

Sawnie A. McEntire
Texas State Bar No. 13590100
smcentire@pmmlaw.com
1700 Pacific Avenue, Suite 4400
Dallas, Texas 75201
Telephone: (214) 237-4300
Facsimile: (214) 237-4340

Roger L. McCleary
Texas State Bar No. 13393700
rmccleary@pmmlaw.com
One Riverway, Suite 1800
Houston, Texas 77056
Telephone: (713) 960-7315
Facsimile: (713) 960-7347

Attorneys for Hunter Mountain Investment Trust

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

HIGHLAND CAPITAL	§	
MANAGEMENT, L.P.	§	
	§	
Plaintiff.	§	Case No. 3:21-cv-00881-X
vs.	§	
	§	(Consolidated with 3:21-cv-00880-X,
HIGHLAND CAPITAL	§	3:21-cv-01010-X, 3:21-cv-01378-X, 3:21-
MANAGEMENT FUND ADVISORS,	§	cv-01379-X)
L.P. et al.,	§	
	§	
Defendants.	§	

**HUNTER MOUNTAIN INVESTMENT TRUST’S OBJECTION AND MOTION TO
STRIKE HIGHLAND CAPITAL MANAGEMENT, L.P.’S SUPPLEMENTAL
APPENDIX AND SELECTED PORTIONS OF THE REPLY IN SUPPORT OF ITS
MOTION TO DEEM THE DONDERO ENTITIES VEXATIOUS LITIGANTS
AND FOR RELATED RELIEF**



Hunter Mountain Investment Trust ("HMIT") files this objection and motion ("Motion") to (a) strike Highland Capital Management, L.P.'s ("HCM") Supplemental Appendix and Declaration of Gregory V. Demo [Dkt. 190] ("Supplemental Appendix") and selected portions of HCM's Reply [Dkt. 189] in Support of its Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief ("HCM's Motion" or "Motion") (Dkt. 136), or, (b) alternatively, for leave to file a sur-reply not to exceed ten (10) pages to provide HMIT an opportunity to fully respond to HCM's new arguments.

I. RELIEF REQUESTED

1. HMIT requests that the Court enter an order substantially in the form annexed hereto as **Exhibit A** (the "Proposed Order") (a) striking HCM's Supplemental Appendix [Dkt. 190] and selected portions of HCM's Reply [Dkt. 189] in Support of HCM's Motion, or, (b) alternatively, granting HMIT leave to file a sur-reply not to exceed ten (10) pages to provide HMIT an opportunity to fully respond to HCM's new arguments, (c) grant HMIT's request for an oral hearing; and (d) otherwise deny HCM's Motion in its entirety.

2. In accordance with Rule 7.1 of the Local Civil Rules of the United States District Court for the Northern District of Texas (the "Local Rules"), contemporaneously herewith and in support of this Motion, HMIT is filing its Brief ("Brief") in Support of its Objection and Motion to Strike HCM's Supplemental Appendix and Declaration of

Gregory V. Demo and selected portions of HCM's Reply in Support of its Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief.

WHEREFORE, HMIT respectfully requests that the Court (a) grant the Motion (i) striking HCM's Supplemental Appendix and selected portions of HCM's Reply in Support of HCM's Motion, or, (ii) alternatively, granting HMIT leave to file a sur-reply in response to the Supplemental Appendix [Dkt. 190] and selected portions of HCM's Reply [Dkt. 189] not to exceed ten (10) pages to provide HMIT an opportunity to fully respond to HCM's new arguments; and (b) grant HMIT's request for an oral hearing; (c) otherwise deny HCM's Motion in its entirety; and (d) grant HMIT all such further relief to which HMIT may be justly entitled.

