

Jason S. Brookner (Texas Bar No. 24033684)
Andrew K. York (Texas Bar No. 24051554)
Joshua D. Smeltzer (Texas Bar No. 24113859)
Drake M. Rayshell (Texas Bar No. 24118507)

GRAY REED

1601 Elm Street, Suite 4600
Dallas, TX 75201
Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
dyork@grayreed.com
jsmeltzer@grayreed.com
drayshell@grayreed.com

Counsel to Patrick Daugherty

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	
	§	Case No. 19-34054 (SGJ)
Reorganized Debtor.	§	
	§	
	§	

**DECLARATION OF ANDREW K. YORK IN SUPPORT OF RESPONSE TO MOTION
TO QUASH SUBPOENAS SERVED BY PATRICK DAUGHERTY**

I, Andrew K. York, pursuant to 28 U.S.C. § 1746, under penalty of perjury, declare as follows:

1. I am an attorney at the law firm of Gray Reed & McGraw LLP, and I submit this declaration (the “Declaration”) in support of the Response to Motion to Quash Subpoenas Served by Patrick Daugherty, being filed simultaneously with this Declaration. This Declaration is based on my personal knowledge and review of the documents listed below.

¹ Highland’s last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.



2. On or about May 5, 2025, I contacted Zachery Annable, one of the lawyers representing the Debtor in this case, concerning the adversary proceeding Complaint filed against Patrick Daugherty on May 2, 2025 in 25-03055-sgj, and pointed out the Complaint violated the settlement agreement between Debtor and Mr. Daugherty. I demanded Debtor either immediately move to stay or dismiss the adversary proceeding. Attached as **Exhibit 1** is a true and correct copy of my follow-up email to Mr. Annable on May 5. Attached as **Exhibit 2** is a true and correct copy of John Morris' response on May 6, 2025.

3. Attached as **Exhibit 3** is a true and correct copy of an email I received from Gregory Demo, one of the lawyers representing Debtor, on May 20, 2025, which contained an attachment that was a letter addressed to Mr. Daugherty concerning his Class 9 Claim in this bankruptcy.

4. On or about June 5, 2025, I called John Morris regarding Debtor's motion for entry of the proposed settlement with the HMIT Entities. I asked Mr. Morris to provide an explanation for why the proposed settlement did not violate the express terms of the Fifth Amended Plan approved by the Court and the Claimant Trust Agreement. During the call Mr. Morris indicated Mark Patrick had "gone rogue" and there was a rift between Mr. Patrick and James Dondero.

5. Attached as **Exhibit 4** is a true and correct copy of a June 19, 2025 email exchange with Louis Phillips, counsel for the HMIT Entities, concerning Daugherty's intent to issue a subpoena for Mr. Patrick's deposition.

6. On June 20, 2025, I attended as an observer the remote deposition of David Klos. As of the time of this filing I have not received the rough draft of Mr. Klos' transcript despite having made requests for that draft during, and after, the deposition. During the deposition Mr. Klos testified that Mr. Daugherty's Class 9 Claim was the only Class 9 Claim that has been paid in full. When asked why that was, Mr. Klos testified to the effect that Highland was able to avoid

getting Mr. Daugherty's consent for the proposed settlement with the HMIT Entities. I requested a rush of the rough draft transcript from the court reporter and am willing to submit a copy of the excerpted testimony to the Court once I receive the rough transcript.

Dated: June 22, 2025

/s/ Andrew K. York
Andrew K. York

Exhibit 1

From: [Drew K. York](#)
To: [Zachery Annable](#); [Jason S. Brookner](#); [Drake Rayshell](#)
Cc: jpomerantz@pszjlaw.com; [John A. Morris](#); [Gregory V. Demo](#)
Subject: RE: Highland Capital Management, L.P. v. Patrick Hagaman Daugherty, Adv. Proc. No. 25-3055
Date: Monday, May 05, 2025 5:42:31 PM
Attachments: [image006.png](#)
[grayreed40thanniversary_776cb36b-8781-4a34-a4ad-ddc5f9a4202d.png](#)

Zach,

I confirm I am able to accept service for Mr. Daugherty. I look forward to hearing from your side regarding the stay issue.

Regards,
Drew

Drew K. York

Partner

Tel [469.320.6114](tel:469.320.6114) | Fax [469.320.6883](tel:469.320.6883) | dyork@grayreed.com
1601 Elm St., Suite 4600 | Dallas, TX 75201
grayreed.com | [Connect with me on LinkedIn](#)



GRAY REED

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From: Zachery Annable <zannable@haywardfirm.com>
Sent: Monday, May 05, 2025 2:58 PM
To: Jason S. Brookner <jbrookner@grayreed.com>; Drew K. York <dyork@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>
Cc: jpomerantz@pszjlaw.com; John A. Morris <jmorris@pszjlaw.com>; Gregory V. Demo <GDemo@pszjlaw.com>; Zachery Annable <zannable@haywardfirm.com>
Subject: [EXTERNAL] RE: Highland Capital Management, L.P. v. Patrick Hagaman Daugherty, Adv. Proc. No. 25-3055

Drew—

Thank you for speaking with me this afternoon. Per our telephone conversation, you advised me that you are authorized to accept service of the complaint and summons (sent earlier today) on behalf of Mr. Daugherty. Just so I have a written acknowledgement, can you please

confirm, via responsive email, that I have correctly stated that you are accepting service of the complaint and summons on behalf of Mr. Daugherty?

