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INTRODUCTION

Pursuant to Federal Rules of Bankruptcy Procedure 8003(3)(A) and 9006(b)(1)(A) and for the sake of judicial economy, Appellant The Dugaboy Investment Trust (“Dugaboy” or “Appellant”) respectfully moves to consolidate the four appeals listed in the caption, which involve the same parties and challenge closely related decisions by the same bankruptcy-court judge in the same underlying bankruptcy case. Dugaboy also respectfully requests that the Court vacate the briefing deadlines currently set in this case and direct the Parties to propose a new schedule for a single cycle of consolidated briefing on all the issues raised in the four appeals. Because this Court has the first-filed of the four appeals, it is this Court’s decision whether to order consolidation. This Court has already consolidated two appeals in this case.¹ In doing so, the Court recognized that judicial economy would not be served by the waste and expense of litigating similar issues on substantially identical records before two different judges, which also creates a risk of potentially inconsistent judgments.²

¹ In its order of August 8, 2025 (D19), this Court directed that the appeal originally docketed as 3:25-cv-01901-S before Judge Scholer be transferred to this Court and consolidated into the lead case No. 3:25-cv-01876-K. That time, the two appeals were brought by two different appellants (Dugaboy and James Daugherty) challenging the same underlying Bankruptcy Court order approving the Settlement (albeit arguing different grounds).

² Judge Boyle reached the same conclusion in a recent decision involving entities related to the parties here, when she consolidated two appeals with identical parties arising out of the same adversary proceeding. *Charitable DAF Fund, L.P. v. Highland Cap. Mgmt., L.P. (In re Highland*

Today, we face four appeals before four different judges. This is an especially complex case that has been litigated for six years in the Bankruptcy Court, with a convoluted procedural history and massive record that will demand a considerable commitment of time and attention from the presiding judge. This is a monumental task to inflict on even one judge. But assigning *four* different federal district judges to duplicate the extensive preparation needed to resolve each of these appeals is grossly wasteful and inefficient. This situation cannot stand, and consolidation is the only solution that makes sense.

DUGABOY’S PROPOSAL

Dugaboy requests that the Court maintain this case (3:25-cv-01876-K) as the lead case, and consolidate the other three appeals into it, as follows:

<u>Appeal filed:</u>	<u>Case Number:</u> ³	<u>Judge:</u>	<u>Order appealed:</u>
7/14/2025	3:25-cv-01876-K (lead case)	Kinkeade	Order approving settlement (D4297)
8/4/2025	3:25-cv-02072-S (consolidated)	Scholer	Order denying motion to stay (D4333)
9/16/2025	3:25-cv-02579-B (consolidated)	Boyle	Order denying motion to recuse (D4379)
10/6/2025	3:25-cv-2724-L (consolidated)	Lindsay	Order granting motion to fix Class 11 interests (D4401)

Cap. Mgmt., L.P.), Civ. No. 3:21-CV-3129-B, 2022 U.S. Dist. LEXIS 108176, at *9–*10 (N.D. Tex. June 17, 2022).

³ For convenience, Dugaboy will refer to each proceeding by the last four digits of its case number (e.g., “1876 case” or “2072 appeal”).

Once the appeals are consolidated, the Court should direct the parties to assemble a single consolidated record and propose a reasonable schedule for a single cycle of consolidated appellate briefing, with appropriate enlargements of time and word limits to reflect the number and complexity of the issues.

BACKGROUND AND PROCEDURAL HISTORY

Although the underlying bankruptcy case has been litigated for six years, the Bankruptcy Court's decisions challenged in the current appeals each issued during the last few months:

- (1) Order approving settlement (D4297) on June 30, 2025.
- (2) Order denying motion to stay (D4333) on July 21, 2025.
- (3) Order denying motion to recuse (D4379) on Sept. 2, 2025.
- (4) Order fixing Class 11's allowed claim (D4401), Sept. 22, 2025.

The Debtor, Highland Capital Management, L.P., filed for Chapter 11 bankruptcy in 2019, and the Bankruptcy Court confirmed its reorganization plan in 2021 (D1943). Skipping over several years of convoluted procedural history, the events relevant to the current appeals took place within a very short and recent time frame between late June and mid-September of this year.

First, Highland and Hunter Mountain Investment Trust (HMIT) asked the Bankruptcy Court to approve a proposed settlement on May 19, 2025 (D4216). The Bankruptcy Court held a hearing on June 25, 2025, and approved the proposed settlement on June 30, 2025 (D4297).

On July 17, 2025, Dugaboy moved to stay the approval of the settlement so it

could investigate allegations of misconduct that cast doubt on the authority of HMIT's purported principal Mark Patrick to agree to the settlement (D4326). The Bankruptcy Court denied Dugaboy's motion on July 21, 2025 (D4333).

On August 15, 2025, Dugaboy filed a motion to recuse Chief Judge Jernigan (D4372), which the Bankruptcy Court denied on September 7, 2025 (D4379). Unlike prior recusal motions, this motion focused on the uniquely prejudicial circumstances created by Chief Judge Jernigan's novels, the apparent close similarity between Mr. Dondero and one of the villains in the books, and the attendant public controversy surrounding the books.⁴ And although the Fifth Circuit concluded that a previous recusal motion failed to meet the high bar for relief under the mandamus standard, it nevertheless remarked that "[d]ue to the similarities between the characters in Chief Judge Jernigan's novel and the litigants currently before her court, a strong argument could be made that she had a duty to recuse." No. 24-10287, 2025 WL 1122466, at *7 (5th Cir. April 16, 2025) (per curiam).

Finally, on September 18, 2025, the Bankruptcy Court held a hearing on Highland's motion to fix the allowed amount of Dugaboy's Class 11 interests (D4362). At that hearing, Chief Judge Jernigan threatened Dugaboy's current counsel with Rule 11 sanctions if he continued to repeat arguments made by prior counsel

⁴ Dugaboy recently learned that Chief Judge Jernigan has a third novel forthcoming. *See* Exhibit F (marketing flyer for third book).

that she regarded as “precluded” by her prior decisions. Ex. E, Sept. 18 Hrg. Tr. at 76:4–77:3, 77:18–78:19. Over Dugaboy’s strenuous objection, the court granted Highland’s motion on September 22, 2025. This last decision, if it stands, purports to dispose of the last of Dugaboy’s remaining interest in the bankruptcy estate. It is therefore a “final” appealable order with regard to Dugaboy.

LEGAL STANDARD

The Federal Rules of Bankruptcy Procedure allow this Court, in its discretion, to consolidate multiple appeals into a single proceeding. *See* Bankruptcy Rule 8003(b)(2) (“When parties have separately filed timely notices of appeal, the district court . . . may join or consolidate the appeals.”). As shown in the chart above, each of the four appeals at issue was commenced by Dugaboy in separately filed and timely notices of appeal. *See* Bankr. Dkt. Nos. 4322, 4353, 4396, and 4423.

The appeal before this Court (No. 25-1876) is the “first-filed” appeal, which empowers this Court to decide whether or to what extent the other three appeals should be consolidated into this case. *See, e.g., Cadle Co. v. Whataburger of Alice*, 174 F.3d 599, 603 (5th Cir. 1999) (explaining first-to-file rule); *Sutter Corp. v. P&P Indus., Inc.*, 125 F.3d 914, 917 (5th Cir. 1997) (same).

ARGUMENT

A. For the sake of judicial efficiency and avoiding wasteful duplication, the Court should consolidate the four appeals into a single proceeding

Dugaboy has pursued these four separate appeals in an abundance of caution

to preserve its rights (and the district court's appellate jurisdiction) by filing separate and timely notices of appeal after each of the four occasions that the Bankruptcy Court ruled against it. No party and no court wants to see this situation progress to a point where four different judges are reviewing four different sets of briefing. Fortunately, this Court has the power to prevent that outcome by consolidating the four appeals into one case under one judge with one record and one briefing schedule.

B. The four appeals are closely related and inextricably intertwined

Each of the four appeals involves orders issued by the Bankruptcy Court to the same parties within a narrow time frame between June 30 and September 22 of this year. As shown by the Statements of Issues filed in each of the four appellate proceedings (*see* Exhibits A, B, C, and D), there is considerable overlap among the issues presented for appeal. Furthermore, the facts and circumstances behind each of the four challenged orders are so inextricably intertwined as to make it effectively impossible for an appellate court to meaningfully review any one of them without considering its relation to the others.

By way of example, some of the connections among the four appeals include the following:

First Appeal, No. 25-1876: Several issues from the Rule 9019 settlement proceedings overlap into the other appeals. The Second Appeal's motion to stay involved an effort to develop evidence that would have voided the settlement by

showing that the purported representative of one settling party lacked authority to negotiate on that party's behalf. Also, both the First and Fourth Appeals feature substantially identical arguments over how to value an equity-holder's interest, but applied to different parties (HMIT's Class 10 at the June 25 hearing and Dugaboy's Class 11 at the September 18 hearing).

Second Appeal, No. 25-2072: As noted above, this appeal is closely connected to the First Appeal because the Motion for a Stay was meant to buy time to collect more evidence that might have changed the outcome of the Rule 9019 proceeding by, among other things, showing that the purported representative of one of the settling parties lacked authority to act on its behalf.

Third Appeal, No. 25-2579: The recusal issue connects to all the other appeals because Chief Judge Jernigan's bias against James Dondero and the entities associated with him pervades each of the other three decisions being appealed. Chief Judge Jernigan has already generated controversy by publishing two novels featuring a villain who is a thinly disguised version of Mr. Dondero. We now know that during the same time that the Bankruptcy Court made the four decisions at issue, Chief Judge Jernigan was also finishing her third novel that will hit the presses this fall. *See* Ex. F (promotional flyer for third book). Even worse, she is using the public controversy over her first two books to stimulate publicity and sales for her

third. *See id.* (quoting extensively from a 2023 Wall Street Journal article that discussed the controversy at length).

If Dugaboy’s appeal on recusal succeeds and Chief Judge Jernigan is compelled to withdraw from the case, that could void any or all of the other orders that Dugaboy is appealing. With that potential consequence in mind, it makes sense that the same district-court judge who hears the recusal appeal should also resolve Dugaboy’s challenges to Chief Judge Jernigan’s other three orders.⁵

Fourth Appeal, No. 25-2724: As noted above, both the Fourth and the First Appeals involve substantially similar valuation arguments applied to different parties. On both occasions Dugaboy argued vigorously for an alternative methodology that the Bankruptcy Court declined to adopt. Furthermore, the Bankruptcy Court specifically said at the later proceeding involving Dugaboy and Class 11 that it would rule consistently with how it had previously ruled for HMIT and Class 10. The Bankruptcy Court’s comments make clear that it considered its prior decision on HMIT to be “preclusive” of how it would rule on Dugaboy. *See* Ex. E (Sept. 18 hearing transcript at 18:12–13). To determine whether the Bankruptcy Court erred

⁵ The appeal on the recusal issue implicates questions of appealability and finality, which are discussed in detail in the Motion for Leave to Appeal (attached to this Motion as Exhibit G) that Judge Boyle ordered Dugaboy to file in the 2579 case (*see* Dkt. 2, Sept. 26, 2025 order; Dkt. 17, Oct. 10, 2025 Motion for Leave). In sum, that issue comes down to whether an appeal from a denial of recusal is a final appeal that can be taken by right, or an interlocutory appeal that requires the Court’s permission. *Compare* 28 U.S.C. § 158(a)(1) and FRBP 8003 (allowing district courts to hear appeals “from final judgments, orders, and decrees”) *with* § 158(a)(3) and FRBP 8004(a)(2), (b) (allowing appeals “with leave of the court” from “other interlocutory orders and decrees”).

in taking this approach, both the First and the Fourth Appeals should be heard by the same judge.

Furthermore, the Fourth Appeal cannot be separated from the recusal issues in the Third Appeal because it was at the September 18 hearing on the Class 11 valuation issue that Chief Judge Jernigan displayed a degree of bias far worse than what Dugaboy and Mr. Dondero had complained of in previous recusal motions. At this most recent hearing, Chief Judge Jernigan threatened Dugaboy's counsel with Rule 11 sanctions *either* if he continued to "recycle" arguments previously made by prior Dugaboy attorneys, *or* if he offers novel arguments that prior counsel never made. *See* Ex. E (Sept. 18 Hrg. Tr. 21:23–22:02; 61:9–62:1; 76:4–77:3; 77:17–78:19). Chief Judge Jernigan also insinuated that the arguments of Dugaboy's current counsel should be given less weight because Dugaboy had been represented by what she perceived as too many lawyers and law firms over the six-year course of this litigation. *See id.* at 76:18 ("a merry-go-round of lawyers"); 78:13–14 ("a revolving door of lawyers"). The effect (and presumably the purpose) of Chief Judge Jernigan's admonition was to create a chilling effect meant to deter Dugaboy's and Mr. Dondero's counsel from performing their ethical duty to zealously advocate on behalf of their clients.

C. The Court should vacate the current briefing deadlines in this case and direct the Parties to propose a new schedule for consolidated briefing.

Pursuant to Federal Rule of Bankruptcy Procedure 9006(b)(1)(A) and this

Court's Electronic Order dated October 8, 2025 (Dkt. 38), Dugaboy also respectfully asks the Court under Rule 9006(b)(1)(A) to vacate the current briefing deadlines in this case⁶ because they do not allow sufficient time for Dugaboy's proposal for a single cycle of consolidated briefing on the issues raised in all four appeals. Instead, Dugaboy asks the Court to direct the parties to meet and confer and propose a reasonable schedule for consolidated briefing. Good cause exists for this alteration of deadlines (which Dugaboy is requesting well in advance of any current deadlines) because it is essential to achieve the benefits of efficiency and judicial economy that are the purpose of the proposed consolidation.

D. The Court should enlarge applicable word limits to allow sufficient space for the Parties to fully brief the issues on appeal.

In order to allow the Parties sufficient space to brief all their appellate issues within a single cycle of briefing, Dugaboy respectfully requests that the Court enlarge the word limits for appellate briefing set forth in Federal Rule of Bankruptcy Procedure 8015(a)(7)(B), as follows: 26,000 words for each Appellant's Opening brief; 26,000 words for Appellees' Response brief; and 13,000 words for each Appellant's Reply brief.

