

Case No. 3:21-cv-3086-K

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

In re: Highland Capital Management, L.P.,
Reorganized Debtor.

NEXPOINT ADVISORS, L.P.,

Appellant

v.

PACHULSKI STANG ZIEHL & JONES LLP, WILMER CUTLER PICKERING
HALE AND DORR LLP, SIDLEY AUSTIN LLP, FTI CONSULTING, INC.,
AND TENEO CAPITAL, LLC,

Appellees

On Appeal from the
United States Bankruptcy Court, Northern District of Texas, Dallas Division
Case No. 19-34054-sgj11 (Hon. Stacey G.C. Jernigan)

**APPELLEES' UNOPPOSED MOTION FOR
EXTENSION OF LENGTH OF JOINT ANSWERING BRIEF
AND EXTENSION OF TIME TO FILE JOINT ANSWERING BRIEF**

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Appellees Pachulski Stang Ziehl & Jones LLP, Wilmer Cutler Pickering Hale and Dorr LLP, Sidley Austin LLP, FTI Consulting, Inc., and Teneo Capital, LLC (each an “**Appellee**” and collectively, the “**Appellees**”) respectfully file this motion (the “**Motion**”) for entry of an order (i) extending the limitation for Appellees to file their joint answering brief not to exceed the greater of 40 pages or 17,500 words; (ii) extending Appellees’ deadline to file their joint answering brief¹ from May 14, 2022, through and including June 14, 2022; and (iii) permitting Appellant NexPoint Advisors, L.P. (“**Appellant**”) to file a reply brief not to exceed the greater of 25 pages or 10,500 words. *Counsel for Appellees have conferred with counsel for Appellant regarding this request, and Appellant is agreeable to the relief set forth herein.* In support of this Motion, Appellees respectfully state as follows:

I. **BACKGROUND**

1. On November 17, 2021, the United States Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Court**”) conducted a hearing to consider the respective requests for final allowance of fees and reimbursement of expenses incurred by the Appellees and certain other parties. The Bankruptcy Court granted each of the Appellees’ fee applications.²

¹ The Court ordered Appellees to advise the Court whether they would be filing one joint brief or separate briefs. **This Motion serves as notice to the Court that Appellees will be filing one joint brief in accordance with the relief requested herein.**

²See Bankruptcy Court Docket Nos. 3047, 3048, 3056, 3057 and 3058.

2. Appellant filed notices of appeal of each of the orders granting the Appellees' respective fee applications, which appeals were consolidated and transferred to this Court pursuant to the Court's *Order of Consolidation* [Docket No. 8] entered on January 11, 2022.

3. On January 11, 2022, the Court entered a scheduling order [Docket No. 9] (the "**Scheduling Order**") requiring (i) Appellant to file its opening brief within 30 days after the filing of the record of the consolidated appeals transferred to this Court; and (ii) Appellees to file, at their election and within 30 days after the filing of Appellant's opening brief, either one consolidated answering brief or two separate answering briefs.

4. The Scheduling Order also requires Appellees to notify the Court within 10 days of the filing of Appellant's opening brief to disclose whether Appellees have elected to file one or two answering briefs.

5. Appellees have elected to file one joint answering brief (the "**Joint Answering Brief**") under the Scheduling Order.

6. Appellant timely filed its opening brief on April 14, 2022.³ Therefore, Appellees' Joint Answering Brief is currently due on May 14, 2022, pursuant to the Scheduling Order.

³ Appellant previously requested and obtained an extension of the length of its opening brief limited in size to no more than sixty (60) pages or 26,600 words pursuant to an order entered by this Court on March 24, 2022 [Docket No. 32]. None of the Appellees opposed this extension request.

II. RELIEF REQUESTED

7. Appellees have filed the Motion respectfully requesting an extension of the answering brief length prescribed under Rule 8015(a)(7) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) to the greater of 40 pages or 17,500 words with respect to the Joint Answering Brief. Appellees also request an extension of time to file the Joint Answering Brief from May 14, 2022, currently provided under the Scheduling Order through and including June 14, 2022. Finally, Appellees have each agreed to an extension of the length of any reply brief that may be filed by Appellant pursuant to Bankruptcy Rule 8015(a)(7) to the greater of 25 pages or 10,500 words.

