

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Jordan A. Kroop (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
Melissa S. Hayward
Texas Bar No. 24044908
Zachery Z. Annable
Texas Bar No. 24053075
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100

*Counsel for Highland Capital Management, L.P.
and the Highland Claimant Trust*

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

THE DUGABOY INVESTMENT TRUST,

Appellant,

Case No. 3:25-cv-02579-B

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
et al.,

Appellees.

**APPELLEES' *EMERGENCY* MOTION FOR A LIMITED STAY AND
EXTENSION OF TIME TO RESPOND TO MOTION FOR LEAVE
PENDING THE OUTCOME OF A RELATED MOTION TO STRIKE**

Highland Capital Management, L.P. (“**Highland**”) and the Highland Claimant Trust (the “**Claimant Trust**” and, together with Highland, the “**Appellees**”), appellees in this appeal of the *Order Denying Fifth Motion to Recuse Judge* [Bankr.



Doc. 4379] (the “**Recusal Order**”) of the U.S. Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Court**”), respectfully move (the “**Emergency Motion**”) this Court, on an emergency basis under Rule 8013(a) and (d) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), for an order, substantially in the form attached as **Exhibit A**, staying further briefing on The Dugaboy Investment Trust’s (“**Dugaboy**” or “**Appellant**”) *To the Extent Necessary, Appellant The Dugaboy Investment Trust’s Motion for Leave to Appeal Order Denying Fifth Motion to Recuse* [Doc. 17] (the “**Motion for Leave**”) by extending Appellees’ time to respond to the date that is ten days after the Bankruptcy Court rules on *Appellees’ Motion to Strike Items Improperly Designated as Part of the Record on Appeal* [Bankr. Doc. 4434] filed on October 16, 2025 (the “**Motion to Strike**”), a copy of which is attached as **Exhibit B**.¹ In support, Appellees respectfully submit the *Declaration of John A. Morris* (“**Morris Dec.**”) filed contemporaneously with this Emergency Motion, and state:

PROCEDURAL BACKGROUND

1. In August, disregarding the Fifth Circuit’s rejection of its earlier recusal efforts, Appellant filed its fifth motion to recuse Bankruptcy Judge Jernigan in the

¹ Alternatively, if the Court denies Appellees’ request for a stay and an extension of time pending the outcome of the Motion to Strike, Appellees request that their time to respond to the Motion for Leave be extended to the date that is ten days after this Court issues such a ruling. Attached as **Exhibit C** is a proposed Order granting this alternative relief.

underlying Chapter 11 case.² Appellant’s latest recusal motion was (a) just over five pages, (b) unsupported by any evidence, and (c) limited to arguments concerning the standard of review for recusal motions and Judge Jernigan’s authorship of two novels. Based on this concise record, the Bankruptcy Court denied the motion in a single paragraph, holding that it was barred by *res judicata*.

2. Despite the brevity of that motion and the Recusal Order and the absence of an evidentiary record, Appellant manufactured *nine* appellate issues and purported to designate an appellate record containing 66 separate items comprising thousands of pages—none of which were ever offered or admitted into evidence and few of which were cited by Appellant in its latest recusal motion or considered by the Bankruptcy Court in issuing the Recusal Order.

3. After this Court ruled, on September 26, that the Recusal Order was interlocutory and that this “appeal therefore requires leave of court under 28 U.S.C. § 158(a)(3),” and ordered Appellant to file a motion seeking such leave on or before October 10,³ Appellant filed its Motion for Leave, which relies almost entirely on

² James Dondero, NexPoint Asset Management (f/k/a Highland Capital Management Fund Advisors, L.P.), NexPoint Advisors, L.P., NexPoint Real Estate Partners, LLC, and the Get Good Trust (all entities controlled by Mr. Dondero) were also parties to the Recusal Motion, but only Dugaboy appealed the Recusal Order.

³ This Court’s ruling and order were clear and unequivocal—and entirely expected since a different District Court judge previously rendered the exact same ruling on Appellant’s first recusal motion. *See Dondero v. Jernigan*, Case No. 3:21-cv-00879-K, Docket Nos. 28, 39 (Judge Kinkeade ruled, among other things, that a recusal order entered while a case is still pending is interlocutory). In light of this, Appellant’s defiant characterization of its Motion for Leave as one filed “To the Extent Necessary . . .” betrays a lack of respect for the judiciary and unambiguous rules.

scores of items that were improperly designated for inclusion in the appellate record and that are now the subject of the Motion to Strike under Bankruptcy Rule 8009(e)(1) (the “**Improper Items**”).

RELIEF REQUESTED AND GROUNDS FOR IT

4. Because the Motion for Leave relies so heavily on the Improper Items, Appellees request that the Court enter a limited stay of the briefing schedule by extending Appellees’ time to respond from October 24, 2025, to the date that is ten days after the Bankruptcy Court has ruled on Appellee’s Motion to Strike. *See also supra* n.1. If the Bankruptcy Court grants the Motion to Strike and removes the Improper Items from the appellate record, it will substantially narrow many of the arguments Appellant attempts in its Motion for Leave and relieve Appellees and the Court of the burden of addressing them.⁴

5. The Supreme Court held some 90 years ago that a court possesses inherent power to control its own docket and calendar by, among other things, staying certain proceedings in the interests of efficiency and fairness pending the conclusion of other proceedings in another forum that bear on the case being stayed.⁵

⁴ Appellees believe the Motion to Strike is highly meritorious and likely to be granted, as it is based squarely on Bankruptcy Rule 8009(e)(1) as well as controlling case law from the Fifth Circuit Court of Appeals and this Court. Given Appellant’s long, extraordinary history of scores of appeals in this case, Appellant is all but certain to appeal to this Court any adverse ruling on the Motion to Strike. This Court can address the implications of such a ruling if and when the issue arises.

⁵ *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket

“The party moving to stay ‘must make out a clear case of hardship or inequity’ that someone will suffer harm should the judicial proceedings go forward ... As such, a district court must always balance competing interests and rule in favor of the position that best advances the interests of justice and judicial economy.”⁶

6. Appellees will suffer significant inequity and harm if this Court does not stay proceedings on the Motion for Leave pending the Bankruptcy Court’s ruling on the Motion to Strike. The Motion for Leave spans some 19 pages and contains thousands of pages of exhibits.⁷ Responding to Appellant’s blunderbuss will require a considerable investment of time and serious expense, inflicting gratuitous and unjust harm not only to Appellees but also, more importantly, to Highland’s creditors and beneficiaries who continue to await distributions under Highland’s plan of reorganization nearly five years after its confirmation—a constituency that does not include and never has included Appellant.⁸ It will also place substantial but unnecessary burdens on this Court.

with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.”).

⁶ *Pat. Compliance Grp., Inc. v. Interdesign, Inc.*, 2010 U.S. LEXIS 69082, at *22 (N.D. Tex. June 28, 2010) (quoting *Landis*, 299 U.S. at 255, and *Ali v. Quarterman*, 607 F.3d 1046, 1049 (5th Cir. 2010) (requiring the court to consider the “balance between the harm of moving forward and the harm of holding back”)).

⁷ By comparison, Appellant’s Recusal Motion was five pages long and was unsupported by *any* evidence or exhibits.