With respect to the stay issue you and I discussed, I passed a message on to lead counsel at Pachulski. We will get back to you on that shortly.

Thank you.

Zachery Z. Annable

ATTORNEY & COUNSELOR

Hayward PLLC

10501 N. Central Expressway, Suite 106

Dallas, Texas 75231

(972) 755-7108 (Direct)

(972) 755-7108 (Fax)

Email: ZAnnable@HaywardFirm.com

WEB: www.HAYWARDFIRM.COM

DALLAS: 10501 N. CENTRAL EXPY., STE. 106

DALLAS, TEXAS 75231

MAIN/FAX: (972) 755-7100

AUSTIN: 7600 BURNET ROAD, STE. 530

AUSTIN, TEXAS 78757

MAIN/FAX: (737) 881-7100



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Please consider the environment before printing this e-mail.

From: Zachery Annable <zannable@haywardfirm.com>

Sent: Monday, May 5, 2025 11:18 AM

To: Jason S. Brookner <jbrookner@grayreed.com>; Drew K. York <dyork@grayreed.com>;
drayshell@grayreed.com

Cc: Zachery Annable <zannable@haywardfirm.com>; jpomerantz@pszjlaw.com; John A. Morris

<jmorris@pszjlaw.com>; Gregory V. Demo <GDemo@pszjlaw.com>

Subject: Highland Capital Management, L.P. v. Patrick Hagaman Daugherty, Adv. Proc. No. 25-3055

Messrs. Brookner, York, and Rayshell:

As you are likely aware, last Friday, May 2, 2025, Highland Capital Management commenced the above-referenced adversary proceeding against your client, Mr. Patrick Daugherty. The clerk's office has issued the summons in this adversary proceeding. As local counsel for Highland, I am writing to ask if you are willing to accept service of the complaint and summons on behalf of Mr. Daugherty? Please let me know at your earliest convenience whether you will accept service or whether I need to arrange to have Mr. Daugherty served personally. Thank you.

Sincerely,

Zachery Z. Annable

ATTORNEY & COUNSELOR

Hayward PLLC

10501 N. Central Expressway, Suite 106

Dallas, Texas 75231

(972) 755-7108 (Direct)

(972) 755-7108 (Fax)

Email: ZAnnable@HaywardFirm.com

WEB: www.HAYWARDFIRM.COM

DALLAS: 10501 N. CENTRAL EXPY., STE. 106

DALLAS, TEXAS 75231

MAIN/FAX: (972) 755-7100

AUSTIN: 7600 BURNET ROAD, STE. 530

AUSTIN, TEXAS 78757

MAIN/FAX: (737) 881-7100



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Please consider the environment before printing this e-mail.

Exhibit 2

From: [John A. Morris](#)
To: [Drew K. York](#)
Cc: [Jeff Pomerantz](#); [Gregory V. Demo](#); zannable@haywardfirm.com; [Jason S. Brookner](#); drayshell@grayreed.com
Subject: [EXTERNAL] Highland v. Daugherty, Adv. Pro. No. 25-3055
Date: Tuesday, May 06, 2025 12:56:47 PM
Attachments: [image002.png](#)

Drew:

I hope all is well.

We understand Mr. Daugherty believes the above-referenced Adversary Proceeding must be stayed under the parties' Settlement Agreement. We believe Mr. Daugherty is mistaken.

The Daugherty Settlement provides that the litigation concerning the Reserved Claim is stayed "until the IRS makes a final determination with respect to the IRS Audit Dispute." ¶9.

We understand: (i) the IRS made a final determination with respect to the IRS Audit Dispute and issued a "Final Partnership Administrative Adjustment" ("FPAA") in the past several months; and (ii) while the tax matters partner may seek judicial review of that decision, the issuance of the FPAA reflects the IRS' final determination of the dispute.

Consequently, we believe the "stay" in the settlement agreement has terminated by its terms.

We further understand that Mr. Daugherty should have received or is entitled to notice of the IRS final determination and/or issuance of the FPAA from either the IRS or the tax matters partner.

Please let us know if Mr. Daugherty (a) received notice of the IRS final determination and/or issuance of the FPAA or (b) will promptly seek that information from the tax matters partner or the IRS.

Highland is prepared to discuss an extension of time sufficient to give the parties an opportunity to confer on this issue. We look forward to your prompt response.