Dated: February 23, 2024

Respectfully Submitted,

PARSONS MCENTIRE MCCLEARY PLLC

By: /s/ Sawnie A. McEntire

Sawnie A. McEntire
Texas State Bar No. 13590100
smcentire@pmmlaw.com
1700 Pacific Avenue, Suite 4400
Dallas, Texas 75201
Telephone: (214) 237-4300
Facsimile: (214) 237-4340

Roger L. McCleary
Texas State Bar No. 13393700
rmcleary@pmmlaw.com
One Riverway, Suite 1800
Houston, Texas 77056
Telephone: (713) 960-7315

Facsimile: (713) 960-7347

*Attorneys for Hunter Mountain
Investment Trust*

CERTIFICATE OF CONFERENCE

On February 22, 2024, and pursuant to N. D. Texas Local Rule 7.1, I conferred with opposing counsel, Mr. John A. Morris, regarding the relief requested in this Motion. As a result of this conference, I received an email dated February 23, 2024, in which opposing counsel indicated that Highland Capital Management, L.P. (“HCM”) would not oppose the filing of a sur-reply strictly limited to the specific factual assertions in paragraphs 37 and 38 of HCM’s Reply, provided that the Sur-Reply is filed within 10 days and is limited to 10 pages, but that if HMIT seeks any different or additional relief HCM opposes the entirety of the Motion. HMIT is seeking additional and different relief and, accordingly, this Motion is opposed.

/s/ Roger L. McCleary _____
Roger L. McCleary

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 23, 2024, true and correct copies of this document were electronically served by the Court’s ECF system on parties entitled to notice thereof.

/s/ Sawnie A. McEntire _____
Sawnie A. McEntire

EXHIBIT A

Sawnie A. McEntire
Texas State Bar No. 13590100
smcentire@pmmlaw.com
1700 Pacific Avenue, Suite 4400
Dallas, Texas 75201
Telephone: (214) 237-4300
Facsimile: (214) 237-4340

Roger L. McCleary
Texas State Bar No. 13393700
rmccleary@pmmlaw.com
One Riverway, Suite 1800
Houston, Texas 77056
Telephone: (713) 960-7315
Facsimile: (713) 960-7347

Attorneys for Hunter Mountain Investment Trust

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

HIGHLAND CAPITAL	§	
MANAGEMENT, L.P.	§	
	§	
Plaintiff.	§	Case No. 3:21-cv-00881-X
vs.	§	
	§	(Consolidated with 3:21-cv-00880-X,
HIGHLAND CAPITAL	§	3:21-cv-01010-X, 3:21-cv-01378-X, 3:21-
MANAGEMENT FUND ADVISORS,	§	cv-01379-X)
L.P. et al.,	§	
	§	
Defendants.	§	

**ORDER GRANTING HUNTER MOUNTAIN INVESTMENT TRUST'S
OBJECTION AND MOTION TO STRIKE HIGHLAND CAPITAL MANAGEMENT,
L.P.'S SUPPLEMENTAL APPENDIX AND SELECTED PORTIONS OF THE REPLY
IN SUPPORT OF ITS MOTION TO DEEM THE DONDERO ENTITIES
VEXATIOUS LITIGANTS AND FOR RELATED RELIEF**

This matter, having come before the Court on Hunter Mountain Investment Trust's Objection and Motion to Strike Highland Capital Management, L.P.'s ("HCM") Supplemental Appendix and Declaration of Gregory V. Demo ("Supplemental Appendix") and Selected Portions of HCM's Reply in Support of its Motion to Deem the Dondero Entities Vexatious Litigants and for Related Relief [Docket No. ___] (the "Motion"), filed by Hunter Mountain Investment Trust's ("HMIT"), and this Court having considered the Motion; and the arguments and law cited in the Brief in Support of HMIT's Objection and Motion to Strike HCM's Supplemental Appendix and Selected Portions of HCM's Reply [Docket No. ___] (the "Brief"); the Court hereby finds that the Motion should be GRANTED as set forth below:

IT IS HEREBY ORDERED that the Motion is GRANTED

IT IS SO ORDERED this ___ day of February, 2024.

UNITED STATES DISTRICT JUDGE