E. Highland was for consolidation before it was against it

Highland's opposition to this Motion to Consolidate is perplexing. Just two

⁶ Pursuant to this Court's order dated October 8, 2025 (Dkt. 38), the current deadlines are November 12, 2025 for Appellants' Opening briefs, December 17, 2025 for Appellees' Response, and January 7, 2026 for Appellants' Replies.

months ago, Highland filed an unopposed motion to consolidate the Dugaboy and Daugherty appeals (No. 25-1876 and No. 25-1901). *See* Aug. 8, 2025, No. 25-1876 Dkt. 18. In that motion, Highland argued that consolidation was proper because the two appeals “(a) are appeals of the same Settlement Order, (b) will be based on the same evidentiary record, and (c) may involve the same, similar, or related arguments.” *Id.* ¶ 10. Highland also argued that “[c]onsolidating the Appeals will serve judicial economy, save Appellees the cost and expense of litigating two appeals of the same Settlement Order based on the same evidentiary record, and avoid potentially inconsistent judgments.” *Id.* ¶ 12. This Court agreed, and granted the motion that same day. Aug. 8, 2025 order, Dkt. 19 (consolidating both appeals into the 1876 lead case).

Those were good arguments in August and they remain good arguments today. In fact, they are even stronger now because the only alternative to consolidation is to needlessly consume the time and attention of *four* federal judges on a duplicative review of a massive factual record. It’s hard to imagine what Highland hopes to gain from pursuing separate appeals, which would also burden Highland with the task of writing four different appellate response briefs.

Just five days after moving to consolidate, Highland abruptly changed its tune when Dugaboy proposed to consolidate No. 25-2072 before Judge Scholer into No. 25-1876. Highland’s counsel told Dugaboy that “the Highland Entities will oppose

consolidating the appeals of the HMIT 9019/363 Order with the appeal of the denial of the stay because the appeals involve different orders created at different times based on different records such that further consolidation would create the risk of confusion.” Ex. H (August 13, 2025 email from J. Morris to G. Harper). Highland’s counsel continued:

For example, the motion for the stay under 11 U.S.C. section 105 was based *exclusively* on documents and information (the Attorney General’s 7/9/25 letter filed in the Bankruptcy Court seeking an indefinite stay of the entire bankruptcy case and a Complaint filed by the JOLs in the Cayman Islands on July 15, 2025) that were not considered by the Bankruptcy Court when it entered the HMIT 9019/363 Order for the simple reason that they did not exist.” Ex. G.

Highland’s argument against consolidation is not only wrong, but evinces an unjustifiably low estimation of the capabilities of this Court and its fellow district judges. As noted above, the reviewing court needs only to examine four orders issued by the Bankruptcy Court over a short time frame of less than three months. The set of docket entries relating to these orders is voluminous, but represents only a small fraction of the more than 4,000 entries that the main bankruptcy case has generated over its six-year history. Furthermore, any confusion resulting from documents being part of one case’s record but not another will be cured by the consolidation order, which can direct the parties to re-designate a single comprehensive record that covers all of the issues being appealed. Finally, it is neither unusual nor

especially difficult for judges hearing appeals in bankruptcy cases to deal with massive dockets and numerous parties in interest and keep track of the relative chronology of key events. To the extent there may be legitimate concerns about confusion such as in the example quoted by Highland's counsel above (Ex. H), consolidation will curtail the complexity and confusion by simplifying these four appeals into one case with one record and one judge.

CONCLUSION

For the reasons above, the Court should consolidate the No. 25-2072, No. 25-2579, and No. 25-2724 appeals into No. 25-1876. The Court should enlarge applicable word limits for appellate briefing as requested above, and direct the Parties to prepare a single consolidated Statement of Issues to be considered on appeal, a single consolidated Record that includes necessary materials for all the issues being appealed, and a proposed schedule for a single cycle of consolidated appellate briefing.

Dated: October 23, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Geoffrey S. Harper

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CERTIFICATE OF SERVICE

I certify that on October 23, 2025, a copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1(b), I certify that the undersigned first had discussions more than two months ago about consolidating the instant appeals with Highland counsel John Morris, who indicated by email on August 13, 2025 that Highland opposed consolidation (*see* Exhibit H). On October 20 and 21, 2025, Dugaboy counsel Mike Gaddis exchanged emails with Mr. Morris to ask if Highland would oppose the instant Motion. Mr. Morris asked for more time to consider the issue. The undersigned and Mr. Gaddis had a phone conference with Mr. Morris early this morning (October 23, 2025) but were unable to reach agreement. The call ended with Mr. Morris saying he would get back to us today, but it is now 5:00 p.m. and we have heard nothing further from Highland counsel. Because the issue is pressing and the hour is late, Dugaboy concludes that Highland has not changed its view on consolidation and therefore opposes the relief requested in this Motion.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

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 3,186 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 in footnotes).

/s/ Geoffrey S. Harper
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EXHIBIT A

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj
	§	
Reorganized Debtor.	§	
	§	

**APPELLANT THE DUGABOY INVESTMENT TRUST’S AMENDED STATEMENT OF
ISSUES TO BE PRESENTED AND DESIGNATION OF ITEMS TO BE INCLUDED IN
THE RECORD ON APPEAL**

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Appellant The Dugaboy Investment Trust (“Appellant”), having filed a Notice of Appeal [Docket No. 4311] on July 14, 2025; and having filed *Appellant The Dugaboy Investment Trust’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal* [Docket No. 4365] on August 11, 2025 in the above-captioned case; and having received correspondence from the Bankruptcy Clerk’s Office [Docket No. 4367] asking Dugaboy to correct certain errors in its August 11, 2025 submission [Docket No. 4365]; hereby submits this *Amended Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal*, and respectfully requests that the Clerk prepare and forward the items listed herein to the District Court for inclusion in the record in connection with this appeal.¹

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. **Did the Bankruptcy Court err in approving the settlement agreement and release entered into between the Highland Entities and the HMIT Entities pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure as being fair, equitable, and in the best interest of the estate?**
2. **Did the Bankruptcy Court err by approving a settlement agreement utilizing an improper valuation methodology and without sufficient supporting evidence?**
3. **Did the Bankruptcy Court err in approving the overly broad and vague release provisions contained within the settlement agreement?**
4. **Did the Bankruptcy Court err in approving the settlement agreement without allowing adequate time for the Cayman Islands Joint Official Liquidators to complete their investigation?**
5. **Did the Bankruptcy Court err in concluding Mark Patrick had the requisite corporate authority to enter into and bind the HMIT entities to the settlement agreement?**

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

¹ Because of its voluminous nature, Docket #4255 will be delivered to the Clerk on a flash drive which will arrive tomorrow, August 13, 2025.

1. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 [Docket No. 4311] filed by Appellant;
2. *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* [Docket No. 4297];
3. Docket entries kept by the bankruptcy clerk in case no. 19-34054-sgj11;
4. Any opinion, findings of fact and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings: Transcript of hearing held June 25, 2025 before Judge Stacey C.G. Jernigan [Docket No. 4296] re: Motion for Entry of an Order Approving Settlement with HMIT Entities (4216) [Docket No. 4297]; and
5. Each of the additional documents and items designated below:

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.)
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
5/20/2025	4218	Notice of hearing filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant 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) Filed by Interested Party Highland Litigation Sub-Trust, Other Professional Highland Claimant Trust(Attachments: # 1 Exhibit A # 2 Exhibit B), 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)). Hearing to be held on 6/25/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 4213 and for 4216, (Annable, Zachery)
5/22/2025	4221	Amended Notice of hearing filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant 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) Filed by Interested Party Highland Litigation Sub-Trust, Other Professional Highland Claimant Trust(Attachments: # 1 Exhibit A # 2 Exhibit B), 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)). Hearing to be held on 6/25/2025 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 4213 and for 4216, (Annable, Zachery

6/9/2025	4228	Motion for expedited hearing on Emergency Motion for an Order Extending Duration of Time to Respond to Trusts' Motion Filed by Partner Dugaboy Investment Trust (related document #4227 (Attachments: #1 Proposed Order Granting Motion for Expedited Hearing (Hesse, Gregory) Modified linkage on 6/10/2025 (mdo).
6/9/2025	4230	Objection to (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) filed by Partner Dugaboy Investment Trust. (Hesse, Gregory)
6/10/2025	4232	Response opposed to (related document(s): 4227 Motion to extend time to Time to Respond to Trusts' Motion filed by Partner Dugaboy Investment Trust, 4228 Motion for expedited hearing (related documents 4216 Motion to compromise controversy) on Emergency Motion for an Order Extending Duration of Time to Respond To Trusts' Motion filed by Partner Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust. (Annable, Zachery)
6/10/2025	4234	Reply to (related document(s): 4232 Response filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust) to (I) Emergency Motion for an Order Extending Duration of Time to Respond to Trusts' Motion and (II) Motion for Expedited Hearing on Emergency Motion for an Order Extending Duration of Time to Respond to Trusts' Motion filed by Partner Dugaboy Investment Trust. (Hesse, Gregory)
6/20/2025	4251	Exhibit List for the June 25, 2025 Hearing filed by Partner Dugaboy 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 Dugaboy Investment Trust (RE: related document(s)4230 Objection). (Lang, Michael)
6/20/2025	4255 <i>(to be submitted to</i>	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) 4216 Motion to compromise controversy with the HMIT Entities. (Motion for Entry of an Order Pursuant to

	<i>Clerk on flash drive)</i>	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 Exhibit 100 , #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	4276	Reply to (related document(s)): 4223 Objection filed by Creditor The Dugaboy Investment Trust) filed by Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust. (Annable, Zachery)
6/24/2025	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 Capital Management, 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.)
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.)
7/14/2025	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. Fee Amount \$298 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. (Lang, Michael)
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	4326	Motion to Stay 9019 Order filed by Creditor The Dugaboy Investment Trust. Objections due by 8/7/2025. (Lang, Michael) Modified text on 7/21/2025 (mdo).
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 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)
7/21/2025	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.)
7/21/2025	4334	Order denying stay requests (related document 4326 The Dugaboy Investment Trust's Motion to Stay 9019 Order and 4308 Notice). Entered on 7/21/2025. (Okafor, M.) Additional attachment(s) added 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)

Dated: August 12, 2025

Respectfully submitted,

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By: /s/ Geoffrey S. Harper

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***Counsel for Appellant The Dugaboy Investment
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 12, 2025, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Geoffrey S. Harper

Geoffrey S. Harper

EXHIBIT B

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj
	§	
Reorganized Debtor.	§	
	§	

**APPELLANT THE DUGABOY INVESTMENT TRUST’S STATEMENT OF ISSUES TO
BE PRESENTED AND AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN
THE RECORD ON APPEAL FROM THE BANKRUPTCY COURT’S ORDER
REGARDING STAY REQUESTS [ADDRESSING DE ## 4326 & 4308]**

Pursuant to Rule 8009(a)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Appellant The Dugaboy Investment Trust (“Appellant”), having filed a Notice of Appeal [Docket No. 4353] on August 4, 2025 in the above-captioned case from the Bankruptcy Court’s July 21, 2025 *Memorandum Order and Opinion Regarding Stay Requests [Addressing DE ## 4326 & 4308]* [Docket No. 4333], hereby submits this *Statement of Issues to be Presented and Amended Designation of Items to be Included in the Record on Appeal*, and respectfully requests that the Clerk prepare and forward the items listed herein to the District Court for inclusion in the record in connection with this appeal.¹

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. **Did the Bankruptcy Court err in faulting Dugaboy’s Stay Request because Dugaboy did not make a “standard” request for a stay pending appeal pursuant to Federal Bankruptcy Rule 8007?**
2. **Did the Bankruptcy Court err in determining that the Bankruptcy Rule 9019 settlement proceeding was not “a proceeding involving a charitable trust”?**
3. **Did the Bankruptcy Court err in concluding there was insufficient evidence connecting Mark Patrick’s involvement in this Court’s Rule 9019 settlement proceedings to the allegations of wrongdoing against Patrick in the Cayman Islands proceeding?**
4. **Did the Bankruptcy Court err in failing to recognize that the new evidence of Mark Patrick’s misconduct exposed in the Cayman Islands proceeding fatally undermines the 9019 settlement by establishing that Patrick lacked authority to enter into the settlement?**
5. **Did the Bankruptcy Court err in concluding that a stay was unnecessary because Dugaboy could still pursue remedies against Mark Patrick in the Cayman Islands proceeding?**
6. **Did the Bankruptcy Court err in failing to recuse itself under 28 U.S.C. § 455 due to the appearance of partiality created by the presiding judge’s authorship of novels that bear striking factual and thematic similarities to the Highland Capital Management bankruptcy proceedings and portray hedge fund principals in an overtly negative**

¹ Because of their voluminous nature, Docket Nos. 3445, 3596, and 4255 will be delivered to the Clerk on a flash drive which will be hand delivered on Wednesday, September 24, 2025.

light, thereby depriving Dugaboy of an impartial judge with respect to the stay motion?