⁸ Appellant and its affiliates, all controlled by James Dondero, Highland’s ousted founder, have pursued more than 50 appeals arising out of this one bankruptcy case despite *never* having an

7. This is particularly true here because if the Bankruptcy Court grants the Motion to Strike, it will significantly narrow the grounds upon which the Motion for Leave is based. One can hardly overstate the insult to judicial efficiency and the waste of judicial resources caused by litigating a Motion for Leave that may ultimately be vitiated by proceedings in the Bankruptcy Court. It would be needlessly wasteful for Appellees to have to respond to that prolix motion and for this Court to consider that response and Appellants' inevitable reply, only for the Bankruptcy Court's ruling to radically alter the playing field. A finite stay on the Motion for Leave until the Bankruptcy Court rules on the Motion to Strike will avoid all this prejudice, inefficiency, and wastefulness.

8. The limited stay Appellees request will not harm Appellant, who has already heeded (albeit querulously) this Court's order requiring it to seek leave to appeal. This appeal will ostensibly no longer be dismissed for Appellant's previous failure to abide by Bankruptcy Rule 8004(a) and 28 U.S.C. § 158(a)(3). Appellant will still be heard on its motion when the limited stay expires following entry of an order resolving the Motion to Strike.

9. The balance between Appellees' interests in avoiding needless expense and preventing an unwarranted wasting of judicial time and resources, on the one

allowed claim in the bankruptcy case, *never* possessing a vested interest in the Highland Claimant Trust, and *never* having a cognizable interest in this bankruptcy estate. All they've ever accomplished is costing real creditors millions of dollars in real money.

hand, and Appellant's interests in having this Court consider the Motion for Leave, on the other hand, is no balance at all. A stay will exact no harm on Appellant, who will be left free to oppose the Motion to Strike in the Bankruptcy Court and who will, after the Bankruptcy Court rules, be able to proceed with its Motion for Leave, even if the bases for leave to appeal are properly narrowed. By sharp contrast, moving forward with litigation based on the current version of the Motion for Leave will impose substantial harm on Appellees and the beneficiaries of the Claimant Trust by requiring Appellees to spend significant time and fees in preparing its opposition that may ultimately be rendered moot, or at least inapplicable, by the Bankruptcy Court's ruling on the Motion to Strike. As Fifth Circuit precedent counsels, the weighing of the interests here should compel this Court to grant the requested limited stay and extension of time to respond.

EMERGENCY RELIEF

10. Appellees bring this motion on an emergency basis under Bankruptcy Rule 8013(d) because Appellees would be irreparably harmed if this Court considered this motion on standard notice. In light of the impending October 24 deadline to oppose the Motion for Leave (a mere four days from now) and the sheer enormity of the excess piled onto that motion, Appellees would have to begin work immediately on preparing their opposition unless this Court promptly grants the limited stay and extension of time Appellees request. Alternatively, if this Court

denies Appellees' request for a temporary stay pending the outcome of the Motion to Strike, Appellees will have the benefit of knowing how much time they have to prepare a reasonable opposition to the Motion for Leave. *See generally* Morris Dec.

11. As required in Bankruptcy Rule 8013(d)(3), Appellees notified Appellant's counsel about, and sought Appellant's agreement to, the relief requested herein, but Appellant's counsel inexplicably failed to respond to any of three separate written communications addressing this matter. *Id.* ¶ 2 and Ex. 1. Appellees were left with no choice but to seek emergency consideration of this motion.

PRAYER

In light of the foregoing points and authorities and the *Declaration of John A. Morris*, Appellees respectfully request that the Court: (i) enter the Proposed Order granting this motion and imposing a temporary stay of proceedings on the Motion for Leave by extending Appellees' time to respond to the date that is ten days after the Bankruptcy Court rules on the Motion to Strike, or (ii) alternatively, if such relief is denied, enter an order extending Appellees' time to respond to the Motion for Leave to the date that is ten days after this Court issues such a ruling; and (iii) grant Appellees any additional relief the Court deems appropriate.

October 20, 2025

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (admitted *pro hac vice*)

John A. Morris (admitted *pro hac vice*)

Gregory V. Demo (admitted *pro hac vice*)

Jordan A. Kroop (admitted *pro hac vice*)

10100 Santa Monica Boulevard, 13th Floor

Los Angeles, CA 90067

Tel: (310) 277-6910

Email: jpomerantz@pszjlaw.com

jmorris@pszjlaw.com

gdemo@pszjlaw.com

jkroop@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

Tel: (972) 755-7100

Fax: (972) 755-7110

*Counsel for Highland Capital Management, L.P.,
and the Highland Claimant Trust*

CERTIFICATE OF CONFERENCE

I hereby certify that, on October 16 and 17, 2025, John A. Morris, counsel for Appellees, attempted to communicate with Appellant's counsel in writing regarding the relief requested in the Emergency Motion. As of the filing of the Emergency Motion, Appellant's counsel had not responded to Mr. Morris' written inquiries; accordingly, it is assumed that Appellant is **OPPOSED** to the relief requested in the Emergency Motion.

/s/ Zachery Z. Annable

Zachery Z. Annable

CERTIFICATE OF COMPLIANCE

1. This document complies with the word limit of Fed. R. Bankr. P. 8013(f)(3)(A) because, excluding the portions excluded by Fed. R. Bankr. P. 8015(g), this document contains 1,958 words.
2. This document complies with the typeface requirements of Fed. R. Bankr. P. 8015(a)(5) and the type-style requirements of Fed. R. Bankr. P. 8015(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word, typeface Times New Roman, 14-point type (12-point type of footnotes).

/s/ Zachery Z. Annable
Zachery Z. Annable

CERTIFICATE OF SERVICE

I hereby certify that, on October 20, 2025, a true and correct copy of the foregoing Emergency Motion was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Zachery Z. Annable
Zachery Z. Annable

EXHIBIT A

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

THE DUGABOY INVESTMENT TRUST,

Appellant,

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
et al.,

Appellees.

Case No. 3:25-cv-02579-B

**ORDER GRANTING APPELLEES’
EMERGENCY MOTION FOR A LIMITED STAY AND EXTENSION OF
TIME TO RESPOND TO MOTION FOR LEAVE PENDING THE
OUTCOME OF A RELATED MOTION TO STRIKE**

Upon consideration of the *Emergency Motion for a Limited Stay and Extension of Time to Respond to Motion for Leave Pending the Outcome of a Related Motion to Strike* (the “**Emergency Motion**”)¹ of Highland Capital Management, L.P. and the Highland Claimant Trust (together, the “**Appellees**”), the Court hereby

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

finds and concludes that the Emergency Motion should be **GRANTED** as set forth below. Accordingly,

IT IS HEREBY ORDERED that:

1. The Emergency Motion is **GRANTED** in its entirety.
2. Appellees' deadline to respond to Appellant's *To the Extent Necessary, Appellant The Dugaboy Investment Trust's Motion for Leave to Appeal Order Denying Fifth Motion to Recuse* [Doc. 17] (the "**Motion for Leave**") is hereby stayed and extended to the date that is ten (10) days after the Bankruptcy Court rules on Appellees' *Motion to Strike Items Improperly Designated as Part of the Record on Appeal* [Bankr. Doc. 4434] (the "**Motion to Strike**") currently pending in the Bankruptcy Court.
3. This Court shall have and retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Order.

IT IS SO ORDERED this _____ day of October, 2025.