Regards,

John

John A. Morris

Pachulski Stang Ziehl & Jones LLP

Direct Dial: 212.561.7760

Tel: 212.561.7700 | Fax: 212.561.7777

jmorris@pszjlaw.com

[vCard](#) | [Bio](#) | [LinkedIn](#)



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Exhibit 3

From: [Gregory V. Demo](#)
To: [Drew K. York](#); [John A. Morris](#)
Cc: [Jeff Pomerantz](#); zannable@haywardfirm.com; [Jason S. Brookner](#); [Drake Rayshell](#)
Subject: [EXTERNAL] Highland - Eighth Distribution Notice
Date: Tuesday, May 20, 2025 12:41:33 PM
Attachments: [Eighth Distribution Notice - Pat Daugherty .pdf](#)

Counsel,

Attached is the eighth distribution notice from the Highland Claimant Trust to Mr. Daugherty. It is being delivered concurrently to Mr. Daugherty via U.S. mail. Can you please forward him the attached?

Best,
Greg

Gregory V. Demo

Pachulski Stang Ziehl & Jones LLP

Tel: 212.561.7730 | Cell: 312.662.3573 | Fax: 212.561.7777

GDemo@pszjlaw.com

[vCard](#) | [Bio](#) | [LinkedIn](#)



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CONFIDENTIAL

Highland Claimant Trust
100 Crescent Court, Suite 1850
Dallas, TX 75201

May 20, 2025

Patrick Daugherty
3621 Cornell Ave, Ste 830
Dallas, TX 75205

Dear Patrick Daugherty:

Highland Claimant Trust is making a distribution (the “**Eighth Distribution**”) of cash proceeds to holders of Claimant Trust Interests in accordance with Article VI of the Claimant Trust Agreement.

Your share of the Eighth Distribution is \$797,269.56, of which \$781,707.29 represents the remaining portion of your previously allowed Class 9 claim and \$15,562.27 represents all accrued interest with respect to such claim. No further distributions will be made on account of your allowed Class 9 claim after the Eighth Distribution, provided however that you still have an unresolved and pending claim that is separate from your allowed Class 9 claim, which has neither been allowed nor disallowed as of the date of this notice. The Eighth Distribution will be paid out to you on or about May 20, 2024.

The foregoing is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors regarding treatment of the Eighth Distribution. This notice contains confidential information and is intended only for the addressee named herein. If you are not named addressee, you should not disseminate, distribute, or copy this notice. If you have received this notice by mistake, please notify David Klos immediately by e-mail (dklos@highlandcapital.com) and delete it along with any copies in your possession. If you are not the intended recipient, you are notified that disclosing, copying, distributing, or taking any action in reliance on the contents of this information is strictly prohibited.

Sincerely,

James P. Seery, Jr.
Claimant Trustee, Highland Claimant Trust

Exhibit 4

From: [Louis M. Phillips](#)
To: [Drew K. York](#); [Amelia L. Hurt](#)
Cc: [Drake Rayshell](#)
Subject: [EXTERNAL] RE: In re Highland Capital Management, L.P., Case No. 19-34054-SGJ
Date: Thursday, June 19, 2025 3:17:39 PM
Attachments: [image003.png](#)
[image004.png](#)

Subpoena for his attendance at hearing is fine, as he will be there. Mr. Patrick is available only Monday, and we would require a time limit of 1-2 hours. The Objection deadline, which you met, was almost 2 weeks ago. A true courtesy would have been to try to work out details etc. reasonably in advance of now.

Also, we would be happy to discuss Mr. Daugherty's objection under the umbrella of Rule 408.

Louis M. Phillips
Partner



KELLY HART & PITRE
301 MAIN STREET SUITE 1600
BATON ROUGE, LOUISIANA 70801
TELEPHONE: 225-381-9643
FAX: 225-336-9763
DIRECT: 225-338-5308

louis.phillips@kellyhart.com
www.kellyhart.com

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From: Drew K. York <dyork@grayreed.com>
Sent: Thursday, June 19, 2025 3:04 PM
To: Louis M. Phillips <Louis.Phillips@kellyhart.com>; Amelia L. Hurt <Amelia.Hurt@kellyhart.com>
Cc: Drake Rayshell <drayshell@grayreed.com>
Subject: In re Highland Capital Management, L.P., Case No. 19-34054-SGJ

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Mr. Phillips and Ms. Hurt:

I understand you represent the HMIT Entities in connection with Highland Capital Management's Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 USC s 363 Approving Settlement with the HMIT Entities (Docket No. 4216). As you are probably aware, Gray Reed represents Patrick Daugherty in connection with his objection to the Motion and proposed settlement. As a courtesy, I wanted to let you know that later today we will be serving you with a subpoena for Mr. Patrick's deposition and a subpoena for his attendance at the hearing on the Motion. I will be back in the office tomorrow and happy to discuss with you if necessary.

Regards,
Drew York

Drew K. York

Partner

Tel [469.320.6114](tel:469.320.6114) | Fax [469.320.6883](tel:469.320.6883) | dyork@grayreed.com

1601 Elm St., Suite 4600 | Dallas, TX 75201

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