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

1. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 [Docket No. 4353] filed by Appellant;
2. Bankruptcy Court's *Memorandum Opinion and Order Regarding Stay Requests [Addressing DE ## 4236 & 4308]* [Docket No. 4333];
3. Docket entries kept by the bankruptcy clerk in case no. 19-34054-sgj11;
4. Any opinion, findings of fact and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings: Transcript of hearing held June 25, 2025 before Judge Stacey C.G. Jernigan [Docket No. 4296] re: Motion for Entry of an Order Approving Settlement with HMIT Entities (4216) [Docket No. 4297]; Transcript of hearing held September 18, 2025 before Judge Stacey C.G. Jernigan re: Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests) filed by Other Professional Highland Claimant Trust; and
5. Each of the additional documents and items designated below:

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.)
3/18/2021	2060	Motion to recuse Judge Jernigan Filed by Interested Party James Dondero (Lang, Michael)
3/18/2021	2061	Brief in support filed by Interested Party James Dondero (RE: related document(s)2060 Motion to recuse Judge Jernigan). (Lang, Michael)
3/18/2021	2062	Support/supplemental document Appendix to Motion to Recuse filed by Interested Party James Dondero (RE: related

		document(s)2060 Motion to recuse Judge Jernigan). (Lang, Michael)
3/23/2021	2083	Order denying motion to recuse (related document #2060) Entered on 3/23/2021. (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)
7/20/2022	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.).
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 [to be submitted to Clerk on flash drive]	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 09:30 AM 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 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.), 3462 Order converting the August 31, 2022 at 9:30 AM Hearing on (A) The motion for final appealable order and supplement to motion to recuse and (B) related motions to strike and compel to a preliminary status/scheduling conference (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.webex.com/meet/jerniga . (Lang, Michael)
8/26/2022	3470	Amended motion for final appealable order and proposed supplement to the record filed by Interested Party James Dondero (RE: 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). (Attachments: #1 <u>Appendix</u> (Lang, Michael) MODIFIED text to match PDF on 9/1/2022 (Ecker, C.)).
8/26/2022	3471	Stipulation by James Dondero and Highland Capital Management, L.P.. filed by Interested Party James Dondero (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, 3449 Motion to compel Lawyers' Depositions.). (Lang, Michael)
9/1/2022	3479	Order denying amended motion of James Dondero, Highland Capital Management Fund Advisors, L.P., Nexpoint Advisors, L.P. The Dugaboy Investment Trust Get Good Trust and, Nexpoint Real Estate Partners, LLC, F/K/A HCRE Partners, A Delaware Limited Liability Company for final appealable order and supplement to motion to recuse pursuant to 28 U.S.C. Section 455 (RE: related document(s)3470 Brief filed by Interested Party James Dondero). Entered on 9/1/2022 (Okafor, Marcey)

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)
10/17/2022	3570	Motion to recuse Judge Stacey G. C. Jernigan - AMENDED Filed by Interested Party James Dondero (Lang, Michael)
10/17/2022	3571	Brief in support filed by Interested Party James Dondero (RE: related document(s)3570 Motion to recuse Judge Stacey G. C. Jernigan - AMENDED). (Attachments: #1 Appendix (Lang, Michael)

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 submitted 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)
3/6/2023	3675	Memorandum of Opinion and Order Denying Amended Renewed Motion to Recuse Pursuant to 28 U.S.C. Section 455 (RE: related document(s)3570 Motion to recuse Judge filed by Interested Party James Dondero). Entered on 3/6/2023 (Okafor, Marcey)
3/6/2023	3676	Order Denying Amended Renewed Motion to Recuse Pursuant to U.S.C. Section 455 (related document #3570) Entered on 3/6/2023. (Okafor, Marcey)
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
6/9/2025	4230	Objection to (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) filed by Partner Dugaboy Investment Trust. (Hesse, Gregory)
6/20/2025	4251	Exhibit List for the June 25, 2025 Hearing filed by Partner Dugaboy 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 Dugaboy Investment Trust (RE: related document(s)4230 Objection). (Lang, Michael)
6/20/2025	4255 <i>(to be submitted to Clerk on flash drive)</i>	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) 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 Exhibit 100 , #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 Capital Management, 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.)
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)
7/14/2025	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. Fee Amount \$298 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. (Lang, Michael)
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	4326	Motion to Stay 9019 Order filed by Creditor The Dugaboy Investment Trust. Objections due by 8/7/2025. (Lang, Michael) Modified text on 7/21/2025 (mdo).
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 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)
7/21/2025	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.)
7/21/2025	4334	Order denying stay requests (related document 4326 The Dugaboy Investment Trust's Motion to Stay 9019 Order and 4308

		Notice). Entered on 7/21/2025. (Okafor, M.) Additional attachment(s) added 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)
8/15/2025	4372	Motion to recuse Judge Filed by Interested Parties James Dondero, NexPoint Advisors, L.P., NexPoint Asset Management, L.P., NexPoint Real Estate Advisors, L.P., The Dugaboy Investment Trust, The Get Good Non Exempt Trust No 2 (Attachments: #1 Proposed Order (Harper, Geoffrey)
9/2/2025	4379	Order denying fifth motion to recuse judge (related document #4372) Entered on 9/2/2025. (Okafor, M.)
9/16/2025	4396	Notice of appeal. Fee Amount \$298 filed by Partner Dugaboy Investment Trust (RE: related document(s)4379 Order on motion to recuse Judge). Appellant Designation due by 09/30/2025. (Attachments: # 1 Exhibit A)(Harper, Geoffrey)
9/18/2025	4403	4403 Hearing held on 9/18/2025. (RE: related document(s) 4362 Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests) filed by Other Professional Highland Claimant Trust (Appearances: J. Morris for Reorganized Debtor; G. Harper for Dugaboy. Evidentiary hearing. Motion approved. Counsel to upload order.) (Edmond, Michael) (Entered: 09/22/2025)

Dated: September 24, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Geoffrey S. Harper

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 24, 2025, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

EXHIBIT C

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

In re:	§ Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§
Reorganized Debtor.	§ Case No. 19-34054-sgj
	§
	§
	§

**Appellant The Dugaboy Investment Trust's 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]**

Pursuant to Rule 8009(a)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Appellant The Dugaboy Investment Trust (“Appellant”), having filed a Notice of Appeal [Docket No. 4396] on September 16, 2025, from the Bankruptcy Court’s order of September 2, 2025, denying its motion to recuse judge [Docket No. 4379], and having received correspondence from the Clerk of Court requesting corrections to its designations [Docket No. 4430], submits this *Statement of Issues to be Presented and Amended Designation of Items to be Included in the Record on Appeal*, and respectfully requests that the Clerk prepare and forward the items listed to the District Court for inclusion in the record in connection with this appeal.¹

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court’s order approving the proposed Highland/HMIT settlement under Fed. R. Bankr. P. 9019 and 11 U.S.C. § 363 (Docket No. 4297) constitute a “final” judgment or order, thereby giving this Court jurisdiction for appellate review of the Bankruptcy Court’s Order denying the Motion to Recuse?
2. Did the Bankruptcy Court’s Order Fixing Allowed Amount of Class 11 Interests (Docket No. 4401) constitute a “final” judgment or order, thereby giving this Court jurisdiction for appellate review of the Bankruptcy Court’s Order denying the Motion to Recuse?
3. Did the Bankruptcy Court abuse its discretion by refusing to disqualify itself from this proceeding under 28 U.S.C. § 455(a) due to the presiding judge’s authorship of novels that bear striking factual and thematic similarities to the Highland Capital Management bankruptcy proceedings and portray hedge-fund principals in an overtly negative light, thereby creating a situation in which its impartiality might reasonably be questioned?
4. Did the Bankruptcy Court abuse its discretion by refusing to disqualify itself from this proceeding under 28 U.S.C. § 455(b)(1) due to the presiding judge’s authorship of novels that bear striking factual and thematic similarities to the Highland Capital Management bankruptcy proceedings and portray hedge fund principals in an overtly negative light, thereby manifesting an actual personal bias or prejudice against Mr. James Dondero and others affiliated with him?

¹ Because of their voluminous nature, Docket Nos. 3445, 3596, and 4255 will be delivered to the Clerk on Monday on a flash drive.

5. Did the Bankruptcy Court abuse its discretion by refusing to disqualify itself from this proceeding under Federal Rule of Bankruptcy Procedure 5006, which requires disqualification from a bankruptcy proceeding if the disqualifying circumstances provided by 28 U.S.C. § 455 are present?
6. Did the Bankruptcy Court abuse its discretion by refusing to recuse itself from this proceeding under 28 U.S.C. § 144, when a party to the proceeding has filed a timely and sufficient affidavit alleging that the Bankruptcy Court has a personal bias or prejudice against him?
7. Did the Bankruptcy Court abuse its discretion by refusing to disqualify itself from this proceeding when the United States Court of Appeals for the Fifth Circuit observed that “[d]ue to the similarities between the characters in Chief Judge Jernigan’s novel and the litigants currently before her in court, a strong argument could be made that she had a duty to recuse”? *Dondero v. Jernigan*, No. 24-10287, 2025 WL 1122466, at *7 (5th Cir. Apr. 16, 2025).
8. Did the Bankruptcy Court abuse its discretion by refusing to disqualify or recuse itself after the hearing of September 18, 2025, at which it threatened Dugaboy’s counsel with Rule 11 sanctions for “recycling” arguments previously made by the “revolving door of lawyers” that had represented Dugaboy over the previous several years, thus seeking to impose a chilling effect on Dugaboy’s right to zealous advocacy by its chosen counsel?
9. Is a declination to recuse reviewed for an abuse of discretion or, as other circuit courts have held, *de novo*?

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

1. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 [Docket No. 4396] filed by Appellant;
2. Bankruptcy Court’s September 2, 2025 *Order Denying Fifth Motion to Recuse Judge [DE #4372]*, [Docket No. 4379];
3. Docket entries kept by the bankruptcy clerk in case no. 19-34054-sgj11;
4. Any opinion, findings of fact, and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings; and
5. Each of the additional documents and items designated below:

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.)
3/18/2021	2060	Motion to recuse Judge Jernigan Filed by Interested Party James Dondero (Lang, Michael)
3/18/2021	2061	Brief in support filed by Interested Party James Dondero (RE: related document(s)2060 Motion to recuse Judge Jernigan). (Lang, Michael)
3/18/2021	2062	Support/supplemental document Appendix to Motion to Recuse filed by Interested Party James Dondero (RE: related document(s)2060 Motion to recuse Judge Jernigan). (Lang, Michael)
3/23/2021	2083	Order denying motion to recuse (related document #2060) Entered on 3/23/2021. (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)
7/20/2022	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 (Lang, Michael) Modified text on 7/21/2022 (Ecker, C.).
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 09:30

		AM 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 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.), 3462 Order converting the August 31, 2022 at 9:30 AM Hearing on (A) The motion for final appealable order and supplement to motion to recuse and (B) related motions to strike and compel to a preliminary status/scheduling conference (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.webex.com/meet/jerniga . (Lang, Michael)
8/26/2022	3470	Amended motion for final appealable order and proposed supplement to the record filed by Interested Party James Dondero (RE: 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). (Attachments: #1 <u>Appendix</u> (Lang, Michael) MODIFIED text to match PDF on 9/1/2022 (Ecker, C.).
8/26/2022	3471	Stipulation by James Dondero and Highland Capital Management, L.P.. filed by Interested Party James Dondero (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, 3449 Motion to compel Lawyers' Depositions.). (Lang, Michael)
9/1/2022	3479	Order denying amended motion of James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. The Dugaboy Investment Trust Get Good Trust and, NexPoint Real Estate Partners, LLC, F/K/A HCRE Partners, A Delaware Limited Liability Company for final appealable order and supplement to motion to recuse pursuant to 28 U.S.C. Section 455 (RE: related document(s)3470 Brief filed by Interested Party James Dondero). Entered on 9/1/2022 (Okafor, Marcey)
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)
10/17/2022	3570	Motion to recuse Judge Stacey G. C. Jernigan - AMENDED Filed by Interested Party James Dondero (Lang, Michael)
10/17/2022	3571	Brief in support filed by Interested Party James Dondero (RE: related document(s)3570 Motion to recuse Judge Stacey G. C. Jernigan - AMENDED). (Attachments: #1 Appendix (Lang, Michael))
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 <i>[to be submitted to Clerk on flash drive]</i>	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)
3/6/2023	3675	Memorandum of Opinion and Order Denying Amended Renewed Motion to Recuse Pursuant to 28 U.S.C. Section 455 (RE: related document(s)3570 Motion to recuse Judge filed by Interested Party James Dondero). Entered on 3/6/2023 (Okafor, Marcey)
3/6/2023	3676	Order Denying Amended Renewed Motion to Recuse Pursuant to U.S.C. Section 455 (related document #3570) Entered on 3/6/2023. (Okafor, Marcey)
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
6/9/2025	4230	Objection to (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) filed by Partner Dugaboy Investment Trust. (Hesse, Gregory)
6/20/2025	4251	Exhibit List for the June 25, 2025 Hearing filed by Partner Dugaboy 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 Dugaboy Investment Trust (RE: related document(s)4230 Objection). (Lang, Michael)
6/20/2025	4255 <i>(to be submitted to Clerk on flash drive)</i>	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) 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 Exhibit 100 , #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 Capital

		Management, 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	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 OF

		FILING. TRANSCRIPT RELEASE DATE IS 09/29/2025. 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) 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 UST. Evidentiary hearing. Motion granted. Counsel to upload order.)). Transcript to be made available to the public on 09/29/2025. (Rehling, Kathy)
6/30/2025	4297	Order approving settlement between the Highland Entities and the HMIT Entities and authorizing actions consistent therewith (related document # 4216) Entered on 6/30/2025. (Okafor, M.)
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)
7/14/2025	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. Fee Amount \$298 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. (Lang, Michael)
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	4326	Motion to Stay 9019 Order filed by Creditor The Dugaboy Investment Trust. Objections due by 8/7/2025. (Lang, Michael) Modified text on 7/21/2025 (mdo).
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 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)
7/21/2025	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.)
7/21/2025	4334	Order denying stay requests (related document 4326 The Dugaboy Investment Trust's Motion to Stay 9019 Order and 4308 Notice). Entered on 7/21/2025. (Okafor, M.) Additional attachment(s) added 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)
8/15/2025	4372	Motion to recuse Judge Filed by Interested Parties James Dondero, NexPoint Advisors, L.P., NexPoint Asset Management, L.P., NexPoint Real Estate Advisors, L.P., The Dugaboy Investment Trust, The Get Good Non Exempt Trust No 2 (Attachments: #1 Proposed Order (Harper, Geoffrey)
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)

Dated: October 9, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Geoffrey S. Harper

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CERTIFICATE OF SERVICE

I certify that on October 9, 2025, a copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

EXHIBIT D

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Counsel for Appellant The Dugaboy Investment Trust

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj
	§	
Reorganized Debtor.	§	
	§	

**Appellant The Dugaboy Investment Trust's Statement of Issues to be Presented and
Amended Designation of Items to be Included in the Record on Appeal From the
Bankruptcy Court's Order Fixing Allowed Amount of Class 11 Interests**

Pursuant to Rule 8009(a)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Appellant The Dugaboy Investment Trust (“Appellant”), having filed a Notice of Appeal [Docket No. 4423] on October 6, 2025, from the Bankruptcy Court’s September 22, 2025 *Order Fixing Allowed Amount of Class 11 Interests* [Docket No. 4401], and having received the Clerk’s letter of October 23, 2025 requesting corrections to the record designations, submits this *Statement of Issues to be Presented and Amended Designation of Items to be Included in the Record on Appeal*, and respectfully requests that the Clerk prepare and forward the listed items to the District Court for inclusion in the record in connection with this appeal.¹

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court misapply the absolute-priority rule in determining that the Hunter Mountain Investment Trust’s (HMIT’s) Class 10 interests were entitled to 100% of any excess funds left over after all senior creditor classes were paid in full, in disregard of equity interests that allocated 99.5% to HMIT and 0.5% to Dugaboy?
2. Did the Bankruptcy Court err when it allocated potential excess funds in a way that effectively gave HMIT *more than* 100% of what it was entitled to, in contravention of black-letter law holding that a senior class cannot receive more than 100% without the consent of the junior class? *See In re Idearc, Inc.*, 423 B.R. 138, 170 (Bankr. N.D. Tex. 2009).
3. Did the Bankruptcy Court err in determining the value of Dugaboy’s interest only as a fixed dollar amount, rather than a *pro rata* percentage reflecting its equity ownership share?
4. Did the Bankruptcy Court err in allowing Highland to use a valuation methodology for determining the allowed amount of Dugaboy’s claim based on limited partners’ pre-petition capital accounts, which were derived from untested and unvetted figures created for tax purposes that bore little if any relation to true market value, when nothing in the confirmed Reorganization Plan allowed for such a method?
5. Did the Bankruptcy Court err in believing that “res judicata” required it to use the same methodology to value Dugaboy’s Class 11 interests as it had previously used to value HMIT’s Class 10 interests?