The Honorable Jane J. Boyle
United States District Court Judge

EXHIBIT B

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (admitted *pro hac vice*)
John A. Morris (admitted *pro hac vice*)
Gregory V. Demo (admitted *pro hac vice*)
Hayley R. Winograd (admitted *pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Tel: (310) 277-6910

HAYWARD PLLC
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
Tel: (972) 755-7100

*Counsel for Highland Capital Management, L.P.
and the Highland Claimant Trust*

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

In re:)	Chapter 11
)	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹)	Case No. 19-34054-sgj11
)	
Reorganized Debtor.)	
)	

**APPELLEES' MOTION TO STRIKE ITEMS IMPROPERLY DESIGNATED AS
PART OF THE RECORD ON APPEAL**

Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case"), and the Highland Claimant Trust (the "Claimant Trust," and together with Highland, the "Appellees"), appellees in the appeal of this Court's *Order Denying Fifth Motion to Recuse Judge* [Docket No. 4379] (the "Recusal Order")

¹ Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

being prosecuted by The Dugaboy Investment Trust (“Dugaboy” or “Appellant”), files this motion (the “Motion”) pursuant to Rule 8009(e) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an order, substantially in the form attached as **Exhibit A** (the “Proposed Order”), striking certain items that Dugaboy improperly designated as part of the record on its appeal of the Recusal Order. In support of their Motion, Appellees respectfully state as follows:

PRELIMINARY STATEMENT²

1. In August, Dugaboy filed its fifth motion to recuse Judge Jernigan.³ Disregarding the Fifth Circuit’s rejection of its earlier recusal efforts, Dugaboy’s latest recusal motion was (a) just over five pages, (b) unsupported by any evidence, and (c) limited to arguments concerning the standard of review for recusal motions and Judge Jernigan’s authorship of two novels.

2. Based on this concise record, the Bankruptcy Court provided an overview of Dugaboy’s prior recusal motions and denied the Recusal Motion in a single paragraph, holding it was barred by *res judicata*. The Bankruptcy Court also observed that Dugaboy’s recusal motions “always seem to be raised when adverse rulings have recently been rendered or perhaps seem imminent” and that Dugaboy otherwise failed to meet its burden of proving bias.

3. Despite the brevity of the Recusal Motion and Recusal Order and the absence of an evidentiary record, with the intent of creating further chaos and burdening Highland and the judiciary with already-decided and otherwise improper issues, Dugaboy ginned up nine appellate issues and presented a record containing 66 separate items spanning thousands of pages—none of

² Capitalized terms not defined in this Preliminary Statement shall have the meanings ascribed to them below.

³ James Dondero, NexPoint Asset Management (f/k/a Highland Capital Management Fund Advisors, L.P.), NexPoint Advisors, L.P., NexPoint Real Estate Partners, LLC, and the Get Good Trust were also parties to the Recusal Motion, but only Dugaboy appealed the Recusal Order.

which were ever offered or admitted into evidence and few of which were cited by Dugaboy in its Recusal Motion or considered by the Court when rendering the Recusal Order.

4. This Motion is not an academic exercise. After its Notice of Appeal was rejected by the District Court because the Recusal Order was (as Dugaboy knew) interlocutory, Dugaboy filed its Motion for Leave. Dugaboy's Motion for Leave is based largely on the Improper Items and ties the Recusal Order to two completely unrelated "final" orders in an outrageous attempt to persuade the District Court to treat the Recusal Order itself as "final." Neither Highland nor the District Court should be burdened with reviewing and addressing issues concerning the Improper Items because they were never presented to or considered by the Bankruptcy Court and they are part of Dugaboy's illicit strategy to obtain what the Fifth Circuit already declined to provide: a change in the law that would require *de novo* review of an interlocutory recusal order.⁴ All of this floundering around by Dugaboy is part of Mr. Dondero's efforts to harass Highland and the Claimant Trust and his explicit request for a "do-over" of the Bankruptcy Case. These improper tactics and motives must not be countenanced.

5. For the reasons set forth herein, the Improper Items should be stricken from the record on appeal.

RELEVANT BACKGROUND

6. On August 15, 2025, Dugaboy filed its *Motion for Recusal* [Docket No. 4372] (the "Recusal Motion"). The Recusal Motion—Dugaboy's fifth attempt to push Judge Jernigan out of the Bankruptcy Case—was a mere five pages long, focused on the standard of review for recusal decisions, and commented on two novels authored by Judge Jernigan. Dugaboy did not offer any

⁴ Highland must respond to Dugaboy's Motion for Leave by October 24, 2025, but intends to file an emergency motion with the District Court to suspend further briefing pending the outcome of this Motion.

documents into evidence. Dugaboy did not refer to Hunter Mountain Investment Trust (“HMIT”) or the HMIT Proceedings that took place nearly two months earlier.⁵ And Dugaboy did not disclose that its arguments were previously presented to, and rejected by, the United States Court of Appeals for the Fifth Circuit (the “Fifth Circuit”).

7. On September 2, 2025, the Bankruptcy Court issued the Recusal Order without hearing argument or receiving any opposition from Appellees. In the Recusal Order, the Bankruptcy Court provided a brief summary of the litigation concerning Dugaboy’s earlier recusal machinations and denied the Recusal Motion in a single paragraph, holding that the Recusal Motion was barred by *res judicata* because Dugaboy’s arguments were previously decided by the Fifth Circuit.⁶

8. On September 16, 2025, Dugaboy filed its *Notice of Appeal of Order Denying Motion to Recuse [Addressing DE ## 4372 and 4379]* [Docket No. 4396] (“Notice of Appeal”). The Notice of Appeal attached a copy of the Recusal Order and made no reference to HMIT, the HMIT Proceedings, or any other order entered by the Bankruptcy Court.

9. Dugaboy’s appeal was assigned to Judge Boyle of the United States District Court, Case No. 3:25-cv-02579-B. On September 26, 2025, Judge Boyle issued an electronic order *sua sponte* ruling that, because it is an interlocutory order, the Recusal Order could only be appealed with leave of court pursuant to Bankruptcy Rule 8004 and gave Dugaboy until October 10 to file

⁵ “HMIT Proceedings” generally refers to the evidentiary hearing held before the Bankruptcy Court on June 25, 2025, concerning *Highland’s Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. § 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith* [Docket No. 4216], the Bankruptcy Court’s order resolving that motion, and related matters. [Docket No. 4297]. The Bankruptcy Court’s order entered in connection with the HMIT Proceedings is the subject of another appeal (that Appellees have moved to dismiss). See generally *Dugaboy v. Highland Cap. Mgmt., L.P.*, Case No. 3:25-cv-01876-K (N.D. Tex.).

⁶ The Bankruptcy Court made a passing reference to the order rendered in the HMIT Proceedings (Recusal Order at 3) for the sole purpose of noting that Dugaboy’s recusal motions “always seem to be raised when adverse rulings have recently been rendered or perhaps seem imminent.” Recusal Order at 4. The HMIT Proceedings otherwise had no bearing on the Recusal Order.

a motion for leave to appeal the Recusal Order. *See* Case No. 3:25-cv-02579-B, Docket No. 2.⁷

10. On September 30, 2025, Dugaboy filed its *Statement of Issues to Be Presented and Designation of Items to Be Included in the Record on Appeal from the Bankruptcy Court’s Order Denying Motion to Recuse Judge [Docket No. 4379] [Docket No. 4418]* (the “Initial Statement of Issues”). On October 9, 2025, apparently in response to a communication from the Clerk of the Court (*see* Docket No. 4430), Dugaboy filed a modified version of the Initial Statement of Issues [Docket No. 4431] (the “Statement of Issues”).