III. BASIS FOR RELIEF REQUESTED

8. Good cause exists for the requested extension. As set forth above, Appellees have elected to file a consolidated Joint Answering Brief. As a result, Appellees request an extension of the length of the Joint Answering Brief pursuant to Bankruptcy Rule 8015(a)(7) as set forth above. This request is appropriate given that the Joint Answering Brief must address each of the five Appellees’ respective arguments. Appellant’s opening brief was 94 pages in length and contained 20,354 words.⁴

⁴ See *Certification of Compliance with Federal Rule of Bankruptcy Procedure 8015(a)(7)* for Appellant’s opening brief [Docket No. 33 at page 95].

9. Sufficient cause also exists for a brief extension of time for Appellees to file the Joint Answering Brief from the current deadline of May 14, 2022, through and including June 14, 2022. Appellees will require additional time to coordinate with one another and collectively draft the Joint Answering Brief.

10. Appellant has agreed to the extension requested herein. Appellant has also requested an unopposed reciprocal extension of the limitations imposed by Bankruptcy Rule 8015(a)(7) on any reply brief that it may elect to file as set forth above.

IV. CONCLUSION

WHEREFORE, Appellees respectfully requests that the Court enter an order (i) granting the Motion; (ii) extending the length of the Joint Answering Brief to the greater of 40 pages or 17,500 words; (iii) extending the deadline for Appellees to file their Joint Answering Brief from May 14, 2022, to June 14, 2022; (iv) extending the length for any Appellant reply brief to the greater of 25 pages or 10,500 words; and (v) granting Appellees such other and further relief as may be just and proper.

[Remainder of Page Intentionally Blank]

Dated: April 25, 2022

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on April 20, 2022, counsel for Appellees corresponded with counsel for Appellant regarding the relief requested in the foregoing Motion. Counsel for Appellant advised counsel for Appellees that Appellant is **UNOPPOSED** to the relief requested in the Motion.

/s/ Zachery Z. Annable
Zachery Z. Annable

CERTIFICATE OF COMPLIANCE WITH RULE 8013

The undersigned hereby certifies that this Motion complies with the type-volume limitation set by Rule 8013(f)(3) of the Federal Rules of Bankruptcy Procedure. This Motion contains 883 words.

/s/ Zachery Z. Annable
Zachery Z. Annable

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Appellees

On Appeal from the
United States Bankruptcy Court, Northern District of Texas, Dallas Division
Case No. 19-34054-sgj11 (Hon. Stacey G.C. Jernigan)

**ORDER GRANTING APPELLEES' UNOPPOSED JOINT MOTION FOR
EXTENSION OF LENGTH OF JOINT ANSWERING BRIEF AND
EXTENSION OF TIME TO FILE JOINT ANSWERING BRIEF**

Having considered the *Appellees' Unopposed Joint Motion for Extension of Length of Joint Answering Brief and Extension of Time to File Joint Answering Brief* (the "**Motion**")¹ filed by Appellees Pachulski Stang Ziehl & Jones LLP, Wilmer Cutler Pickering Hale and Dorr LLP, Sidley Austin LLP, FTI Consulting, Inc., and Teneo Capital, LLC (collectively, the "**Appellees**") with respect to the above-captioned appeal (the "**Appeal**") commenced by appellant NexPoint Advisors, L.P.

¹ Capitalized terms not otherwise defined in this Order have the meanings ascribed to them in the Motion.

(the “**Appellant**”), the Court finds and concludes that (i) it has jurisdiction over this matter pursuant to 28 U.S.C. § 158; (ii) Appellees’ notice of the Motion was appropriate under the circumstances and no other notice need be provided; and (iii) the legal and factual bases set forth in the Motion establish good cause for the relief granted herein. Accordingly, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED**.
2. The deadline for Appellees to file their Joint Answering Brief is extended from May 14, 2022, through and including June 14, 2022.
3. The length of Appellees’ Joint Answering Brief is extended pursuant to Bankruptcy Rule 8015(a)(7) to the greater of 40 pages or 17,500 words.
4. The length for any reply brief filed by Appellant to the Joint Answering Brief is extended pursuant to Bankruptcy Rule 8015(a)(7) to the greater of 25 pages or 10,500 words.

It is so ordered this ____ day of _____, 2022.

The Honorable Ed Kinkeade
United States District Judge