¹ Because of its voluminous nature, Docket No. 4255 will be delivered to the Clerk on a flash drive that will arrive tomorrow.

6. Did the Bankruptcy Court err at the hearing on September 18, 2025, when it invoked “res judicata” to threaten Dugaboy’s counsel with Rule 11 sanctions for “recycling” arguments previously made by the “revolving door of lawyers” that had represented Dugaboy over the previous several years, thus seeking to impose a chilling effect on Dugaboy’s right to zealous advocacy by its chosen counsel?
7. Did the Bankruptcy Court’s Order Fixing Allowed Amount of Class 11 Interests (Docket No. 4401) constitute a “final” judgment or order, thereby giving the District Court jurisdiction for appellate review of the Bankruptcy Court’s Order denying Dugaboy’s Motion to Recuse?

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

1. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 [Docket No. 4423] filed by Appellant;
2. Bankruptcy Court’s *Order Fixing Allowed Amount of Class 11 Interests* [Docket No. 4401];
3. Docket entries kept by the bankruptcy clerk in case no. 19-34054-sg11;
4. Any opinion, findings of fact, and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings; and
5. Each of the additional documents and items designated below:

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.)
9/14/2022	3521-5	Claimant Trust Agreement
2/27/2024	4199	Stipulated and Agreed Order resolving (A) HCLOM, Ltd.’s Scheduled claims 3.65 and 3.66; and (B) Highland Capital Management, L.P.’s (1) Objection and (2) Motion for a bad faith

		finding and an award of attorney's fees against HCLOM, Ltd., and James Dondero in connection therewith (related document #3657, 4176) Entered on 12/27/2024. (Dugan, Sue)
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
6/9/2025	4230	Objection to (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) filed by Partner Dugaboy Investment Trust. (Hesse, Gregory)
6/20/2025	4251	Exhibit List for the June 25, 2025 Hearing filed by Partner Dugaboy 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 Dugaboy Investment Trust (RE: related document(s) 4230 Objection). (Lang, Michael)
6/20/2025	4255 <i>(to be submitted to</i>	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

	<i>Clerk on flash drive)</i>	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 , #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 Exhibit 100 , #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	4275	Omnibus Reply to (related document(s): 4229 Objection filed by Creditor Patrick Daugherty, 4230 Objection filed by Partner Dugaboy Investment Trust, 4231 Objection filed by Interested Party The Dallas Foundation, Interested Party Crown Global Life Insurance, Ltd) filed by Debtor Highland Capital Management, L.P., Other Professional Highland Claimant Trust, Interested Party Highland Litigation Sub-Trust. (Annable, Zachery)
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 (Deitsch-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 Capital Management, 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)
6/25/2025	4296	Transcript of hearing held June 25, 2025, before Chief Judge Stacey C.G. Jernigan [Docket No. 4296] re: Motion for Entry of an Order Approving Settlement with HMIT Entities (4216) [Docket No. 4297]
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	4297	Order approving settlement between the Highland Entities and the HMIT Entities and authorizing actions consistent therewith (related document # 4216) Entered on 6/30/2025. (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)
7/14/2025	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. Fee Amount \$298 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. (Lang, Michael)
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	4326	Motion to Stay 9019 Order filed by Creditor The Dugaboy Investment Trust. Objections due by 8/7/2025. (Lang, Michael) Modified text on 7/21/2025 (mdo).
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 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)

7/21/2025	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)
8/8/2025	4362	Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests) Filed by Other Professional Highland Claimant Trust (Attachments: # 1 Exhibit A--Proposed Order) (Annable, Zachery)
8/12/2025	4368	Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Partner Dugaboy Investment Trust (RE: related document(s) 4365 Appellant designation). (Harper, Geoffrey)
8/15/2025	4371	Notice of hearing filed by Other Professional Highland Claimant Trust (RE: related document(s) 4362 Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests) Filed by Other Professional Highland Claimant Trust (Attachments: # 1 Exhibit A--Proposed Order)). Hearing to be held on 9/18/2025 at 02:30 PM at https://us-courts.webex.com/meet/jerniga for 4362, (Annable, Zachery)
8/29/2025	4378	Order Approving Motion to Conform Plan to Fifth Circuit Mandate (related document # 4302) Entered on 8/29/2025. (Okafor, M.)
9/8/2025	4384	Response opposed to (related document(s): 4362 Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests) filed by Other Professional Highland Claimant Trust) filed by Creditor The Dugaboy Investment Trust. (Harper, Geoffrey)
9/11/2025	4389	Stipulation by Highland Claimant Trust and The Dugaboy Investment Trust. filed by Other Professional Highland Claimant Trust (RE: related document(s) 4384 Response). (Annable, Zachery)
9/15/2025	4393	Reply to (related document(s): 4384 Response filed by Creditor The Dugaboy Investment Trust) (Reply in Support of Motion for Order Fixing Allowed Amount of Class 11 Interests) filed by Other Professional Highland Claimant Trust. (Annable, Zachery)

9/15/2025	4394	Amended Witness and Exhibit List (Highland Claimant Trust's Witness and Exhibit List with Respect to Hearing to Be Held on September 18, 2025) filed by Other Professional Highland Claimant Trust (RE: related document(s) 4362 Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests)). (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) (Annable, Zachery)
9/15/2025	4395	Witness and Exhibit List for Hearing to be Held on September 18, 2025 filed by Partner Dugaboy Investment Trust (RE: related document(s) 4362 Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests)). (Harper, Geoffrey)
9/18/2025	4398	Court admitted exhibits date of hearing September 18, 2025 (RE: related document(s) 4362 Motion to allow claims (Motion for Order Fixing Allowed Amount of Class 11 Interests) filed by Other Professional Highland Claimant Trust (Court Admitted Debtors/Highland Capital Mgmt., L.P. exhibits #1, #2, #3, #4, #5, #6, #7, #8, #9 & #10 offered by attorney John Morris, found at doc. #4394.) (Edmond, Michael)
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)

Dated: October 23, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Geoffrey S. Harper

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***Counsel for Appellant
The Dugaboy Investment Trust***

CERTIFICATE OF SERVICE

I certify that on October 23, 2025, a copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

EXHIBIT E

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

In Re:) **Case No. 19-34054-sgj-11**
) Chapter 11
)
HIGHLAND CAPITAL) Dallas, Texas
MANAGEMENT, L.P.,) September 18, 2025
) 2:30 p.m. Docket
Reorganized Debtor.)
) MOTION FOR ORDER FIXING
) ALLOWED AMOUNT OF CLASS 11
) INTERESTS FILED BY HIGHLAND
) CLAIMANT TRUST (4362)
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE.

APPEARANCES:

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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 DALLAS, TEXAS - SEPTEMBER 18, 2025 - 2:47 P.M.

2 THE COURT: All right. Our other matter is Highland
3 Capital, Case No. 19-34054. We have a motion to fix the
4 allowed amount of our Class 11 interests. We'll get our
5 lawyer appearances, please.

6 MR. HARPER: Your Honor, Geoffrey Harper with Winston
7 & Strawn for Dugaboy Investment Trust.

8 THE COURT: Okay. Mr. Harper for Dugaboy.

9 MR. MORRIS: Good afternoon, Your Honor. John
10 Morris; Pachulski, Stang, Ziehl & Jones; for Highland.

11 THE COURT: Okay. Mr. Morris for Highland.

12 Do we have any other appearances?

13 All right. Well, I've got your pleadings and your witness
14 and exhibit list, to the extent you end up putting evidence
15 on. And Mr. Morris, you may begin.

16 MR. MORRIS: Good afternoon, Your Honor. Nice to be
17 in your courtroom, as always.

18 OPENING STATEMENT ON BEHALF OF THE REORGANIZED DEBTORS

19 MR. MORRIS: We're here today because we need to be
20 here today. We're here today because we have the burden of
21 proving our motion to fix, in specific dollar amounts, each of
22 the unvested contingent interests that are in Class 11. And
23 we have to do that because the Plan and the Claimant Trust
24 Agreement require that. Those documents, which are now four-
25 and-a-half years old, require that all disputed claims in

1 equity interests be resolved before the Claimant Trust can be
2 dissolved itself, a process that we're very interested to
3 begin.

4 That's why we're here today, to fix those allowed amounts.
5 And how do we do that? We do it the same way we did it in
6 June, basically. We're using the same methodology that we did
7 in June. You just look at the capital account balances as of
8 the petition date, and, you know, that gets us to where we
9 need to be.

10 I've got a very short PowerPoint --

11 THE COURT: Okay.

12 MR. MORRIS: -- to just highlight some of the issues
13 that we believe are relevant today. Mr. Seery, the Claimant
14 Trustee and the CEO of Highland Capital Management, LP, is
15 here today to give what I hope will be brief testimony in
16 order to meet our burden.

17 I do just, before I get to the PowerPoint, want to briefly
18 address the objection. As the Court knows, I think there are
19 four or five different holders of the unvested contingent
20 Class 11 interests, but only one of which has objected. I
21 don't know what the position is of the rest of them, but
22 they're not here. And the objection itself is meritless. As
23 we say in our papers, you know, the request that all
24 distributions after senior claims are satisfied be distributed
25 on a pro rata between the holders of the Class 10 and 11

1 claims violates about a half a dozen orders of this Court.
2 You can't reconcile it with the subordination provisions and
3 the creation of separate classes in the Claimant Trust
4 Agreement or in the plan. You can't reconcile it with the
5 fixing of the HMIT Class 10 interests that we did in June. I
6 mean, what does it mean if you're not just going to distribute
7 stuff without regard to that number?

8 Mr. Dondero signed an agreement on behalf of HCLOM that
9 resolved HCLOM's claim, put it in Class 10. HCLOM has never
10 been a limited partner. It has no -- you can't do what they
11 want. This is really pushing the limits of Rule 11, in our
12 view, because they're asking you to violate probably a half a
13 dozen different court orders.

14 So I don't want to beat the drum too loudly because it's
15 just not worth it here. I just want to meet my burden of
16 proof. If I may just hand out these small decks.

17 THE COURT: You may.

18 (Pause.)

19 MR. MORRIS: So, Your Honor, the first slide here is
20 just to highlight the provision in the plan, the definition of
21 contingent Claimant Trust interests that applies here. You
22 know, as always I cite to the record. Actually, before I get
23 to this, I'd like to just to move into evidence -- I should
24 have done that first; I apologize -- I'd like to move into
25 evidence Exhibits 1 through 10, which can be found on

1 Highland's amended witness and exhibit list that was filed at
2 Docket 4394.

3 THE COURT: All right. Any objections to that?

4 MR. HARPER: No, Your Honor.

5 MR. MORRIS: Okay.

6 THE COURT: Those 1 through 10 will be admitted.

7 MR. MORRIS: Thank you.

8 (Reorganized Debtors' Exhibits 1 through 10 are admitted.)

9 MR. MORRIS: So with respect to the first slide, it's
10 just a snapshot of one of the definitions in the plan. The
11 plan definition of Claimant -- Contingent Claimant Trust
12 Interest establishes that the limited partnership interests
13 that were held by the Class A members under the prepetition
14 limited partnership agreement will be subordinated to the
15 class that's being established for the holders or the former
16 holders of the Class B and C interests.

17 And that's important, and that's important because that is
18 the basis upon which the separate classes were created. And
19 so, you know, this definition is given effect in Article 3 of
20 the plan. Article 3, Section H-10 and 11, that's the
21 provisions of the plan that establish the two different
22 classes. And the creation of the separate classes and the
23 subordination provision weren't adopted by accident, right?
24 Your Honor made a very specific finding in Paragraph 36 of the
25 confirmation order that says the plan properly separately

1 classifies the equity interests in Class 10 from the equity
2 interests in Class 11 because they represent different types
3 of equity security interests in the Debtor and different
4 payment priorities.

5 There is a reason why this was done, and everybody knew
6 it. Here we are, four-and-a-half years later, revisiting an
7 order that was entered, at least as to this aspect, without
8 objection. Right? What are they doing?

9 The concept of subordination, if we go to the next slide,
10 was adopted also in the Claimant Trust Agreement, in Section
11 -- Article 5, Section 5.1-C. Again, I've highlighted two
12 portions. The first portion actually does relate to the
13 notion of pro rata treatment, because that's what Dugaboy
14 says, it's got to be pro rata. It is pro rata within a class.
15 It's not pro rata between classes. You have horizontal pro
16 rata. So if you're in Class 10, it's pro rata. There was
17 only one member of Class 10 until we had the HCLOM agreement,
18 and that was HMIT. But in Class 11, you had a bunch of
19 different. And so, yeah, they have to be treated in their
20 class the same.

21 But the bottom is really why we're here today, because it
22 says the equity interests distributed to the allowed holders
23 of Class A limited partners -- and that's what we're trying to
24 get to. That's why we have to fix the amount. You fix the
25 amount in order to get it to an allowed claim or an allowed

1 interest. Because it's not even allowed today, right? You
2 get to allowed because it's fixed and it's no longer disputed.
3 And the holders of the Class A limited partnerships, quote,
4 shall be subordinated.

5 So I don't, I just don't understand how anybody could come
6 here and suggest that Class 10 and 11 should be treated pro
7 rata. It violates the Plan. It violates the Claimant Trust
8 Agreement.

9 The next slide is just a calculation of the amounts. Mr.
10 Seery will describe the methodology as to how we got to these
11 numbers. Basically, the December 31st, 20- -- it's not
12 written on the back of a napkin. It's written on the front of
13 a tax return. Okay. We didn't write this, right? This isn't
14 made up. He's going to tell you there's nothing subjective
15 about this.