11. Notwithstanding the modest record and the limited scope of the Recusal Motion and the Recusal Order, in its Statement of Issues, Dugaboy manufactured nine (9) issues for appeal and designated 66 items to be included in the record on appeal (the “Designated Items”). The Designated Items include (a) dozens of items from the HMIT Proceedings (including complete witness and exhibit lists, transcripts, and pleadings), and (b) extensive documentation from earlier recusal proceedings that Dugaboy never referred to in its Recusal Motion and the Bankruptcy Court never considered in its Recusal Order. Attached as **Exhibit 1** to the Proposed Order is a list of improperly Designated Items (collectively, the “Improper Items”).

12. On October 10, 2025, Dugaboy filed a document called: *To the Extent Necessary, Appellant The Dugaboy Investment Trust’s Motion for Leave to Appeal Order Denying Fifth Motion to Recuse* [Case No. 3:25-cv-02579-B, Docket No. 17] (the “Motion for Leave”). Dugaboy’s Motion for Leave continues Mr. Dondero’s desperate and regrettable character assassination of a long-time, reputable jurist with an unimpeachable record and reputation. Most

⁷ Dugaboy and its counsel knew the Recusal Order was interlocutory and leave of court was required because four years earlier—when Dugaboy attempted to directly appeal the Bankruptcy Court’s denial of its first recusal motion—Judge Kinkeade explicitly told them so. *See Dondero v. Jernigan*, Case No. 3:21-cv-00879-K, Docket Nos. 28, 39. Nevertheless, disregarding Bankruptcy Rule 8004 and Judge Kinkeade’s express ruling, Dugaboy filed its Notice of Appeal.

importantly for this purpose, Dugaboy's Motion for Leave disingenuously relies upon, among other things, the Improper Items, including those concerning the HMIT Proceedings and other matters that were never presented by Dugaboy in its Recusal Motion or considered by the Bankruptcy Court in its Recusal Order.

ARGUMENT

13. Bankruptcy Rule 8009(e)(1) provides: "If any difference arises about whether the record accurately discloses what occurred in the bankruptcy court, the difference must be submitted to and settled by the bankruptcy court and the record conformed accordingly. If an item has been improperly designated as part of the record on appeal, a party may move to strike that item." Bankruptcy Rule 8009(e)(1) vests this Court with sole authority to consider such a motion.⁸

14. In doing so, this Court should be guided by Fifth Circuit precedent, including the leading case of *Wooley v. Haynes & Boone, L.L.P. (In re SI Restructuring Inc.)*, in which the Fifth Circuit affirmed the district court's affirmance of the bankruptcy court's granting of a motion to strike "documents [designated] as part of the [appellate] record even though the documents were never properly admitted to this proceeding."⁹ Citing Bankruptcy Rule 8006 (the predecessor rule to Bankruptcy Rule 8009) and the Fifth Circuit's earlier case of *Zer-Ilan v. Frankford (In re CPDC Inc.)*,¹⁰ the Fifth Circuit held that because "the disputed evidence was not admitted as evidence before the bankruptcy court when it ruled on the ... motion," those items were properly stricken

⁸ See *Lockwood v. GlassRatner Advisory & Cap. Grp. LLC (In re Lockwood Holdings Inc.)*, No. 4:21-cv-00456, 2024 U.S. Dist. LEXIS 30186, at *6 (S.D. Tex. Feb. 22, 2024) (Rule 8009 "provides that the bankruptcy court resolves disputes over designation of items to the record on appeal—not the district court to which an appeal is assigned"); *In re Digerati Techs., Inc.*, 531 B.R. 654, 660 (Bankr. S.D. Tex. 2015) (same).

⁹ 480 F. App'x 327, 328 (5th Cir. 2012).

¹⁰ 337 F.3d 436, 443 (5th Cir. 2003) ("Rule 8006 provides that the record on appeal from a bankruptcy court decision consists of designated materials that became part of the bankruptcy court's record in the first instance. The rule does not permit items to be added to the record on appeal to the district court if they were not part of the record before the bankruptcy court.").

from the appellate record.¹¹

15. Even though Bankruptcy Rule 8009(e) uses slightly different language than its predecessor rule,¹² courts have maintained the vitality of the Fifth Circuit precedent of *SI Restructuring* and *CPDC* in considering motions to strike under the newer rule. For example, in *Carmichael*, the court observed that appellants “cannot use their designation to create a version of the appellate record that does not reflect [their] presentation of evidence in the Bankruptcy Court ... The Court’s primary concern is supplying the District Court with a record that ‘accurately discloses what occurred in the bankruptcy court.’ Fed. R. Bankr. P. 8009(e).”¹³

16. As the court in *Digerati Technologies* noted, this approach also finds support outside the Fifth Circuit: “Other courts applying former Rule 8006 agree with the view that although pleadings do not need to be introduced into evidence to be subsequently designated for appeal, they can only be designated if the bankruptcy court actually considered these pleadings in rendering its ruling.”¹⁴

17. Based on the foregoing, the Bankruptcy Court should strike the Improper Items from the record because they were not offered or admitted into evidence and the Bankruptcy Court never considered them when rendering the Recusal Order. Moreover, Dugaboy will never be able to credibly explain why it failed to offer the Improper Items into evidence in support of its Recusal

¹¹ 480 F. App’x at 328.

¹² In *Digerati Technologies*, 531 B.R. at 660, the court noted that, because Rule 8009(e) was “fairly new” and had “no case law at this point interpreting this new rule,” it would “look to case law interpreting the predecessor to Rule 8009”—that is, former Bankruptcy Rule 8006 (which formed the basis for the ruling in *SI Restructuring*).

¹³ See *Carmichael v. Blake (In re Imperial Petroleum Recovery Corp.)*, No. 13-30466, 2022 Bankr. LEXIS 32, at *6–13 (Bankr. S.D. Tex. Jan. 7, 2022) (relying on *SI Restructuring* to strike designated items because the “items were not admitted into evidence at trial or explicitly accepted as proffers” and rejecting that “each item’s filing is sufficient to warrant its inclusion in the appellate designation”); see also *Digerati Techs.*, 531 B.R. at 663 (holding that items not before the court and not considered by it in rendering its decision should not be included in the record).

¹⁴ 531 B.R. at 663 (citing *In re Chateaugay Corp.*, 64 B.R. 990, 995 (S.D.N.Y. 1986) and *In re Nashaminy Off. Bldg. Assocs.*, 62 B.R. 798, 802 (E.D. Pa. 1986)).

Motion or how it would be prejudiced by the granting of the Motion because the Improper Items were never considered by the Bankruptcy Court.

18. Conversely, Appellees would be severely prejudiced by the inclusion of the Improper Items because Dugaboy would be able to use the Improper Items to challenge the Recusal Order even though this Court never considered those items—in other words, including those Improper Items would, in Judge Isgur’s words, fail to “supply[] the District Court with a record that ‘accurately discloses what occurred in the bankruptcy court,’” giving Dugaboy an unwarranted advantage and distorting the appellate proceedings.

