



**HIGHLAND CAPITAL MANAGEMENT, L.P.’S UNOPPOSED MOTION TO (I) EXTEND REPLY DEADLINE TO FEBRUARY 9, 2024 AND (II) INCREASE REPLY PAGE LIMIT TO 89 PAGES WITH RESPECT TO REPLY IN FURTHER SUPPORT OF HIGHLAND CAPITAL MANAGEMENT, L.P.’S MOTION TO DEEM THE DONDERO ENTITIES VEXATIOUS LITIGANTS AND FOR RELATED RELIEF**

COMES NOW Highland Capital Management L.P. (“Highland” or “Plaintiff”) filing this unopposed *Motion to (i) Extend Reply Deadline to February 9, 2024 and (ii) Increase Reply Page Limit to 89 Pages with Respect to Reply in Further Support of Highland Capital Management, L.P.’s Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief* (the “Motion”) seeking entry of an order from this Court, in a form substantially similar to that attached hereto as **Exhibit 1** (the “Proposed Order”), (i) extending through February 9, 2024 Highland’s deadline to file its reply (the “Reply”) in support of the *Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief* [Docket No. 136] (the “Vexatious Litigant Motion”), and (ii) increasing the page limit for Highland’s Reply to 89 pages. In support of the Motion, Highland respectfully states the following:

**I. BACKGROUND**

1. On October 16, 2019 (the “Petition Date”), Highland (in its capacity as a debtor in bankruptcy, the “Debtor”) filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”).

2. The above-captioned cases were consolidated in this Court to review certain reports and recommendations from the Bankruptcy Court.

3. On July 14, 2023, Highland filed its Vexatious Litigant Motion.

4. On August 3, 2023, the Court entered its *Order Approving Stipulation Regarding Briefing on Highland Capital Management, L.P.’s Motion to Deem the Dondero Entities Vexatious*

*Litigants and for Related Relief* [Docket No. 150] (the “First Extension Order”) approving that certain *Stipulation Regarding Briefing on Highland Capital Management, L.P.’s Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief* (the “First Stipulation”) by and between Highland, on the one hand, and James Dondero (“Mr. Dondero”), NexPoint Asset Management, L.P. (f/k/a Highland Capital Management Fund Advisors, L.P.) (“NexPoint AM”), NexPoint Advisors, L.P. (“NexPoint Advisors”), Highland Capital Management Services, Inc. (“HCMS”), and NexPoint Real Estate Partners, LLC (f/k/a HCRE Partners, LLC) (“NexPoint Real Estate”) (collectively, the “Notes Defendants”), on the other hand, attached as Exhibit 1 to the *Joint Agreed Emergency Motion for Approval of Stipulation Regarding Briefing on Highland Capital Management, L.P.’s Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief* [Docket No. 141] (the “First Stipulation Motion”). Among other things, the First Extension Order approved the First Stipulation and extended the deadline to respond to the Vexatious Litigant Motion through December 15, 2023.

5. Prior to December 15, 2023, counsel for the Notes Defendants requested an extension of the page limit to file their opposition to the Vexatious Litigant Motion. After conferring, counsel for Highland and the Dondero Entities<sup>1</sup> agreed that (a) the Notes Defendants’ page limit for opposing the Vexatious Litigant Motion would be extended from 25 to 47 pages (with an accompanying chart of no more than two pages and an appendix with cited materials) (the “Notes Defendants’ Page Limit Extension”), (b) Highland would be permitted to file a reply with an aggregate page limit not to exceed 75% of the total aggregate pages filed by the Dondero Entities, and (c) Highland would have until February 9, 2024 to file its Reply (collectively, the

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<sup>1</sup> The term “Dondero Entities” has the meaning ascribed to that term in footnote 2 of Highland’s *Memorandum of Law* [Docket No. 137] filed in support of the Vexatious Litigant Motion.

“Parties’ Agreement”).

6. On December 15, 2023, the parties filed that certain *Joint Agreed Emergency Motion for Approval of Stipulation Regarding Briefing on Highland Capital Management, L.P.’s Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief* [Docket No. 164] (the “Second Stipulation Motion”) seeking the Court’s approval of the Notes Defendants’ Page Limit Extension. On January 8, 2024, the Court granted the Second Stipulation Motion [Docket No. 175].

7. On December 15 and 16, 2023, the Dondero Entities filed their respective responses (collectively, the “Responses”)<sup>2</sup> to the Vexatious Litigant Motion. Together, the Dondero Entities’ Responses total 119 pages. Based on the Parties’ Agreement, but subject to this Court’s approval, Highland will have until February 9, 2024, to file a Reply to the Responses not to exceed more than 89 pages in the aggregate.

## II. RELIEF REQUESTED

8. Highland intends to file a single, collective reply to the Responses. Accordingly, due to the numerous issues addressed in, and the total volume of, the Responses, Highland respectfully requests that the Court approve the totality of the Parties’ Agreement and (i) extend through February 9, 2024 Highland’s deadline to file its Reply and (ii) increase the page limit for Highland’s Reply to 89 pages (*i.e.*, 75% of the total substantive pages included in the Responses). As indicated in the Certificate of Conference below, the parties who filed the Responses are **UNOPPOSED** to the relief requested in this Motion.

WHEREFORE, PREMISES CONSIDERED, Highland respectfully requests that the Court (i) grant the Motion; (ii) enter an order, substantially in the form of the Proposed Order attached

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<sup>2</sup> The Responses appear at docket nos. 166, 167, 168, 171, and 173.

hereto as **Exhibit 1**, (a) extending through February 9, 2024 Highland's deadline to file its Reply and (b) increasing the page limit for Highland's Reply to 89 pages; and (iii) grant Highland such other and further relief as the Court deems just and proper.

Dated: January 12, 2024

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No. 143717)  
John A. Morris (NY Bar No. 2405397)  
Hayley R. Winograd (NY Bar No. 5612569)  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
E-mail: jpomerantz@pszjlaw.com  
jmorris@pszjlaw.com  
gdemo@pszjlaw.com  
hwinograd@pszjlaw.com

- and -

**HAYWARD PLLC**

/s/ Zachery Z. Annable  
Melissa S. Hayward  
Texas Bar No. 24044908  
MHayward@HaywardFirm.com  
Zachery Z. Annable  
Texas Bar No. 24053075  
ZAnnable@HaywardFirm.com  
10501 N. Central Expy, Ste. 106  
Dallas, Texas 75231  
Telephone: (972) 755-7100  
Facsimile: (972) 755-7110

*Counsel for Highland Capital Management, L.P.*

**CERTIFICATE OF CONFERENCE**

I hereby certify that, on January 9, 2024, John A. Morris, counsel for Highland Capital Management, L.P., communicated with counsel for the Dondero Entities regarding the relief requested in the foregoing Motion. The Dondero Entities are **UNOPPOSED** to the relief requested in the Motion.

*/s/ Zachery Z. Annable*  
Zachery Z. Annable

**EXHIBIT 1**



and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED** that

1. The Motion is **GRANTED** as set forth herein.
2. Highland's deadline to file its collective Reply in support of the Vexatious Litigant Motion is extended through and including February 9, 2024.
3. The page limit for Highland's collective Reply in support of the Vexatious Litigant Motion is increased to 89 pages.
4. The Court shall retain exclusive jurisdiction to hear and determine all matters and disputes arising from the interpretation and implementation of this Order.

**It is so ordered** this \_\_\_\_\_ day of January, 2024.

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The Honorable Brantley Starr  
United States District Judge