16 We took the tax returns that Jim Dondero signed when he
17 controlled Highland. That was the starting point, the end of
18 2018. That's the first column. The second column, we take it
19 to the petition date, and we use Highland's financial
20 statements to do that. And then just for illustrative
21 purposes we take it out until the end of 2019, to show the
22 fluctuation in the value of the capital accounts in the --
23 just for illustrative purposes.

24 But the real point is to determine what the capital
25 accounts were as of the petition date. That's when their

1 interests are being valued.

2 And Mr. Dondero and Dugaboy know their objection is
3 baseless. And how do we know that? If you go to the last
4 slide. You'll remember -- I mean, there's so many lawyers who
5 have represented Dugaboy, it's a problem. It's a real problem
6 for them. And it's why you can get a new lawyer here who
7 probably, in fairness, probably doesn't have the historical
8 and institutional knowledge to understand that this makes no
9 sense.

10 Because last December you had Ms. Deitsch-Perez in here in
11 opposition to the objection to the HCLOM claim, signing a
12 settlement agreement on behalf of not just HCLOM but Dugaboy,
13 if you look at Exhibit 8. She signed it on behalf of Dugaboy,
14 too. And they agree that to resolve the dispute they would
15 put HCLOM in Class 10 in a fixed amount, without anybody
16 saying, oh, my goodness, but what's that going to mean for
17 Dugaboy when we come back and we want to do this pro rata?
18 Nobody thought about it then because it wasn't an issue for
19 them.

20 They take it further. Apparently, Mark Patrick realized
21 that that agreement was signed without his knowledge or
22 consent on behalf of HMIT, and they have a little fight, and
23 that's what led to where we are, where they are today. And
24 they enter into an agreement to resolve their dispute, and
25 that's at Exhibit 9. And that's an agreement, it's an

1 intercreditor agreement, they call it a participation
2 agreement, between HCLOM and HMIT.

3 We had nothing to do with that. We didn't even know it
4 was happening until it happened. But apparently they agreed
5 that, if HMIT got a distribution in Class 10, they would give
6 five percent of it to HCLOM, less HMIT's legal fees, another
7 complication, but it's in Paragraph 1 of this agreement. This
8 is how crazy this is. So they agreed to this. Again, second
9 time, not a word about Dugaboy, not a word about how that's
10 going to play out with some expected pro rata sharing.

11 But here's the best part, maybe the best part, the
12 funniest part. Just four weeks ago, yet another lawyer for
13 Dugaboy has an email communication with Louis Phillips, Mr.
14 Phillips representing HMIT, and they have a back-and-forth.
15 And I get involved because, as a result of the HMIT
16 settlement, HMIT is going to get some payments from Highland.
17 But now they have an obligation under this agreement to share
18 it.

19 So there's instructions in there. You can look at Mr.
20 Elms' (phonetic) email, right? So you have Ms. Deitsch-Perez
21 in December, you had Mr. Elms, and he says, hey, you know that
22 payment for HCLOM, send it to Dugaboy. Took the whole thing.
23 Took the whole thing. It's right there. Gave wire
24 instructions to send the money to Dugaboy, without ever
25 saying, we need it because we have to take our piece. It's

1 five percent. They're getting five percent of what HMIT got.
2 Has nothing to do with the partnership agreement. It has
3 nothing to do with prorated. Has nothing to do with Dugaboy's
4 I think 0.01886 percent. Nothing to do with anything.

5 And yet when they get this motion now, oh, you know what,
6 we don't like what's happening. They said nothing at
7 confirmation about this. There's no appeal about this.
8 There's no objection about this. The orders have been in
9 place for years. They said nothing in June with HMIT. They
10 said nothing when they got the cash. What are we doing?

11 So that's all I have, Your Honor. I just wanted to
12 provide some context to make sure the Court understands at
13 least Highland's perspective, both as to the validity of our
14 position, because our position, what we're doing, is
15 consistent with the plan. It's consistent with the Claimant
16 Trust Agreement. It's consistent with the HMIT settlement.
17 It's consistent even with the HCLOM/HMIT settlement that we
18 weren't a party to, because under our proposal, under our
19 methodology, they're going to be able to share the cash just
20 as they agreed. Right? Everything works perfectly.

21 So at the end I'll put Mr. Seery on, he'll be brief, and
22 we'll ask the Court to enter an order granting the motion.

23 THE COURT: Okay.

24 MR. MORRIS: Thank you, Your Honor.

25 THE COURT: Thank you. All right. Mr. Harper?

1 MR. HARPER: Thank you, Your Honor.

2 Please forgive the knee. They're working on it.

3 THE COURT: Okay.

4 OPENING STATEMENT ON BEHALF OF DUGABOY INVESTMENT TRUST

5 MR. HARPER: Your Honor, I'll be very quick as well.
6 I don't think there's any point in spending more time on this
7 than need be. We objected to the way that the plan was to set
8 the value of the claim as to Hunter Mountain because of the
9 equity claim and we're objecting to it here.

10 THE COURT: Wait. Repeat what you just said. I'm
11 sorry. Just start over, --

12 MR. HARPER: Certainly, Your Honor.

13 THE COURT: -- if you don't mind.

14 MR. HARPER: I'm sorry, Your Honor. Dugaboy filed
15 objections earlier, the Court overruled them, when they
16 objected to the amount of the claim that Hunter Mountain was.
17 So, I mean, this -- the statement that we somehow didn't
18 object to this, this is, you know, we objected to it when the
19 Court --

20 THE COURT: You objected a few weeks ago when we had
21 --

22 MR. HARPER: Yes.

23 THE COURT: -- the compromise and settlement motion
24 before the Court --

25 MR. HARPER: I think this --

1 THE COURT: -- involving Hunter Mountain and the
2 Claimant Trustee and the Reorganized Debtor. Is that what
3 you're talking about?

4 MR. HARPER: I believe so, Your Honor. Yes.

5 THE COURT: Well, I'm asking you.

6 MR. HARPER: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. HARPER: But the point being -- and I think that
9 one of the issues that we've got when we talk about Class 10
10 and Class 11, we need to recognize that everything in Class 10
11 and everything in Class 11 aren't the same. The claims of
12 Hunter Mountain in Class 10 are equity claims. The claims of
13 Dugaboy in Class 11 are equity claims. These are the people
14 who owns the shares of the Debtor. And when we are talking
15 about how those claims get valued, they get valued a certain
16 way.

17 Now, we understand that the whole point of putting them in
18 priorities of Class 1 through 10 is to determine priority of
19 payment.

20 THE COURT: 11.

21 MR. HARPER: 11. I'm sorry, Your Honor. Is to
22 determine priority of payment. It doesn't mean that, you
23 know, as we sit around and determine each individual claim,
24 that the way that we value them ends up being the same to
25 determine how much of the claim is allowed. Just like, you

1 know, some -- each contract gets treated differently, is the
2 situation here.

3 And our point is the equity claims are unique. Equity is
4 determined, it always has been, right, the answer is in every
5 bankruptcy that I've ever been involved in, right, we pay off
6 the creditors. If there's money left, which there often is
7 not in a liquidation case, then that money gets paid to the
8 equity holders pro rata.

9 Now, your plan --

10 THE COURT: Okay. Let me stop you a minute.

11 MR. HARPER: Sure.

12 THE COURT: I hope you're going to get to the res
13 judicata, essentially -- my words, not Mr. Morris's, but
14 that's the substance. This has been decided.

15 MR. HARPER: So which part are you saying, Your
16 Honor. Are you saying you believe it's res judicata because
17 of the plan or are you saying you think it's res judicata
18 because of the 9019 ruling a few weeks ago?

19 THE COURT: Well, both.

20 MR. HARPER: Okay. So the plan has very specific
21 statements about what happens to extra money, Your Honor.
22 There's provisions in both of them. Because, candidly, Your
23 Honor, there would be a problem if there wasn't, right? What
24 happens if more money comes into this plan than there are if
25 we have nothing but claims that are set in stone for the

1 dollar value?

2 THE COURT: Okay. So you dispute that the plan
3 subordinated Class 11 --

4 MR. HARPER: No, Your Honor.

5 THE COURT: -- to Class 10?

6 MR. HARPER: I do not.

7 THE COURT: Okay. Then --

8 MR. HARPER: There's also provisions, however, in
9 there that says, despite that, once you set those claims,
10 there's a provision to deal with money after that. In other
11 words, --

12 THE COURT: Okay. You'll point out what plan
13 language --

14 MR. HARPER: Sure.

15 THE COURT: -- you think supports your argument.

16 MR. HARPER: Certainly, Your Honor.

17 THE COURT: Okay.

18 MR. HARPER: Your plan also states and your order
19 states that, regardless of anything in the plan, that the
20 issues of contractual agreements and the issues of law and
21 equity get involved as well. And there is no possible doubt
22 that the partnership agreement has very specific ways that
23 these are supposed to be valued and the assets are supposed to
24 be paid out. It's in the contract there.

25 So that becomes critical, because if we go to part two,

1 which is, all right, if the answer is we're going to come out
2 and determine the cash value here, there's two problems. One,
3 when do we do this? Right? So, as you well know, right,
4 under the bankruptcy law, the answer is we don't determine
5 contingent fee and unliquidated until it's absolutely
6 necessary. If the answer is we believe we've hit that point,
7 that it's absolutely necessary and there is some reason that
8 this will hold things up, then we should discuss that. But
9 since they're asking for this bankruptcy to stay open for
10 several more years, we question whether or not that's really
11 the way to do this.

12 But secondly, the issue with the --

13 THE COURT: I want you to address --

14 MR. HARPER: Sure.

15 THE COURT: -- res judicata. How many times is it
16 appropriate for this Court to consider the same issue? Isn't
17 that exactly what I'm doing?

18 MR. HARPER: So --

19 THE COURT: I considered the plan language, which
20 subordinated Class 11 to Class 10 based on they had different
21 rights under the limited partnership agreement of Highland,
22 which was part of the evidence. Your client didn't object, by
23 the way, to that.

24 MR. HARPER: They did not.

25 THE COURT: Although the client objected to the plan

1 in numerous ways and appealed the confirmation order. So
2 you're going to show me, I guess, why this isn't res judicata,
3 because it looks to me like the plan decided it. Okay?

4 But then we have the other res judicata issue of, a few
5 weeks ago, when this valuation methodology for Class 10 was
6 proposed by the Debtor and there was testimony from Mr. Seery,
7 and Dugaboy objected, and there was cross-examination, and I
8 had no evidence from a different person about what would be a
9 more appropriate methodology, and so I approved that.

10 So, from my perspective, you've got at least a double res
11 judicata problem. So I really want you to tell me out of the
12 gate why you don't think you have a double res judicata
13 problem.

14 MR. HARPER: Your Honor, I don't want to be a smart
15 aleck, so please forgive me, because one thing I was -- I
16 assume you're actually meaning collateral estoppel, not res
17 judicata, since --

18 THE COURT: Well, I guess it could be either one.

19 MR. HARPER: And I'm not -- and please don't think
20 that --

21 THE COURT: I mean, I guess it could be either one.

22 MR. HARPER: I mean, certainly, --

23 THE COURT: I guess it could be specific findings I
24 made, and so therefore collateral estoppel might be the
25 doctrine. But I think it's probably the ruling as well.

1 Maybe it's both. Okay.

2 MR. HARPER: Your Honor, let me --

3 THE COURT: We'll have a law school class decide
4 that.

5 MR. HARPER: Yeah. I'm sorry, Your Honor, I didn't
6 mean to be -- my only point being I didn't want to fail to
7 address the Court's arguments directly, right? Obviously,
8 there was not a ruling on the merits as to the value of
9 Dugaboy's claim two weeks ago. Therefore, since there was not
10 a ruling on the merits on that, there can't be res judicata on
11 that issue.

12 What I think the Court is trying to say, I mean, I think,
13 is that it believes or it thinks there's -- well, you said you
14 do believe -- you believe there is an issue in that, by
15 valuing the equity in Hunter Mountain, you believe that that
16 has issue-preclusion and equitable estoppel, you know,
17 collateral estoppel claims, meaning you now have determined
18 that's what the equity is.

19 Your Honor, if that's the case, we lose. Right? I mean,
20 I -- there you go.

21 THE COURT: Okay. It's a couple of things. It's a
22 subordination issue that I think the plan and the confirmation
23 order has created an estoppel effect, right?

24 MR. HARPER: Your Honor -- pardon me.

25 THE COURT: Subordination. Subordination is Class 11

1 is subordinated to Class 10. We're doing that because the
2 limited partnership agreement clearly showed distinctions in
3 these types of equity interests and we think that is probably
4 the appropriate way to go in the plan, and no one objected,
5 and I approved that.

6 MR. HARPER: So, Your Honor, obviously, we're going
7 to go over the partnership agreement. If the Court would
8 like, we'll do it right now.

9 THE COURT: No.

10 MR. HARPER: I mean, we can do it without a witness,
11 but --

12 THE COURT: I'm just saying I'm trying to figure out
13 why this hasn't been precluded by prior orders. I'll just say
14 precluded since we don't know which estoppel doctrine is most
15 germane, okay?

16 MR. HARPER: Yeah. I'm sorry, Your Honor. Just,
17 again, I feel like I'm being -- just in terms of what legal
18 argument I make in response, because, you know, the answer is
19 different each way. So, but, so, again, I'm sorry if I'm
20 acting like a gunner in law school. That's not the intent
21 here.

22 My point just is I hear what the Court is saying. You
23 know, truthfully, Your Honor, I think that the answer -- you
24 know, happy to address that, feel like I am addressing that,
25 because we can talk about it in more detail if you would like.

1 If you'd like to do that now, or if you want them to put on
2 their witness first, or we're happy to go through the
3 documents if you want.

4 THE COURT: I didn't know it was a complicated
5 question I was asking.

6 MR. HARPER: So, Your Honor, the contingent fee -- so
7 let me start with one interesting hypothetical. So you set
8 these values today. Let's say that, you know, theirs stays at
9 -- I'm just going to round up -- \$350 million and ours comes
10 in at \$700,000. The issue still remains, what happens if one
11 of the claims that are out there nets money in excess of that?
12 Where does the excess money go?

13 This plan, the way it is currently being suggested and the
14 way that the Court is suggesting if there is res judicata, has
15 a fatal flaw in that the plan doesn't account for excess cash.
16 There's -- it goes to nobody. That can't be the case, right?
17 It has to go to somebody.