PRAYER

WHEREFORE, Appellees respectfully request that the Court (i) enter the Proposed Order granting the Motion and (ii) grant Appellees such further and additional relief as the Court deems necessary and appropriate.

DATED: October 16, 2025

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (admitted *pro hac vice*)

John A. Morris (admitted *pro hac vice*)

Gregory V. Demo (admitted *pro hac vice*)

Hayley R. Winograd (admitted *pro hac vice*)

10100 Santa Monica Boulevard, 13th Floor

Los Angeles, CA 90067

Tel: (310) 277-6910

Fax: (310) 201-0760

Email: 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

Tel: (972) 755-7100

Fax: (972) 755-7110

*Counsel for Highland Capital Management, L.P.,
and the Highland Claimant Trust*

EXHIBIT A

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Reorganized Debtor.

§
§
§
§
§
§

Chapter 11

Case No. 19-34054-sgj11

**ORDER STRIKING ITEMS
IMPROPERLY DESIGNATED AS PART OF THE RECORD ON APPEAL**

Upon consideration of *Appellees' Motion to Strike Items Improperly Designated as Part of the Record on Appeal* [Docket No. ____] (the "Motion")² filed by Highland Capital Management, L.P. and the Highland Claimant Trust; and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Federal Rule of Bankruptcy Procedure 8009(e); (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (d) notice

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are 8357. The headquarters and service address for the Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

² Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Motion.

of the Motion was proper and sufficient under the circumstances and no further or additional notice need be given; and (e) the factual and legal bases set forth in the Motion establish sufficient cause for the relief granted in this Order; after due deliberation, **IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. The Improper Items set forth on **Exhibit 1** are stricken from the record on Dugaboy's appeal of the Recusal Order, and the Clerk of the Court is directed to take all steps necessary to effectuate this provision.
3. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

###End of Order###

EXHIBIT 1

**LIST OF IMPROPER ITEMS TO BE STRICKEN
FROM THE RECORD ON THE APPEAL OF THE RECUSAL ORDER¹**

¹ For the avoidance of doubt, and to assist the Bankruptcy Court and the Clerk of the Court, Appellees do ***not*** object to the inclusion in the record of (a) the following Designated Items (identified by docket entries on the main docket maintained by the Bankruptcy Court): 2060, 2061, 2062, 2083, 3406, 3470, 3471, 3479, 3570, 3571, 3675, 3676, 4230, 4297, 4311, 4326, 4334, 4372, 4396, and 4379, or (b) the items designated in *Appellees' Supplemental Designation of Record on Appeal* [Docket No. 4433].

Date Filed	Docket No.	Description/Docket Text
2/22/2021	1943	Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)1472 Chapter 11 plan filed by Debtor Highland Capital Management, L.P., 1808 Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
4/6/2021	2169	Amended notice of appeal filed by Interested Party James Dondero (RE: related document(s)2149 Notice of appeal). (Lang, Michael)
4/15/2022	2205	Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s)2083 Order on motion to recuse Judge). (Lang, Michael)
4/15/2021	2206	Appellant designation of contents for inclusion in record on appeal filed by Interested Party James Dondero (RE: related document(s)2169 Amended notice of appeal). Appellee designation due by 04/29/2021. (Lang, Michael)
2/9/2022	3264	DISTRICT COURT MEMORANDUM OPINION AND ORDER - The Recusal Order is not a final, appealable order, is not subject to the collateral order doctrine, and is not an appealable interlocutory order under § 1292 (a) and the Court is without jurisdiction over this appeal of the Bankruptcy Court's Recusal Order. The Court further denies Appellants leave to appeal the Recusal Order under § 1292 (b), denies Appellants' request to withdraw the reference of their motion to recuse, and denies Appellants' request to construe their appeal as a petition for writ of mandamus. Accordingly, the Court dismisses this appeal for lack of jurisdiction. (Ordered by Judge Ed Kinkeade on 2/9/2022). Civil Action number:3:21-cv-00879-K, DISMISSED for lack of jurisdiction (RE:related document(s)2083 Order on motion to recuse Judge). Entered on 2/9/2022 (Whitaker, Sheniqua) Modified on 2/25/2022 (Whitaker, Sheniqua). (Entered: 02/25/2022)
8/1/2022	3422	Notice of hearing on Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support filed by Interested Party James Dondero (RE: related document(s)3406 Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support Filed by Interested Party James Dondero (Attachments: # 1 Appendix Appendix) (Lang, Michael) Modified text on 7/21/2022(Ecker, C.).). Hearing to be held on 8/31/2022 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 3406, (Lang, Michael)

8/15/2022	3444	Response opposed to (related document(s): 3406 Motion for leave Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Attachments: #1 Exhibit A (Annable, Zachery)
8/15/2022	3445 <i>[to be submitted to Clerk on flash drive]</i>	Exhibit List (Appendix in Support of Highland Capital Management, L.P.'s Objection to Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 USC 455 and Brief in Support) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)3444 Response). (Attachments: #1 Exhibit 1 , #2 Exhibit 2 , #3 Exhibit 3 , #4 Exhibit 4 , #5 Exhibit 5 , #6 Exhibit 6 , #7 Exhibit 7 , #8 Exhibit 8 , #9 Exhibit 9 , #10 Exhibit 10 , #11 Exhibit 11 , #12 Exhibit 12 , #13 Exhibit 13 , #14 Exhibit 14 , #15 Exhibit 15 , #16 Exhibit 16 , #17 Exhibit 17 , #18 Exhibit 18 , #19 Exhibit 19 , #20 Exhibit 20 , #21 Exhibit 21 , #22 Exhibit 22 , #23 Exhibit 23 , #24 Exhibit 24 , #25 Exhibit 25 , #26 Exhibit 26 , #27 Exhibit 27 , #28 Exhibit 28 , #29 Exhibit 29 , #30 Exhibit 30 , #31 Exhibit 31 , #32 Exhibit 32 , #33 Exhibit 33 , #34 Exhibit 34 , #35 Exhibit 35 , #36 Exhibit 36 , #37 Exhibit 37 , #38 Exhibit 38 , #39 Exhibit 39 , #40 Exhibit 40 , #41 Exhibit 41 , #42 Exhibit 42 , #43 Exhibit 43 , #44 Exhibit 44 , #45 Exhibit 45 , #46 Exhibit 46 , #47 Exhibit 47 , #48 Exhibit 48 , #49 Exhibit 49 , #50 Exhibit 50 , #51 Exhibit 51 , #52 Exhibit 52 , #53 Exhibit 53 , #54

