of example, the undersigned (practicing since 2007) charged \$465 per hour during the time period encompassed by Mr. Weston's motion. (Oct. 20, 2019 Greiner Dec., Ex. A.) In determining what amount, if any, to award Mr. Weston for attorneys' fees that benefitted the Estate, the Court should take Mr. Weston's experience into account when setting the reasonable value of his services. Minn. Stat. § 525.515(b)(2) (setting one of the factors for determining a fair and reasonable attorneys' fee as "the experience and knowledge of the attorney"); *Matter of Estate of Nelson*, 2018 WL 492639, at \*6 (Minn. Ct. App. Jan. 22, 2018) (stating that, although Minn. Stat. § 525.515 does not govern fee requests by interested parties in estate proceedings, "some of the factors listed there may be helpful to the district court's determination of compensation under section 524.3-720").

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<sup>1</sup> To the extent that the Court decides to award any fees related to the Walker/Lythcott mediation, the Personal Representative acknowledges that: (1) Mr. Weston actively participated in the Walker/Lythcott mediation and the negotiations that occurred thereafter that resulted in the final mediated settlement agreement with Mr. Walker that was approved by the Court on September 18, 2019; and (2) Mr. Weston's participation helped facilitate the settlement. The amount of hours for which Mr. Weston is seeking reimbursement is also modest compared to the fee submissions of other attorneys for the Heirs.

Dated: February 17, 2020

Respectfully Submitted,

/s/ Joseph J. Cassioppi

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