

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	
Highland Capital Management, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
<hr/>		
	§	
Highland Capital Management Fund	§	
Advisors, L.P., and NexPoint Advisors, L.P.,	§	
	§	Civil Act. No. 3:23-cv-00573-E
Appellants,	§	
	§	<i>Appeal from the United States Bankruptcy</i>
v.	§	<i>Court for the Northern District of Texas</i>
	§	<i>Bankr. Case No. 19-34054</i>
Highland Capital Management, L.P.,	§	
	§	
Appellee.	§	

**UNOPPOSED MOTION TO ABATE DISTRICT COURT APPEAL
IN LIGHT OF DIRECT APPEAL TO THE FIFTH CIRCUIT**

TO THE HONORABLE ADA BROWN,
UNITED STATES DISTRICT COURT JUDGE:

NOW COME Appellants NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. and file this *Unopposed Motion to Abate District Court Appeal in Light of Direct Appeal to the Fifth Circuit*, in support of which they would respectfully show as follows:

Appellants initiated this bankruptcy appeal by filing a joint notice of appeal on March 13, 2023. This civil action was therefore opened on March 15, 2023. On April 27, 2023, Appellants filed a petition for direct appeal with the United States Court of Appeals for the Fifth Circuit. Appellee Highland Capital Management, L.P. filed a response unopposed to the petition for direct appeal on May 8, 2023.

On May 2, 2023, the Clerk transmitted the appellate record from the Bankruptcy Court to this Court. As a result, Appellants' brief was due June 1, 2023. *See* FED. R. BANKR. P. 8018(a)(1).



The Court extended this deadline to June 15, 2023 by order entered May 24, 2023. That same day the Fifth Circuit granted Appellants' petition for direct appeal. A copy of the Fifth Circuit's order is attached hereto as Exhibit A.

The Fifth Circuit's decision to allow a direct appeal arguably moots this intermediate appeal. In light of these developments, Appellants request that the Court abate the appeal in the District Court in order to allow the Clerk time to transmit the record to the Fifth Circuit. Once that process is complete, Appellants reserve the right to seek dismissal of this appeal or to take such other action as is appropriate under the circumstances, following a conference with Appellee.

Under Fed. R. Bankr. P. 8013(b), the Court may rule on a procedural motion without awaiting a response. That is particularly appropriate here where Appellee has consented to the relief requested. Accordingly, Appellants respectfully request that the Court enter an order abating this appeal, including all upcoming deadlines. Appellants make this request not for purposes of delay but so that justice may be done.

RESPECTFULLY SUBMITTED this 12th day of June, 2023.

MUNSCH HARDT KOPF & HARR P.C.

/s/ Julian P. Vasek

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COUNSEL FOR APPELLANTS

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that he has conferred with Jeff Pomerantz, counsel for Appellee, and Appellee does not oppose the relief requested herein.

/s/ Julian P. Vasek

Julian P. Vasek

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on June 12, 2023, he caused a true and correct copy of this document to be served on the following recipient(s) via the Court's CM/ECF system:

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/s/ Julian P. Vasek

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United States Court of Appeals for the Fifth Circuit

Certified as a true copy and issued
as the mandate on May 24, 2023

Attest: *Jyle W. Cayce*
Clerk, U.S. Court of Appeals, Fifth Circuit

No. 23-90013

IN THE MATTER OF HIGHLAND CAPITAL MANAGEMENT, L.P.

Debtor,

NEXPOINT ADVISORS, ; HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P., *now known as* NEXPOINT ASSET
MANAGEMENT, L.P.,

Petitioners,

versus

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Respondent.

Motion for Leave to Appeal
Pursuant to 28 U.S.C. § 158(D)

UNPUBLISHED ORDER

Before KING, JONES, and SMITH, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the motion for leave to appeal under
28 U.S.C. § 158(d) is GRANTED.



**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

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	§	Civil Act. No. 3:23-cv-00573-E
Appellants,	§	
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	§	<i>Bankr. Case No. 19-34054</i>
Highland Capital Management, L.P.,	§	
	§	
Appellee.	§	

ORDER GRANTING UNOPPOSED MOTION TO ABATE

Before the Court is the *Unopposed Motion to Abate District Court Appeal in Light of Direct Appeal to the Fifth Circuit*, filed by appellants NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. (“Appellants”). Having considered the relief requested in the Motion and the agreement of the parties, it is hereby ORDERED that the motion is GRANTED, and this proceeding and all deadlines herein are ABATED pending further order of the Court.

Signed June ____, 2023.

Hon. Ada Brown
U.S. District Court Judge