		Exhibit 54 , #55 Exhibit 55 , #56 Exhibit 56 , #57 Exhibit 57 , #58 Exhibit 58 , #59 Exhibit 59 , #60 Exhibit 60 , #61 Exhibit 61 , #62 Exhibit 62 , #63 Exhibit 63 , #64 Exhibit 64 , #65 Exhibit 65 , #66 Exhibit 66 , #67 Exhibit 67 , #68 Exhibit 68 , #69 Exhibit 69 , #70 Exhibit 70 , #71 Exhibit 71 , #72 Exhibit 72 , #73 Exhibit 73 , #74 Exhibit 74 , #75 Exhibit 75 , #76 Exhibit 76 , #77 Exhibit 77 , #78 Exhibit 78 , #79 Exhibit 79 , #80 Exhibit 80 , #81 Exhibit 81 , #82 Exhibit 82 , #83 Index 83 , #84 Exhibit 84 , #85 Exhibit 85 , #86 Exhibit 86 (Annable, Zachery)
8/15/2022	3446	Motion to strike (related document(s): 3406 Motion for leave Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support filed by Interested Party James Dondero) (Highland Capital Management, L.P.'s Motion to (A) Strike Letters Attached to Appendix in Support of the Dondero Parties' Supplemental Recusal Motion [Docket No. 3406], or, (B) Alternatively, to Compel the Lawyers' Depositions) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
8/15/2022	3447	Declaration re: (Declaration of John A. Morris in Support of Highland Capital Management, L.P.'s Motion to (A) Strike Letters Attached to Appendix in Support of the Dondero Parties' Supplemental Recusal Motion [Docket No. 3406], or, (B) Alternatively, to Compel the Lawyers' Depositions) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)3446 Motion to strike (related document(s): 3406 Motion for leave Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support filed by Interested Party James Dondero) (Highland Capi). (Annable, Zachery)
8/17/2022	3456	Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)3446 Motion to strike (related document(s): 3406 Motion for leave Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support filed by Interested Party James Dondero) (Highland Capital Management, L.P.'s Motion to (A) Strike Letters Attached to Appendix in Support of the Dondero Parties' Supplemental Recusal Motion [Docket No. 3406], or, (B) Alternatively, to Compel the Lawyers' Depositions) Filed by Debtor Highland Capital Management, L.P., 3449 Motion to compel Lawyers' Depositions. Filed by Debtor Highland Capital Management, L.P. (Ecker, C.)). Hearing to be held on 8/31/2022 at 09:30AM at

		https://us-courts.webex.com/meet/jerniga for 3446 and for 3449, (Annable, Zachery)
8/22/2022	3463	Reply to (related document(s): 3444 Response filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Lang, Michael)
8/24/2022	3466	Amended Notice of hearing filed by Interested Party James Dondero (RE: related document(s)3406 Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support Filed by Interested Party James Dondero (Attachments: # 1 Appendix Appendix) (Lang, Michael) Modified text on 7/21/2022(Ecker, C.), 3446 Motion to strike (related document(s): 3406 Motion for leave Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support filed by Interested Party James Dondero) (Highland Capital Management, L.P.'s Motion to (A) Strike Letters Attached to Appendix in Support of the Don- dero Parties' Supplemental Recusal Motion [Docket No. 3406], or, (B) Alternatively, to Compel the Lawyers' Depositions) Filed by Debtor Highland Capital Management, L.P., 3449 Motion to compel Lawyers' Depositions. Filed by Debtor Highland Capital Management, L.P. (Ecker, C.), 3462 Order converting the August 31, 2022 at 9:30 AM Hearing on (A) The motion for final appeal- able order and supplement to motion to recuse and (B) related mo- tions to strike and compel to a preliminary status/scheduling con- ference (RE: related document(s)3406 Motion for leave filed by Interested Party James Dondero, 3446 Motion to strike document filed by Debtor Highland Capital Management, L.P., 3449 Motion to compel filed by Debtor Highland Capital Management, L.P.). Entered on 8/19/2022 (Ecker, C.)). Status Conference to be held on 8/31/2022 at 09:30 AM at https://us-courts.we- bex.com/meet/jerniga . (Lang, Michael)

9/1/2022	3480	Transcript regarding Hearing Held 08/31/2022 (27 pages) RE: Status Conference Re: Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 (#3406). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/30/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 3478 Hearing held on 8/31/2022. (RE: related document(s)3406 Motion for Final Appealable Order and Supplement to Motion to Recuse Pursuant to 28 U.S.C. § 455 and Brief in Support, filed by Interested Party James Dondero.) (Appearances: M. Lang for Movants; J. Pomeranz for Reorganized Debtor. Nonevidentiary status conference. Based on discussions with counsel at status conference as to what actual relief is being sought, the motion (even as currently amended) will be denied as procedurally defective. This is without prejudice to movants filing a new motion pursuant to Rule 54 seeking the simple relief of having the last sentence of this courts 3/23/21 order deleted, or a new motion to recuse, if Movants have any desire to supplement the record. Court to issue order.)). Transcript to be made available to the public on 11/30/2022. (Rehling, Kathy)
9/27/2022	3541	Motion to recuse Judge Stacey G. C. Jernigan Filed by Interested Party James Dondero (Lang, Michael)
9/72/2022	3542	Brief in support filed by Interested Party James Dondero (RE: related document(s)3541 Motion to recuse Judge Stacey G. C. Jernigan). (Attachments: #1 Appendix (Lang, Michael)
10/14/2022	3567	Agreed Scheduling Order on renewed motion to recuse (related document #3541) Entered on 10/14/2022. (Okafor, Marcey)
10/31/2022	3595	Response opposed to (related document(s): 3541 Motion to recuse Judge Stacey G. C. Jernigan filed by Interested Party James Dondero, 3570 Motion to recuse Judge Stacey G. C. Jernigan - AMENDED filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)

10/31/2022	3596 [to be sub- mitted to Clerk on flash drive]	Support/supplemental document (Appendix in Support of Highland's Objection to Renewed Motion to Recuse Pursuant to 28 U.S.C. 455 and Brief in Support) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)3595 Response). (Attachments: #1 Exhibit 1 , #2 Exhibit 2 , #3 Exhibit 3 , #4 Exhibit 4 , #5 Exhibit 5 , #6 Exhibit 6 , #7 Exhibit 7 , #8 Exhibit 8 , #9 Exhibit 9 , #10 Exhibit 10 , #11 Exhibit 11 , #12 Exhibit 12 , #13 Exhibit 13 , #14 Exhibit 14 , #15 Exhibit 15 , #16 Exhibit 16 , #17 Exhibit 17 , #18 Exhibit 18 , #19 Exhibit 19 , #20 Exhibit 20 , #21 Exhibit 21 , #22 Exhibit 22 , #23 Exhibit 23 , #24 Exhibit 24 , #25 Exhibit 25 , #26 Exhibit 26 , #27 Exhibit 27 , #28 Exhibit 28 , #29 Exhibit 29 , #30 Exhibit 30 , #31 Exhibit 31 , #32 Exhibit 32 , #33 Exhibit 33 , #34 Exhibit 34 , #35 Exhibit 35 , #36 Exhibit 36 (Annable, Zachery)
3/3/2023	3673	Brief in support filed by Interested Party James Dondero (RE: related document(s)3570 Motion to recuse Judge Stacey G. C. Jernigan - AMENDED). (Lang, Michael)
5/19/2025	4216	Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (Attachments: #1 Exhibit A--Proposed Order (Annable, Zachery)
5/19/2025	4217	Declaration re: (Declaration of Gregory V. Demo in Support of Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (RE: related document(s)4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith)). (Attachments: #1 Exhibit 1 (Annable, Zachery)
5/19/2025	4217-1	Proposed Settlement Agreement