18 THE COURT: I guess if there's more than three
19 hundred --

20 MR. HARPER: Fifty million?

21 THE COURT: -- thirty-six million, --

22 MR. HARPER: Sure. Where does it go?

23 THE COURT: -- then Class 11 would get it. I mean,
24 --

25 MR. HARPER: They would get the \$700,000 only by

1 their -- so what happens if there's more than that? What
2 happens if there's an extra \$10 million?

3 THE COURT: I think we're happy to have another court
4 hearing and decide that.

5 MR. HARPER: Well, Your Honor, the point is you would
6 have a -- you would have a plan which is per se flawed because
7 it didn't take into account the residual cash issue. But our
8 point is, the plan does.

9 Now, I agree with you that the problem that we have with
10 this plan is there are provisions in there that are difficult
11 to read together, meaning --

12 THE COURT: Okay. We've had an appeal up through the
13 Fifth Circuit twice. Okay?

14 MR. HARPER: Your Honor, not on this issue.

15 THE COURT: Well, then it's barred. It's barred.

16 MR. HARPER: Well, no, Your Honor, because the answer
17 is, you know, what we're now talking about is how one
18 interprets the plan, not whether the plan itself is wrong.
19 Because there is no doubt there is a provision in the plan
20 that says once -- it's in the contingent trust agreement -- it
21 says once the allowed claims are paid, including that, then
22 the rest goes to the equity holders. And that's after we've
23 dealt with the Class 10 and 11. Right? So there's your
24 excess out there.

25 Well, how is that done? The answer is we have claims

1 beyond the allowed claims. Now, the partnership agreement has
2 a very specific subordination clause as far as what portions
3 of the claims are subordinated and what are not.

4 Now, I agree, this is a very strange situation. How does
5 one set the value of equity? Because there's a specific way
6 to value the equity in the partnership agreement which they're
7 not using. Instead, they said, let's just take a look, let's
8 take a look at the capital account. And therefore, because
9 the capital account on this date said x, let's determine that
10 that must be it.

11 Now, we all know that has nothing to do with the actual
12 value. It's a tax number. It's not there. But the
13 partnership agreement has very specific language about what to
14 do in a situation of liquidation. And it specifically says,
15 and there is no possible ambiguity here, you pay all the
16 claims. When those claims are done being paid, you then take
17 the amount that's left over and you divide it proportionally
18 among the parties.

19 Two caveats. On Page 12 of the partnership agreement,
20 there is specific language about the portions of the Class B/C
21 that need to get paid first. They have certain rights where
22 they get paid first.

23 THE COURT: Why wasn't your client making this
24 argument in February 2021 when the plan was performing?

25 MR. HARPER: Your Honor, I can't answer that. I do

1 not know.

2 THE COURT: Well, you can't change lawyers and use
3 that as an excuse. So what is your excuse?

4 MR. HARPER: Your Honor, my point is I think the plan
5 takes this into account. I think we're just fighting about
6 how one interprets it.

7 THE COURT: Okay.

8 MR. HARPER: What I understood you saying is you
9 think --

10 THE COURT: Well, I guess you can point out the
11 language that you think the Court would be interpreting before
12 we're done here today.

13 MR. HARPER: Sure, Your Honor. So if the Court --
14 would you like me to do it now? Or I don't understand what
15 the Court's asking for.

16 THE COURT: You know what, you can do it as part of
17 your presentation of evidence --

18 MR. HARPER: Sure.

19 THE COURT: -- if you want to do that. Okay?

20 MR. HARPER: Thank you, Your Honor.

21 THE COURT: Okay. Thank you.

22 All right. Mr. Morris?

23 THE COURT: Your Honor, I just, before I call Mr.
24 Seery, I just want to make a couple of points.

25 The partnership agreement today is irrelevant. It's been

1 irrelevant since August 11, 2021 when the plan became
2 effective and it was rejected. It was replaced by the
3 Claimant Trust Agreement.

4 So I don't really care what the limited partnership
5 agreement says. Nobody has abided by it for years.

6 Number two, nobody owns the equity today. Right? His
7 client owns an interest, a contingent unvested interest in
8 Class 11. It doesn't own equity in anything. Equity,
9 according to the plan, was extinguished long ago. Okay?

10 With that, I'd like to call Mr. Seery.

11 THE COURT: All right. Thank you.

12 Mr. Seery, welcome back.

13 MR. SEERY: Good afternoon, Your Honor.

14 THE COURT: Please raise your right hand.

15 JAMES P. SEERY, REORGANIZED DEBTORS' WITNESS, SWORN

16 THE COURT: All right. Please be seated.

17 MR. MORRIS: May I hand out the witness binders?

18 THE COURT: You may.

19 MR. MORRIS: I'll try and keep this brief, Your
20 Honor.

21 Mr. Seery -- I'd like to also -- may I also give the
22 witness the demonstrative?

23 THE COURT: You may. Thank you.

24 MR. MORRIS: And I'm just going to open it up to
25 Slide 4, which is the demonstrative citing all of the evidence

Seery - Direct

24

1 that sets forth the confirmation, just to make this easier.

2 THE COURT: Okay.

3 THE WITNESS: Thank you.

4 MR. MORRIS: You're welcome.

5 DIRECT EXAMINATION

6 BY MR. MORRIS:

7 Q Are you ready to go, Mr. Seery?

8 A I am.

9 Q Okay. And are you familiar with the motion that we're
10 here discussing today?

11 A Yes, I am.

12 Q Did you authorize Highland to file that motion?

13 A I did.

14 Q And why did you authorize Highland to file this motion?

15 A Because the plan, the confirmation order, and the Claimant
16 Trust Agreement require that we fix all claims in order -- and
17 interests in order to close this case. We have a final
18 deadline to close this case on August 11th. We expect to be
19 dissolved and, frankly, cancelled by that date. The indemnity
20 trust may live on, unfortunately, because litigation may live
21 on, but the case, we expect to be closed.

22 Q Okay. And are you familiar -- and as part of the process,
23 are you personally familiar with the methodology that Highland
24 used to determine the amount of each unvested contingent Class
25 11 interest?

1 A Yes, I am.

2 Q Can you describe for the Court the methodology that
3 Highland adopted?

4 A Yes. Similar to the discussion we had at the end of June,
5 the Debtor was a limited partnership. There are no shares.
6 The equity as it's divided in a limited partnership is owned
7 by partners who have limited partnership interests. Those
8 limited partnership interests, in accordance with the
9 partnership agreement, receive allocations of profits and
10 losses that are maintained and required to be maintained in
11 what is called a capital account.

12 Each partner's interest in the partnership, their stake,
13 their share, whatever word you want to use, is reflected in
14 the partnership capital account that each partner has. So,
15 unlike a corporation, each partner knows exactly what their
16 capital account is at all times.

17 Q Can we turn in the binder to Exhibit 5? And I guess my
18 first question is, do you know what this document is?

19 A I do, yes.

20 Q And what is this document?

21 A So Exhibit 5 is a bit of a combination of things, but it
22 is the first page of the 2018 Highland Capital Management
23 Limited Partnership tax return. And this is the return for
24 the partnership that -- which became the Debtor. It was
25 signed on 9/15/19, about one month before the filing, by Mr.

1 Dondero, under penalty of perjury that it's true, correct, and
2 complete. And what it does is it reflects the partnership's
3 income, losses, deductions, tax payments, for year 2018,
4 ending 12/31/18.

5 What it also contains in the pages behind are what are
6 referred to as Schedule K-1. In a partnership, when the
7 partnership files a tax return, because it is a pass-through
8 entity, profits and losses pass through to the partners
9 pursuant to the terms of the partnership agreement. Those --
10 that allocation of profits and losses, minus any
11 distributions, is reflected in their capital account.

12 So each partner in a limited partnership gets a K-1 that's
13 also reported to the IRS and that they use for their own
14 individual partnership -- their own individual income tax
15 returns, the partnership income or losses being part of what
16 their tax makeup might be, depending on their other tax
17 attributes. The K-1 contains the individual partner's
18 specific partner capital account.

19 Q Can you show us where --

20 A Form 1065 -- excuse me.

21 Q Yeah.

22 A On Page 5, which we don't have here, has the gross amount
23 of the partnership capital for 12/31/2018. So the individual
24 accounts, the partner capital accounts, are reflected -- I
25 apologize for my reading -- the individual capital accounts

1 are reflected in Section L of each of the K-1s. So you'll see
2 a few pages in, there's Strand with an ending capital account,
3 which would be the 12/31 capital account, of \$932,000. There
4 is Mark Okada individually, \$181,000. There's Mark Okada
5 Trust I, \$36,000. There's Mark Okada Trust II, \$15,000. And
6 there's Dugaboy at \$693,900. It also reflects Hunter
7 Mountain, which we dealt with in June at \$370 million.

8 Q So those are the capital accounts for each of Highland's
9 limited partners as of December 31st, 2018. Do I have that
10 right?

11 A That's correct.

12 Q And that's -- is it your understanding that those are the
13 numbers that were reported by Mr. Dondero on behalf of
14 Highland at the time?

15 A That's correct.

16 Q Is it your understanding that each of the taxpayers who
17 received a K-1 relied on those numbers and paid taxes in
18 accordance with the amounts set forth in the K-1?

19 A To be fair, I don't know exactly what each one did. I
20 know that when I --

21 Q I appreciate that.

22 A -- receive a K-1, that's what I do on my individual taxes
23 because that's what's required.

24 Q Okay. So how -- did you adjust the capital accounts that
25 were reflected in the K-1s at year-end 2018? How do you bring

1 that up to the petition date of October 16, 2019?

2 A The partnership agreement requires that, as I said,
3 partnership profits and losses and distributions are reflected
4 in each partner's capital account. Highland studiously
5 maintained that every month. Why did it do that? Well, it's
6 required to do that under the partnership agreement. It was.
7 It's also required -- and the partnership agreement contains
8 that requirement because that's required by the Internal
9 Revenue Service regulations. And those numbers and the
10 distribution and allocation of income, losses, and
11 distributions has to have what is referred to as substantial
12 economic effect in order to give the partnership the ability
13 to pass through losses and income on different bases.

14 Q And can you turn to Exhibit 7? Is that the document that
15 you relied upon to bring the year-end 2018 capital accounts
16 current as of the petition date?

17 A Well, this is a -- this is a snapshot from the monthly
18 operating report. These were filed every month during the
19 case. This one you can see is filed, it should be sometime in
20 December. I can't see the filing date. But it does reflect
21 the 11/30/19 capital accounts as well as the 10/31/19 capital
22 account and then the 10/15 filing date capital account.

23 Now, this is the gross amount. So each individual partner
24 -- because Highland keeps it for itself and then it allocates
25 to each partner that's ultimately reflected on the K-1. The

1 attachment is some of the output from our Oracle system. This
2 was our accounting system. And this reflects the changes that
3 would be running through the P&L that would hit the balance
4 sheet.

5 And you'll see at the very last page of Exhibit 7 the 370
6 -- I can't -- I'm having trouble reading -- the partner
7 capital account of 396,613, and that's the 10/15 number. It's
8 off by a thousand dollars. And it does reflect some of the
9 larger changes during the first half of the year.

10 So that number went up. If you'll recall the 12/31/18
11 number that we saw before, it went up during the first 10
12 months of the year. And that's reflected in a number of the
13 lines above, but right on that page you can see the two
14 biggest drivers. There's something called the Highland Select
15 Equity Fund. This is a \$109 million credit. That is the
16 write-up of Trussway, which was an asset that was owned. That
17 took a big write-up during that first 10 months of the year
18 from a very low basis, and that's reflected in the P&L, then
19 reflected through the balance sheet and into the capital
20 accounts.

21 Ten lines above that you'll see a \$74 million debit.
22 That's the reserve taken for the Redeemer -- the initial
23 Redeemer award in April.

24 So these are the entries that roughly reflect what's going
25 on in the Highland accounts that then roll through to the

Seery - Direct

30

1 capital accounts for each partner.

2 Q And just to make this really clear, this document that
3 we're looking at, Exhibit 7, was a monthly operating report
4 that was filed in the bankruptcy case; is that your
5 understanding?

6 A Yes.

7 Q And that was prepared while Mr. Dondero was still in
8 control of Highland; is that right?

9 A This one was, yes. But we did it every month --

10 Q Yeah. Just -- just --

11 A -- all the way.

12 MR. MORRIS: And it's the very last page, Your Honor,
13 where it has the total partner capital, \$396 million --
14 \$613,941. That's the number that you see in the middle column
15 on our demonstrative, okay?

16 THE WITNESS: That's --

17 MR. MORRIS: And that's where it comes from.

18 THE WITNESS: That's correct.

19 BY MR. MORRIS:

20 Q Okay. And then am I correct that what you did is you took
21 that number and multiplied it by the limited partnership
22 interest that each of the limited partnership partners had?
23 Former limited partners?

24 A Roughly. But if they had gotten distributions that were
25 outsized, then they could have been non pro rata. The general

1 partner was allowed to do that. Then they would have been --
2 it would have led to different adjustments. But in this
3 instance, I think that they would have reflected on a straight
4 basis without any changes through the partnership accounting
5 for those first 10 months of the year.

6 Q Okay. So, to summarize, can we say that Exhibit 7 shows
7 the economic activity at Highland from year-end 2018 through
8 the date of this document, and that that's why there's a
9 difference in the capital accounts, and the bottom line is the
10 396 number that we see here?

11 A At a high level. So this is a trial balance out of
12 Oracle, so they are subject to adjustments.

13 Q Okay. Did you make any adjustment?

14 A Not up to the petition date, no.

15 Q Okay. Is there any subjectivity at all in any of the
16 analysis that you've prepared?

17 A No.

18 Q Did you rely on anything other than the tax returns and
19 Highland's books and records that were prepared prior to the
20 time you became an independent director?

21 A The books and records also include the audited financials,
22 which contain the same numbers. So those audited financials
23 which were signed off by the same people, --

24 Q Great.

25 A -- they're also -- and the partners' capital is the same.

1 Q Thank you for your completeness.

2 Highland contends that once the Class 11 interests are
3 fixed, they will receive no distributions from the Claimant
4 Trust until the Class 10 interests are paid in full. Do I
5 have that right?

6 A Yeah. The 10s need to get paid in full before the 11s can
7 get paid.

8 Q And what's the basis for that position?

9 A That's the plan, the confirmation order, and the Claimant
10 Trust Agreement setting up a hard waterfall on how
11 distributions run through the various classes of 1 to 11.

