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Counsel for Intervenor Highland Capital Management, L.P.

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

| | | |
|---|---|--------------------------|
| In re: | § | Chapter 11 |
| HIGHLAND CAPITAL MANAGEMENT, L.P., ¹ | § | Case No. 19-34054-sgj11 |
| Reorganized Debtor. | § | |
| In re: | § | |
| JAMES DONDERO, <i>et al.</i> , | § | |
| Appellants, | § | |
| v. | § | Case No. 3:21-cv-00879-K |
| HON. STACEY G. C. JERNIGAN, | § | |
| Appellee. | § | |

¹ The Reorganized Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



HCMLP'S RESPONSE TO APPELLANTS' REQUEST FOR ORAL ARGUMENT

Highland Capital Management, L.P., the above-captioned reorganized debtor ("HCMLP")² in the above-captioned chapter 11 case ("Bankruptcy Case") and intervenor in this appeal (the "Appeal") from an order of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Bankruptcy Court"), by and through its undersigned counsel, hereby files this response (the "Response") to the *Request for Oral Argument on Appellants' Brief* [Docket No. 24] (the "Request"). In support of its Response, HCMLP respectfully states as follows:

RESPONSE

1. The Request should be denied for four independent reasons.
2. First, on its face, the appeal is frivolous because, among other things, (a) Appellants were very familiar with Judge Jernigan before the commencement of the Bankruptcy Case yet never appealed the decision to transfer venue to the Bankruptcy Court and did not seek her recusal until the eve of a contempt hearing and after numerous decisions were entered against them; (b) Appellants cite to no evidence of extra-judicial knowledge or information relied upon by the Bankruptcy Court in rendering any decision against them; (c) Appellants did not even bother appealing most of the decisions they complain of, strongly suggesting that they knew there was no basis to challenge those decisions; (d) the Bankruptcy Court is just one of numerous courts and arbitration panels to have consistently ruled against Mr. Dondero and his enterprise; and (e) there is no evidence in the record to support the appeal.

² On February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Docket No. 1943], which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, as modified (the "Plan"). The Plan became effective on August 11, 2021. See *Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 2700]. HCMLP is the Reorganized Debtor (as defined in the Plan).

3. Second, Appellants offer nothing but a short, conclusory, and generalized statement in support of the Request. Appellants fail to state why they “believe that resolution of the issues will be aided by a detailed understanding of the complex procedural and factual history of the case,” or why “[o]ral argument will help the Court in understanding and evaluating the issues.”

4. Third, Appellants offer no explanation for why this Court cannot fully “understand[] the complex procedural and factual history of the case” from the record they filed when Appellants’ counsel was apparently able to do so. Appellants’ counsel did not participate in any of the hearings cited by Appellants. If he could prepare the appeal based on a review of the record, the Court should be able to render a decision based on a review of the record.

5. Finally, Appellants offer no basis or rationale for creating a public forum for attacking a judge whose rulings they clearly disagree with.

6. In sum, Appellants offer no basis (reasonable, fair, or otherwise) for expending more judicial and estate resources, delaying this matter further, and making a further public spectacle in this case. Based on the foregoing, HCMLP therefore respectfully requests that this Court deny the Request and hear oral argument only if it concludes that it will aid the Court in its understanding of the record.

Dated: September 8, 2021.

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Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on September 8, 2021, a true and correct copy of the foregoing Response was served electronically upon all parties registered to receive electronic notice in this case via the Court's CM/ECF system.

/s/ Zachery Z. Annable
Zachery Z. Annable