6/20/2025	4251	Exhibit List for the June 25, 2025 Hearing filed by Partner Duga-boy Investment Trust (RE: related document(s)4230 Objection). (Lang, Michael)
6/20/2025	4252	Witness List for the June 25, 2025 Hearing filed by Partner Duga-boy Investment Trust (RE: related document(s)4230 Objection). (Lang, Michael)
6/20/2025	4255 <i>(to be sub- mitted to Clerk on flash drive)</i>	Witness and Exhibit List filed by Debtor Highland Capital Man-agement, L.P., Other Professional Highland Claimant Trust, In-terested Party Highland Litigation Sub-Trust (RE: related docu-ment(s) 4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith))(Attachments: #1 Exhibit 1 , #2 Exhibit 2 , #3 Exhibit 3 , #4 Exhibit 4 , #5 Exhibit 5 , #6 Exhibit 6 , #7 Exhibit 7 , #8 Exhibit 8 , #9 Exhibit 9 , #10 Exhibit 10 , #11 Exhibit 11 , #12 Exhibit 12 , #13 Exhibit 13 , #14 Exhibit 14 , #15 Exhibit 15 , #16 Exhibit 16 , #17 Exhibit 17 , #18 Exhibit 18 , #19 Exhibit 19 , #20 Exhibit 20 , #21 Exhibit 21 , #22 Exhibit 22 , #23 Exhibit 23 , #24 Exhibit 24 , #25 Exhibit 25 , #26 Exhibit 26 , #27 Exhibit 27 , #28 Exhibit 28 , #29 Exhibit 29 , #30 Exhibit 30 , #31 Exhibit 31 , #32 Exhibit 32 , #33 Exhibit 33 , #34 Exhibit 34 , #35 Exhibit 35 , #36 Exhibit 36 , #37 Exhibit 37 , #38 Exhibit 38 , #39 Exhibit 39 , #40 Exhibit 40 , #41 Exhibit 41 , #42 Exhibit 42 , #43 Exhibit 43 , #44 Exhibit 44 , #45 Exhibit 45 , #46 Exhibit 46 , #47 Exhibit 47 , #48 Exhibit 48 , #49 Exhibit 49 , #50 Exhibit 50 , #51 Exhibit 51 , #52 Exhibit 52 , #53 Exhibit 53 , #54 Exhibit 54 , #55 Exhibit 55 , #56 Exhibit 56 , #57 Exhibit 57 , #58 Exhibit 58 , #59 Exhibit 59 , #60 Exhibit 60 , #61 Exhibit 61 , #62 Exhibit 62 , #63 Exhibit 63 , #64 Exhibit 64 , #65 Exhibit 65 , #66 Exhibit 66 , #67 Exhibit 67 , #68 Exhibit 68 , #69 Exhibit 69 , #70 Exhibit 70 , #71 Exhibit 71 , #72 Exhibit 72 , #73 Exhibit 73 , #74 Exhibit 74 , #75 Exhibit 75 , #76 Exhibit 76 , #77 Exhibit 77 , #78 Exhibit 78 , #79 Exhibit 79 , #80 Exhibit 80 , #81 Exhibit 81 , #82 Exhibit 82 , #83 Exhibit 83 , #84 Exhibit 84 , #85 Exhibit 85 , #86 Exhibit 86 , #87 Exhibit 87 , #88 Exhibit 88 , #89 Exhibit 89 , #90 Exhibit 90 , #91 Exhibit 91 , #92 Exhibit 92 , #93 Exhibit 93 , #94 Exhibit 94 , #95 Exhibit 95 , #96 Exhibit 96 , #97 Exhibit 97 , #98 Exhibit 98 , #99 Exhibit 99 , #100 Exhibit100 , #101 Exhibit 101 , #102 Exhibit 102 , #103 Exhibit 103 , #104 Exhibit 104 , #105 Exhibit 105 , #106 Exhibit 106 , #107 Exhibit 107 , #108 Exhibit 108 , #109 Exhibit 109 , #110 Exhibit 110 , #111 Exhibit 111 , #112 Exhibit 112 , #113 Exhibit 113 , #114 Exhibit 114 , #115 Exhibit 115 , #116 Exhibit 116 , #117 Exhibit 117 , #118 Exhibit 118 , #119 Exhibit 119 , #120 Exhibit 120 , #121 Exhibit 121 , #122 Exhibit 122 ,

		#123 Exhibit 123 (Annable, Zachery).
6/20/2025	4256	Witness and Exhibit List filed by Creditor Hunter Mountain Investment Trust (RE: related document(s)4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith)). (Phillips, Louis)
6/20/2025	4257	Witness and Exhibit List filed by Interested Parties Crown Global Life Insurance, Ltd, The Dallas Foundation (RE: related document(s)4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith)). (Attachments: #1 Exhibit 1 - Charitable DAF/CLO HoldCo Organization Chart, #2 Exhibit 2 - Rand Structure Chart, #3 Exhibit 3 - July 9, 2021 Memo on DAFs and Sponsoring Orgs, #4 Exhibit 4 - Charitable Respondents Response and Disclosures (Okin, Matthew)
6/23/2025	4271	Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (RE: related document(s)4253 List (witness/exhibit/generic)). (Attachments: #1 Exhibit 66, #2 Exhibit 67 (Annable, Zachery)
6/23/2025	4272	Amended Witness and Exhibit List filed by Interested Parties Crown Global Life Insurance, Ltd, The Dallas Foundation (RE: related document(s)4257 List (witness/exhibit/generic)). (Attachments: #1 Exhibit 5, #2 Exhibit 66, #3 Exhibit 7 7,4 Exhibit 8 ,8, Exhibit 9 (Curry, David)
6/23/2025	4273	Objection to (related document(s)): 4255 List (witness/exhibit/generic) filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust) filed by Partner Dugaboy Investment Trust. (Ohlinger, Ali)
6/23/2025	4277	Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (RE: related document(s)4255 List (witness/exhibit/generic)). (Attachments: #1 Exhibit 124 , #2 Exhibit 125 (Annable, Zachery)

6/24/2025	4279	Witness and Exhibit List with Respect to Hearing to be Held on June 25, 2025 filed by Partner Dugaboy Investment Trust (RE: related document(s)4213 Motion to extend time to (Motion for an Order Further Extending Duration of Trusts) (RE: related document(s)4144 Order on motion to extend/shorten time)). (Attachments: #1 Exhibit 1 (Deutsch-Perez, Deborah)
6/24/2025	4280	Amended Witness and Exhibit List (Highland Capital Management, L.P., Highland Claimant Trust, and Litigation Sub-Trust Second Amended Witness and Exhibit List with Respect to Hearing to Be Held on June 25, 2025) filed by Debtor Highland CapitalManagement, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (RE: related document(s) 4255 List (witness/exhibit/generic), 4277 List (witness/exhibit/generic)). (Attachments: #1 Exhibit 126 (Annable,Zachery)
6/25/2025	4293	Court admitted exhibits date of hearing June 25, 2025 (RE: related document(s) 4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (Court Admitted Debtors Exhibits #1 through #9; #11 through #56 & #58 through #123 & #126 offered by attorney John Morris; Court Also Admitted Patrick Daugherty Exhibits #1 through #42 offered by attorney Drew K. York: Court also admitted Dugaboy Investment Trust Exhibit #3, which was a letter offered by attorney Michael J. Lang.) (Edmond, Michael) Modified on 6/30/2025 (emi).Modified on 6/30/2025 (emi). (Entered: 06/27/2025)
6/27/2025	4290	Stipulation by Highland Claimant Trust, Highland Litigation Sub-Trust and The Dugaboy Investment Trust. filed by Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (RE: related document(s)4223 Objection). (Annable, Zachery)