12 Q Okay. Are you aware that in -- at least in their
13 objection, Dugaboy took the position that any distributions
14 after Class 9 and all senior obligations are paid in full had
15 to be made pro rata among all of the former limited partners?

16 A I'm aware that that's what they said.

17 Q Does that make any sense to you?

18 A No, it doesn't, not at all.

19 Q Why not?

20 A That is simply not the plan, it's not the confirmation
21 order, and it's not the Claimant Trust Agreement. The plan
22 set up a specific priority, and delineated between Class 10
23 and Class 11, and made Class 10 senior to Class 11. That
24 respected the old partnership agreements, which no longer
25 exist and was rejected. That waterfall is a hard waterfall.

1 So the idea that it would be pro rata would be anathema to the
2 way -- the structure of the plan.

3 Q Okay. And we were here in June, and Class 11 -- Class 10
4 was fixed on a net basis of somewhere at around \$330 million.
5 Do you recall that?

6 A That's correct. That -- Class 11 wasn't -- Class 10
7 wasn't set there. HMIT's claim in Class 10 was set at that
8 amount, which was their capital account, less the amount of
9 the -- potentially the amount of the note that they owed to
10 Highland.

11 Q Is there any conceivable chance that HMIT will ever be
12 paid in full?

13 A No. It's simply not -- it's metaphysically certain that
14 it won't be paid in full.

15 Q And --

16 A We have a limited amount of cash to cover expenses. We
17 have \$10 to \$15 million more in assets. We owe the Class 9s,
18 provided all the senior expenses are paid and all the
19 indemnification obligations are paid and there are no more
20 statute of limitations that we have to worry about and all
21 litigation risks are gone, we owe the Class 9 \$10 million.
22 Provided all those things are true, we owe the Class 10,
23 including HCLOM, about three hundred and -- now, after
24 application of the note, about \$330 million. There is no
25 world, no universe, that we will ever have a penny more than

1 is required -- than we could pay through Class 10.

2 Q Okay.

3 MR. MORRIS: I have no further questions, Your Honor.

4 THE COURT: All right. Mr. Harper, cross?

5 MR. HARPER: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. HARPER:

8 Q Good afternoon, Mr. Seery.

9 A Good afternoon.

10 Q My name is Geoffrey Harper. I don't think you and I have
11 ever met before; is that right?

12 A That's correct.

13 Q So listen, I'm going to try to go quick and just run by a
14 couple things with you real quick, some of which I'm going to
15 try to make speedier by just trying to make sure your
16 testimony that you gave earlier you still agree with today as
17 we sit here.

18 But when we take a look at the equity between Dugaboy and
19 Hunter Mountain, or the Class A and the Class B and C
20 interests, forgetting for a moment the plan and just asking
21 you, I mean, you would agree with me that under the
22 partnership agreement they get paid pro rata based on profits,
23 correct?

24 A No, I disagree.

25 Q Okay. Let's take a look, if you will, at Exhibit 1. Do

1 you have that with you in that notebook?

2 A The rejected partnership agreement? Yeah.

3 Q Sure. So let's take a look at -- as we look at the
4 partnership agreement, let's take a look at Section 3.2,
5 allocations of profits and losses. It indicates that profits
6 are to be done -- so 3.2-A says, you know, we're going to do
7 ones from prior ones and cumulative profits again for prior
8 periods, and then Section 3 says it will be done to all
9 partners in proportion to their respective percentage
10 interests, correct?

11 A 3 point -- I'm just trying to see where you are reading
12 from.

13 Q So I'm on Page 8.

14 A Yes.

15 Q 3.2.

16 A Yes.

17 Q A.

18 A Yes.

19 Q Little iii.

20 A It says, then to all partners in proportion to their
21 respective percentage interests.

22 Q All right. So, subject to A and B, which has to do with
23 payments for prior periods, then profits are to be assigned
24 based on the proportional interest, correct?

25 A Allocation of profits, yes.

1 Q Correct.

2 A That's what it --

3 Q Now, --

4 A That's what it says.

5 Q Now, your point is there's a difference between allocation
6 and payment, and you're right. So let's take a look at
7 Section 3.9. This is on Page 12. The -- there is a certain
8 -- if I look at 3.9-B, there are priority distributions that
9 are to be provided to the Class B/C interests, correct?

10 A That's correct.

11 Q And those are fairly minor in the grand scheme, is -- with
12 the dollars we're talking about, correct?

13 A I'd disagree with that, but --

14 Q Okay. So in light of that we're talking 300-and-some-odd
15 -- \$360 million for what you're valuing the total equity at
16 for Dugaboy -- I mean, for, excuse me, Hunter Mountain, what
17 we're actually looking at for priority distributions are every
18 calendar year they get \$1.6 million -- they're guaranteed to
19 get at least \$1.6 million, correct?

20 A Just the premise of your question, I'm not valuing the
21 equity at anything.

22 Q Okay.

23 A We're fixing the amount of a class interest under a plan.
24 So I'm not -- I'm not valuing anything.

25 Q Okay. I want to make sure that --

1 A I think the value of Class 11 is zero.

2 Q Sir, I want to make sure that we say this clearly. So
3 when you're saying you're -- you are not offering testimony as
4 to what you think it's actually worth, are you estimating as
5 to what it was worth at any given point in time?

6 A We're fixing the amount of a claim. Just like a claim --

7 Q Right.

8 A -- doesn't always get a hundred cents, a fixed amount of
9 the interest under this plan doesn't always get a hundred
10 cents.

11 Q Oh, I understand that. But you're fixing the amount of
12 the claim and you're choosing a figure based on the value of
13 that equity interest as of a date certain, correct?

14 A I'm picking a figure or fixing a figure based on the
15 capital accounts that were maintained by the partnership as of
16 the petition date.

17 Q Okay.

18 A What their actual value might be, I don't know.

19 Q Okay. I'm sorry. I wanted to make sure I wrote that down
20 specifically.

21 All right. Now, other than the priority distributions
22 that are provided here in Section 3.9 -- and by the way, even
23 the ones that are provided here don't give -- that just says
24 they get paid first in certain circumstances; it doesn't say
25 that they get paid more, correct?

1 A I don't know it. I'm not an expert on the entire
2 partnership agreement.

3 Q Fair enough. Have you looked at Section 5.3?

4 A I have, yes.

5 Q Now, 5.3 talks about how it would be handled under a
6 dissolution and a liquidation, correct?

7 A That's what it says, dissolution and winding up, yes.

8 Q And if I -- the portion of Section 5.3 on Page 23
9 indicates that the liquidation will take place, and then the
10 way the cash will be put out is on the second page, Page 24.
11 We have A, B, and C. A would be payment of, you know, certain
12 expenses, B would be payment of creditors, and C is to the
13 partners and assignees, to the extent of and proportion to the
14 balance in their capital account, as provided in the Treasury
15 Regulation Code, correct?

16 A The -- you gave a quick summary of it. You didn't read
17 the whole thing. But some of those words are there, yes.

18 Q And then D tell us, to the partners in proportion to their
19 respective percentage interests, correct?

20 A That's what it says, yes.

21 Q All right. So C tells us it's going to be in proportion
22 to their capital accounts and C -- and D tells us to the
23 partners in proportion to their respective percentage
24 interests, correct?

25 A That's what this section says, yes.

1 Q All right. So when you were determining the amount of the
2 claims, other than just looking at the tax returns for what
3 was listed as capital accounts, did you take into account the
4 way that the partnership agreement said that those interests
5 should be valued and paid?

6 A You didn't read anything about valuing anything here.
7 What I -- what we did take into account when we set the plan
8 and fixed it was the priority that, in the previous provision
9 you read to me, said, notwithstanding any other provision of
10 this agreement, that that priority gave HMIT, the holder of
11 the B/C, priority to the Class A. So when we put it forth,
12 put the plan forth and constructed it, we wanted to make sure
13 that we didn't get an objection from any of the equity
14 holders, particularly HMIT, saying, well, I should be senior.
15 So the plan was structured with Class 10 being senior to Class
16 11.

17 Q All right. So, again, let's -- I only want to focus on
18 what you said as it -- I understand the plan, and I'm trying
19 to -- we're going to get to the plan next. But if we're
20 focusing just on the partnership agreement for a second, when
21 you said them being senior pursuant to the partnership
22 agreement, the only way that they are senior in the
23 partnership agreement is a limited amount of priority
24 distributions, correct?

25 A They were entitled to priority distributions; that's

1 correct.

2 Q All right. And those are limited by the specific terms as
3 to what they're entitled to, correct?

4 A I assume they are. I've not -- I'm not an expert on how
5 the partnership agreement lays out the priority of B/C to A,
6 but it clearly laid out a priority.

7 Q Do you know, in the history of the Debtor, was there ever
8 a time that the priority distribution provisions were used
9 such that the Class B/C were paid to the exclusion of the As?

10 A That the B/C were paid? I don't know the answer.

11 Q Okay. Now, as you noted, you then went to the plan and
12 noted that there were certain parts to which the -- certain
13 claims that were subordinated, right? I mean, the Class -- as
14 we've said, used the exact words, the Class As are
15 subordinated to the equity trust interests distributed to the
16 allowed holders of the Class B/C, correct?

17 A Yeah. Which section are you reading from? But that's the
18 -- that's the gist of the plan, yes.

19 Q I was actually reading from -- I'm on the Claimant Trust
20 agreement, --

21 A That's what I thought.

22 Q -- Page 26.

23 A Yeah, that's -- that's different from the plan.

24 Q You agree that the plan incorporates the Claimant Trust
25 agreement?

1 MR. MORRIS: Could we --

2 THE WITNESS: Yes. And the Claimant Trust Agreement
3 reflects the plan.

4 BY MR. HARPER:

5 Q Okay.

6 A But you said you were reading from the plan, so --

7 Q I apologize. Sir, I truly am, I'm trying -- I'm not
8 trying to mislead you and I'm sorry if it sounds like I am.

9 A Uh-huh.

10 Q So if I take a look at the Claimant Trust Agreement, --

11 A Uh-huh.

12 Q -- Article 4 of the trust interests, Section C, little c,
13 notes that the Claimant Trust shall issue contingent interests
14 to the holders of allowed Class 10 B/C limited partnership
15 interests and the holders of allowed Class 11 Class A limited
16 partnership interests, correct?

17 A I believe it says a lot more than that, but yes.

18 Q I'm sorry. I'm literally just reading the first sentence.

19 A I don't have it in front of me, so I'll assume you're --

20 Q I'm sorry.

21 A -- you're relatively close to a fair reading.

22 Q Let me hand you a copy.

23 A Thank you.

24 Q I did not realize you did not have a copy. My fault.

25 Sir, I'm on Page 26. Now, in the middle of that paragraph,

1 there's a sentence that reads -- tell me if I'm reading this
2 correctly: Contingent trust interests shall not vest and the
3 equity holders shall not have any rights under this agreement
4 unless and until the Claimant Trustee files with the
5 bankruptcy court a certification that all GUC beneficiaries
6 have been paid indefeasibly in full. And then there's more,
7 but did I read that part correctly?

8 A I think you were close, yes.

9 Q Has that been done?

10 A No.

11 Q So as of this moment, the GUC certificate has not been
12 filed and there's nothing that has vested or rights to any
13 payments from the equity holders, correct?

14 A That's correct. They're not vested as interests under
15 this Claimant Trust Agreement. There has been a fixing of the
16 claim of HMIT, and they are entitled to the rights they have
17 under the settlement agreement, and distributions have been
18 made to HMIT on account of that settlement agreement,
19 including the closing of the transfers of the assets as well
20 as cash payment.

21 Q All right. Understood, sir. Now, we had an earlier
22 question about whether there was any equity holder left or
23 not. I mean, this is not a term that I'm making up. This is
24 a term in the Claimant Trust Agreement, correct?

25 A I'm -- what term?

1 Q Equity holders, sir.

2 A Yes, that's in this -- in this agreement in this
3 paragraph.

4 Q Okay. Now, what I was reading earlier was the last
5 sentence under Section C, which says, The equity trust
6 interests distributed to allowed holders of Class A limited
7 partnership interests shall be subordinated to the equity
8 trust interests distributed to allowed holders of Class B/C
9 limited partnership interests.

10 Did I read that correctly?

11 A That's correct.

12 Q Now, let's take a look, if we can, real quick now to
13 Section 9.2. This will be on Page 33.

14 MR. MORRIS: Do you have a copy for me?

15 MR. HARPER: Oh, I'm sorry. I thought the Claimant
16 Trust was an exhibit. My fault.

17 MR. MORRIS: Excerpts, yeah.

18 MR. HARPER: Oh, I'm sorry.

19 MR. MORRIS: That's the agreement, yeah.

20 MR. HARPER: My fault.

21 THE COURT: I have a notebook of the Reorganized
22 Debtors' exhibits. But the Claimant Trust Agreement, as well
23 as the plan, I just have excerpts that they used as exhibits.
24 And some of what you're reading is not in their excerpts.

25 So if I pulled the Dugaboy witness and exhibit list at

1 Docket Entry 4395, do you have the full copies of these or
2 what?

3 MR. HARPER: No, Your Honor. We did not list it as
4 an exhibit, Your Honor, although, you know, obviously, the
5 Court takes judicial notice of its own filings and pleadings.

6 THE COURT: Okay. Are you asking me to do that, so I
7 can read along, or what?

8 MR. HARPER: I'm sorry, Your Honor. I truly believed
9 that they -- at this moment, and this is my own fault, --

10 THE COURT: Well, as you can see on their exhibit
11 list in bold at Number 2 and 3, they have excerpts of the
12 plan, excerpts of the Claimant Trust Agreement. So I realized
13 --

14 MR. HARPER: I --

15 THE COURT: -- that you were reading places that are
16 not in their excerpts.

17 MR. HARPER: I'm sorry, Your Honor. And even worse
18 than that, I only brought three copies. I would hand you mine
19 real quick, but then I can't read this one. But I'm happy to
20 give you mine the second I read 9.2 out loud.

21 THE COURT: Okay. Are you about to read from the
22 plan or the Claimant Trust Agreement?

23 MR. HARPER: I'm reading from the Claimant Trust
24 Agreement.

25 THE COURT: Okay. That's Docket No. 1811 on the main

1 docket. I'll find it.

