

No. 21-10219

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

In re James D. Dondero,
Petitioner.

On Petition for Writ of Mandamus to the
United States District Court for the Northern District of Texas
Civil Action No. 3:21-CV-00132-E
Hon. Ada Brown, Judge

UNOPPOSED MOTION TO DISMISS

TO THE HONORABLE JUDGES OF THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT:

COMES NOW, Petitioner James D. Dondero (“Mr. Dondero”), and
files this *Unopposed Motion to Dismiss*, and would show this Court as
follows:



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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

1. Highland Capital Management, L.P.
2. James D. Dondero
3. Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067, counsel for Highland Capital Management, L.P.
4. Hayward PLLC, 10501 N. Central Expy, Ste. 106, Dallas, TX 75231, counsel for Highland Capital Management, L.P.
5. Bonds Ellis Eppich Schafer Jones LLP, 420 Throckmorton Street, Suite 1000, Fort Worth, TX 76102, counsel for James D. Dondero

/s/ Matthew Stayton
Matthew Stayton,
Counsel for Petitioner

SUMMARY OF GROUNDS OF MOTION

The parties have settled and resolved the underlying injunction dispute. Petitioner James D. Dondero therefore requests that the Court dismiss his pending Petition for Writ of Mandamus and Motion to Stay.

MOTION TO DISMISS

On March 8, 2021, Dondero filed a Petition for Writ of Mandamus (the “Mandamus”) with this Court to (i) dissolve the bankruptcy court’s *Order Granting Debtor’s Motion for a Preliminary Injunction Against James Dondero* (the “Preliminary Injunction”) and (ii) overturn the District Court’s *Memorandum Opinion and Order*, ruling Mr. Dondero did not have a right to appeal.¹ The Mandamus is pending before the Court.

On March 9, 2021, this Court ordered a response from Highland Capital Management, L.P. (“Highland”). On April 30, 2021, Mr. Dondero moved in the bankruptcy court to stay or continue the Permanent Injunction Trial.

¹ The Mandamus also requested, in the alternative, to be treated as an interlocutory appeal.

On May 6, 2021 Mr. Dondero requested a stay of the Permanent Injunction Trial from this Court. The stay motion is pending before the Court.

On May 18, 2021—on the day of the Permanent Injunction Trial in the bankruptcy court—the parties reached a settlement resolving their disputes related to the Mandamus and Permanent Injunction Trial. The same day, the parties notified this Court of their settlement and intent to dismiss the Mandamus via phone and notified the bankruptcy court of the same.

Therefore, Petitioner James D. Dondero requests that this Court dismiss his Petition for Writ of Mandamus and Motion to Stay.

PRAYER

WHEREFORE, promises considered, Petitioner James D. Dondero prays that the Court (i) grant this motion; (ii) dismiss the Mandamus and pending stay motion; and (iii) provide Mr. Dondero such other and further relief to which he may be entitled.

Dated: May 18, 2021

Respectfully submitted,

/s/ Matthew D. Stayton

Matthew D. Stayton

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**ATTORNEYS FOR PETITIONER
JAMES DONDERO**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on May 18, 2021, the foregoing document was served via the Court's CM/ECF system upon counsel for Respondent Highland Capital Management, L.P. as listed below.

Jeffrey Pomerantz

Ira Kharasch

John Morris

Gregory Demo

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/s/ Matthew Stayton
Matthew Stayton

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that, on May 18, 2021, Petitioner James D. Dondero's counsel conferred with counsel for the Respondent regarding the relief requested herein. Counsel for Respondent indicated that Respondent is unopposed the relief requested herein.

/s/ Matthew Stayton
Matthew Stayton

CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Fed. R. App. P. 27 because this document contains 450 words.

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Century Schoolbook font.

/s/ Matthew Stayton
Matthew Stayton