6/27/2025	4291	Stipulation withdrawing objection of The Dallas Foundation and Crown Global Life Insurance, LTD to Motion for Entry of an order pursuant to Bankruptcy Rule 9019 and 11 U.S.C. Section 363 approving settlement with the HMIT Entities and authorizing actions consistent therewith (RE: related document(s) 4232 Response filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust, 4282 Stipulation filed by Creditor Hunter Mountain Investment Trust). Entered on 6/27/2025 (Okafor, M.)
6/30/2025	4296	<p>Transcript regarding Hearing Held 06/25/2025 before Judge Stacy G.C. Jernigan (266 pages) RE: Motion for an Order Further Extending Duration of Trusts (4213); Motion for Entry of an Order Approving Settlement with HMIT Entities (4216). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OFFILING. TRANSCRIPT RELEASE DATE IS 09/29/2025. Until</p> <p>that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 4294 Hearing held on 6/25/2025. (RE: related document(s) 4213 Motion to extend time to (Motion for an Order Further Extending Duration of Trusts) (RE: related document(s) 4144 Order on motion to extend/shorten time) Filed by Interested Party Highland Litigation Sub-Trust, Other Professional Highland Claimant Trust (Appearances: J. Morris and Pachulski team for Reorganized Debtor; R. Loigman for Post-Confirmation Trusts; D. Deitsch-Perez for Dugaboy; L. Young for UST. Evidentiary hearing. Motion granted. Counsel to upload order.), 4295 Hearing held on 6/25/2025. (RE: related document(s) 4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. 363 Approving Settlement with the HMIT Entities and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust (Appearances: J. Morris and Pachulski team for Reorganized Debtor; R. Loigman for Post-Confirmation Trusts; L. Phillips for HMIT Entities; M. Lang for Dugaboy; D. Curry for Dallas Foundation; L. Young for</p>

		UST. Evidentiary hearing. Motion granted. Counsel to upload order.)). Transcript to be made available to the public on 09/29/2025. (Rehling, Kathy)
7/1/2025	4299	Motion to withdraw document Consent Motion to Dismiss HMIT Remand Proceedings with Prejudice (related document(s) 3699 Motion for leave) Filed by Creditor Hunter Mountain Investment Trust, Interested Party Hunter Mountain Trust (Attachments: #1 Proposed Order (Salzer, Ian)
7/1/2025	4300	Motion to withdraw document Consent Motion to Dismiss Delaware Action Proceedings with Prejudice (related document(s) 4000 Motion for leave) Filed by Creditor Hunter Mountain Investment Trust, Interested Party Hunter Mountain Trust (Attachments: #1 Proposed Order (Salzer, Ian)
7/7/2025	4304	Order withdrawing Emergency Motion for Leave to File Adversary Proceeding [Dkt. 3699] with prejudice (RE: related document(s)4299 Motion to withdraw document filed by Interested Party Hunter Mountain Trust, Creditor Hunter Mountain Investment Trust). IT IS THEREFORE ORDERED that the proceedings defined in the Dismissal Motion as: Hunter Mountain Investment Trust v. Highland Cap. Mgmt., L.P., Case No. 3:23-cv-02071-E (N.D. Tex.), on remand to the Bankruptcy Court (including Hunter Mountain Investment Trusts Emergency Motion for Leave to File Adversary Proceeding filed at Bankruptcy Court Docket No. 3699 and all proceedings, decisions, and orders relating thereto), are dismissed with prejudice. Entered on 7/7/2025 (Okafor, M.)
7/10/2025	4308	Notice Letter from the Office of the Texas Attorney General Requesting a Stay filed by Interested Party State of Texas. (Stone, Johnathan)
7/16/2025	4323	Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)4311 Notice of appeal of Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C § 363 Approving Settlement Between the Highland Entities and the HMIT Entities and Authorizing Actions Consistent Therewith. filed by Creditor The Dugaboy Investment Trust (RE: related document(s)4297 Order on motion to compromise controversy). Appellant Designation due by 07/28/2025.) (Whitaker, Sheniqua)

7/17/2025	4329	Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-01876-K. (RE: related document(s)4311 Notice of appeal of Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C § 363 Approving Settlement Between the Highland Entities and the HMIT Entities and Authorizing Actions Consistent Therewith. filed byCreditor The Dugaboy Investment Trust (RE: related document(s)4297 Order on motion to compromise controversy). Appellant Designation due by 07/28/2025.) (Whitaker, Sheniqua)
7/21/2025	4333	Memorandum of opinion (RE: related document(s)4308 Notice (generic) filed by Interested Party State of Texas, 4326 The Dugaboy Investment Trust's Motion to Stay 9019 Order filed by Creditor The Dugaboy Investment Trust). Entered on 7/21/2025 (Okafor, M.)
8/4/2025	4353	Notice of appeal. Fee Amount \$298 filed by Partner Dugaboy Investment Trust (RE: related document(s) 4333 Memorandum of opinion). Appellant Designation due by 08/18/2025. (Attachments: #1 Exhibit A) (Harper, Geoffrey)
8/5/2025	4359	Notice of docketing notice of appeal. Civil Action Number: 3:25-cv-02072-S. (RE: related document(s)4353 Notice of appeal filed by Partner Dugaboy Investment Trust (RE: related document(s) 4333 Memorandum of opinion). (Almaraz, Jeanette)
9/22/2025	4401	Order Granting Motion for Order Fixing Allowed Amount of Class 11 Interests (related document # 4362) Entered on 9/22/2025. (Grandstaff, Travis)

EXHIBIT C

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

THE DUGABOY INVESTMENT TRUST,

Appellant,

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
et al.,

Appellees.

Chapter 11

Case No. 19-34054-sgj11

Case No. 3:25-cv-02579-B

**ORDER GRANTING IN PART AND DENYING IN PART APPELLEES’
EMERGENCY MOTION FOR A LIMITED STAY AND EXTENSION OF
TIME TO RESPOND TO MOTION FOR LEAVE PENDING THE
OUTCOME OF A RELATED MOTION TO STRIKE**

Upon consideration of the *Emergency Motion for a Limited Stay and Extension of Time to Respond to Motion for Leave Pending the Outcome of a Related Motion to Strike* (the “**Emergency Motion**”)¹ of Highland Capital Management, L.P. and the Highland Claimant Trust (together, the “**Appellees**”), the Court hereby

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

finds and concludes that the Emergency Motion should be **GRANTED** in part and **DENIED** in part as set forth below. Accordingly,

IT IS HEREBY ORDERED that:

1. The Court **DENIES** Appellees' request to stay the deadline to respond to Appellant's *To the Extent Necessary, Appellant The Dugaboy Investment Trust's Motion for Leave to Appeal Order Denying Fifth Motion to Recuse* [Doc. 17] (the "**Motion for Leave**") to the date that is ten (10) days after the Bankruptcy Court rules on *Appellees' Motion to Strike Items Improperly Designated as Part of the Record on Appeal* [Bankr. Doc. 4434] (the "**Motion to Strike**") currently pending in the Bankruptcy Court.

2. The Court **GRANTS** Appellees' alternative request extending the deadline to respond to Appellant's Motion for Leave to that date which is ten (10) days after the Court's issuance of this Order.

3. This Court shall have and retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Order.

IT IS SO ORDERED this _____ day of October, 2025.

The Honorable Jane J. Boyle
United States District Court Judge