2 MR. HARPER: Yes, Your Honor. 1811-2, filed on
3 January 22nd, 2021.

4 THE COURT: Okay.

5 MR. HARPER: At least pursuant to what I'm holding.

6 THE COURT: Okay.

7 (Pause.)

8 THE COURT: This is taking longer than I want it to,
9 since there are -- no.

10 MR. HARPER: Your Honor, if it'll be easier, I'll
11 hand this, I'll just have him read it out loud --

12 THE COURT: Okay.

13 MR. HARPER: -- and I'll trust he's going to get it.

14 THE COURT: All right. Thank you.

15 BY MR. HARPER:

16 Q Would you read Section 9.2 out loud for us real quick?

17 A "Upon dissolution of the Claimant Trust, any remaining
18 Claimant Trust assets that exceed the amounts required to be
19 paid under the plan will be transferred, in the sole
20 discretion of the Claimant Trustee, in cash or in kind, to the
21 holders of the Claimant Trust interests, as provided in the
22 Claimant Trust Agreement."

23 Q All right. So if there is money beyond what is allowed,
24 the claimant can -- has the -- or the Trustee has the right,
25 in his own discretion, to decide whether to do it in cash or

1 in assets, and then it's to be provided to the holders. So my
2 question to you is, who gets it?

3 A At the dissolution, we would pay the next class in line.
4 So --

5 Q All right. So let's go -- let's talk about what you said
6 earlier. You said, for example, that there was no way on
7 God's green earth -- and that's my term, not yours; I
8 apologize -- that they would ever get past the Class 10,
9 correct?

10 A That's correct.

11 Q Now, you're aware that there are numerous matters that are
12 on appeal, correct?

13 A There are some matters on appeal, yes.

14 Q Including whether or not -- there's the gateway provision
15 and how that's going to apply.

16 A That's not -- that's not on appeal.

17 Q So it has been sent back and the Court has just made a
18 revision and there may or may not be an appeal from that,
19 correct? Although there is actually -- you say there's no
20 appeal. Is there not something before the United States
21 Supreme Court right now on that issue?

22 A There is a cert petition.

23 Q Okay. So it's -- someone is attempting to obtain a
24 further appeal on that, correct?

25 A I treat a cert petition as different than an appeal, but

1 okay.

2 Q I apologize. I see I'm not the only one that wants to do
3 the *Law Review* route. So let me hit on the issue there.

4 There are additional claims, depending on how those appeals,
5 that could very well change the amount of money that would
6 come into the estate, true?

7 A False.

8 Q False?

9 A False.

10 Q Hmm. And your reason for that is what?

11 A There are no additional assets that the estate can recover
12 that would go into the estate. Those are -- the order you
13 referred to is actions against the estate or its fiduciaries
14 that would deplete the indemnity trust.

15 Q That's fair. Let me try it differently. There are
16 additional claims that could be pursued by, for example,
17 Dugaboy?

18 A Not for the estate.

19 Q No, not for the estate, but for Dugaboy themselves.
20 Correct?

21 A I don't believe there are, but what would that have to do
22 with distributions from the estate?

23 Q Fair. It has to do with the valuation, but I understand
24 your question there. When you sat there and you said, all
25 right, I'm going to decide how much the claim is to be allowed

1 under -- as I understand, the way that you have set this up,
2 you believe that the equity holder Hunter Mountain will
3 receive some money, correct?

4 A They may -- they've already received some money. They may
5 receive more money. I don't know whether they will.

6 Q Okay. But they may receive more. But you believe that
7 there is, if I understood, you said there's no chance that it
8 will be -- filter down to the Class 11, correct?

9 A Metaphysically certain.

10 Q Okay. Now, as to the other, besides Hunter Mountain,
11 Class 10 claimant, that entity was what?

12 A I apologize. I don't understand your question.

13 Q So there's two different Class 10, correct, claims?

14 A Correct.

15 Q One is Hunter Mountain?

16 A Yes.

17 Q And I was asking you to just state what the other one was.

18 A It's called Highland CLO Management Limited. It's -- we
19 refer to it as HCLOM.

20 Q Right. And HCLOM was not an equity holder, correct?

21 A It was not.

22 Q And they are not referred to under either the plan or the
23 contingent trust as an equity holder, correct?

24 A They weren't an equity holder. I'm not --

25 Q Right. And their valuation is --

1 A I don't -- I don't think they're referred to at all.

2 Q All right. They had a note, correct?

3 A They had a note that we said was worthless. We brought an
4 action against them for bad faith. They insisted that -- we
5 insisted they get zero and they pay us millions of dollars.
6 We ended up settling it. They insisted on a Class 10 claim
7 with limited rights.

8 Q And that Class 10 claim, you know, the agreement was that
9 they were going to get five percent of any amount of money
10 that Hunter Mountain got?

11 A That's incorrect.

12 Q Sir, are you familiar with the intercreditor and
13 participation agreement signed between HCLOM and HMIT?

14 A I have seen that, yes.

15 Q Okay. And you agree that in the intercreditor and
16 participation agreement, HMIT agreed that they would pay five
17 percent of the money that they received to HCLOM. Correct?

18 A That's between HCLOM and HMIT. We make our distribution
19 to HCLOM. They have a fixed claim for \$10-and-change million
20 by order of this Court.

21 Q Correct. So it started with a -- they wanted a
22 percentage, and then they also got a set amount of money based
23 on a settlement agreement with you under the -- that was
24 fixed, correct?

25 A Apologies for how this sounds, but you have no -- that's

1 not even close to what happened or what these agreements say.

2 Q Sir, I truly apologize. Why don't -- would you please fix
3 that for me?

4 MR. MORRIS: Objection to the form of the question.

5 THE COURT: Fix what?

6 MR. HARPER: Oh, I'm sorry.

7 THE COURT: What does that mean?

8 BY MR. HARPER:

9 Q You said that was inaccurate, so I'm asking you, would you
10 please tell me the accurate -- the valuation for it.

11 A HCLOM had a claim for --

12 Q Uh-huh.

13 A -- \$10 million.

14 Q Okay.

15 A It was objected to, because we stated that it was
16 frivolous and it came out of the stripping of assets from Josh
17 Terry's Acis -- controlled Acis -- before he controlled it.

18 We also filed a bad faith motion, which we would have
19 prevailed on, we're quite confident, for damages against
20 HCLOM. At the hearing, HCLOM's counsel, which is also
21 Dugaboy's counsel, and also at that time HMIT's counsel, made
22 a proposal that we settle the claim. We took advice -- I took
23 advice of counsel and agreed to the settlement. And that was
24 a settlement of the claim. We wanted to zero it out and we
25 wanted to put them in Class 11 and they wanted to be in Class

1 10. So we gave them an allowed or a fixed claim with limited,
2 extremely limited rights, in Class 10 for \$10-and-change
3 million.

4 That stipulation was signed by HCLOM, the Debtor, HMIT,
5 and Dugaboy approving it.

6 Q Okay.

7 A And that was entered by the Court.

8 Q I'm sorry that you thought my explanation was dramatically
9 different than that. I think the answer is I must not have
10 heard what I said. Let me just make sure that we're on the
11 same page, though. The way that that claim was valued had
12 nothing to do with equity, correct?

13 A It --

14 MR. MORRIS: Objection to the form of the question.

15 THE WITNESS: It -- it --

16 THE COURT: Sustained.

17 THE WITNESS: We weren't valued -- the claim --

18 THE COURT: You don't have to answer.

19 THE WITNESS: Okay. Sorry.

20 BY MR. HARPER:

21 Q That claim was valued via the terms of a settlement,
22 correct?

23 A The amount was fixed. We didn't value what their claim
24 was worth.

25 Q I'm sorry.

1 A Their claim --

2 Q The amount of the claim that you --

3 A Their claim is --

4 Q -- allowed --

5 A I would value their claim at zero.

6 Q Okay. The amount of the claim that was allowed was a
7 negotiated settlement. Fair?

8 A Their classification was -- was negotiated. The amount,
9 because it was subordinated and because it was sitting in a
10 class that was unlikely to get much of a distribution, we
11 didn't really negotiate the amount.

12 Q Okay.

13 MR. HARPER: Your Honor, that's it.

14 THE COURT: Redirect?

15 MR. MORRIS: I have no further questions, Your Honor.

16 THE COURT: Okay. Thank you. We appreciate your
17 testimony, Mr. Seery.

18 THE WITNESS: Thank you, Your Honor.

19 (The witness steps down.)

20 THE COURT: Any other evidence from the Reorganized
21 Debtor?

22 MR. MORRIS: No, Your Honor.

23 THE COURT: All right. Any evidence from Dugaboy?

24 MR. HARPER: No, Your Honor.

25 THE COURT: All right. I'll hear closing argument.

1 CLOSING ARGUMENT ON BEHALF OF THE REORGANIZED DEBTOR

2 MR. MORRIS: As usual, Your Honor, I feel like I'm
3 trying to hit a moving target, because I think the argument
4 that I heard today has nothing to do with the objection that
5 was filed.

6 As I understood the objection that was filed, Dugaboy was
7 saying that, once Class 9 and senior obligations were paid in
8 full, that somehow Class 10 and 11 should share any further
9 recoveries on a prorated basis because they were the former
10 limited partners. That's what we came here to debate. And on
11 a bait-and-switch, as far as I'm concerned, we're now here on
12 some absurd hypothetical about what happens to a dollar after
13 \$330-some-odd million gets distributed in the future.

14 It's never going to happen. I think the Court knows it's
15 never going to happen. And I think the only evidence in the
16 case that you just heard from Mr. Seery is that, in response
17 to counsel's questions and his hypotheticals about what
18 happens if Dugaboy brings a claim in the future, it would have
19 nothing to do with distributions from the estate. Right?
20 Just a completely irrelevant issue.

21 At the end of the day, if Dugaboy thinks the partnership
22 agreement should have been interpreted and applied in a
23 different way, they should have raised that issue in their
24 objection in January 2021. I think Your Honor has it exactly
25 right. I don't know whether it's res judicata, collateral

1 estoppel. It's probably both. But it does border on Rule 11
2 in my mind because I don't think there's a good faith basis in
3 law or in fact to suggest either that distributions should be
4 made pro rata to Class 10 and Class 11 when senior obligations
5 are satisfied or that there's some hypothetical world that
6 exists that's going to -- there's no evidence, right?

7 The funny thing is, we were here in June, and one of the
8 things Your Honor said to Mr. Lang was, I don't know what you
9 want me to do here. Highland put on a case. They put on a
10 witness. They put in documents. They had evidence. They
11 proved that this methodology was reasonable. You've given me
12 nothing.

13 They're still giving you nothing. Right? They don't have
14 a witness, they don't have documents, they don't -- they're
15 relying on a partnership agreement that was rejected that
16 hasn't been an effective -- in effect for years. They know
17 what's happening. And they can continue to fight forever, if
18 that's what they choose to do, and it's why creditors are not
19 getting paid yet. It's unfortunate. But if that's the
20 threat, that someday there's going to be more lawsuits, we'll
21 just continue to husband our resources. But we are going to
22 dissolve this estate. Make no mistake about it. That's the
23 goal, that's our obligation, and we're going to fulfill that
24 obligation.

25 They know what's happening. Mr. Lang stood here in June

1 and told Your Honor that if you fix Hunter Mountain's claim at
2 the \$300-some-odd million, Dugaboy will never get a dime. And
3 he guaranteed it. If you just go to the transcript and just
4 do a search for dime, you'll find his quote. They knew then
5 what's happening. They know now what's happening.

6 And that's not some evil plan of Mr. Seery. It's not
7 because Judge Jernigan is biased or anything. It's because we
8 followed a judicial procedure that got us to this point. We
9 had trials. We had evidence. We put in documents. We made
10 arguments. We had a plan. We have a Claimant Trust
11 Agreement. That's what we're doing. There's no reason to
12 upset the applecart.

13 We ask the Court to grant the order and let's move on.
14 Thank you, Your Honor.

15 THE COURT: Thank you.

16 Mr. Harper?

17 MR. HARPER: Thank you, Your Honor.

18 CLOSING ARGUMENT ON BEHALF OF DUGABOY INVESTMENT TRUST

19 MR. HARPER: Your Honor, I'm the first one to say,
20 just like you did, that there's issues based on what's already
21 happened here. Okay? So I get that.

22 THE COURT: Maybe I should say *déjà vu* all over
23 again. Maybe that's a more legally term.

24 MR. HARPER: Your Honor, --

25 THE COURT: That's what it feels like to the Court,

1 okay?

2 MR. HARPER: I apologize. Because I've got to tell
3 you, I thought I went out of my -- I attempted to, apparently
4 wrongly, go out of my way to not do that as much. And you'll
5 note that, for example, in our response, we noted other places
6 that we objected to that we were not trying to re-argue with
7 you. We were preserving our right to object so it didn't look
8 like we were waiving anything, but we were not going to re-
9 argue that point.

10 And I'm trying not to do that again today. I hear the
11 Court saying they think otherwise. I mean, you know,
12 obviously, we think that this concept of how the Hunter
13 Mountain interest was valued is horrific, bizarre, and has no
14 basis. Happy to -- and I think, candidly, we heard that for
15 the first time today under oath from Mr. Seery, who said that
16 under no circumstances did he attempt to value this, under no
17 circumstances did he try to determine what the claim would be
18 under the partnership agreement. In other words, how much the
19 person was entitled to, that's something he didn't bother
20 valuing.

21 Instead, he just said, hey, here's what I'm going to
22 allow, which we negotiated with a settlement, and I'm choosing
23 it based on what a tax return said and what someone said was
24 the value of the capital account and in direct contrast to
25 what the partnership agreement specifically says how those

1 will be paid out and how those claims will be valued.

2 Now, Your Honor, I recognize and I'm not here today to say
3 we're going to try to redo what the Court has done, as much as
4 I would like to. That does, however, leave us in a situation
5 of, what do we do about these other claims?

6 We have put ourselves in a situation, this Court has,
7 where -- and I understand them to say there's just no way in
8 hell it could happen -- but Your Honor, you cannot have a plan
9 that does not take into account additional payments, and this
10 plan does. That's what Section 9.2, which I can provide the
11 Court, says. It says, under the Claimant Trust Agreement, 9.2
12 says if there's money at the end it's going to get paid back.
13 So it makes assumption that it's there and it goes.

14 So the question then becomes, how do we value these and
15 when do we value these?

16 We know that 11 U.S.C. Section 502(b) says we don't sit
17 around and estimate. I mean, we should only be doing the
18 claims and placing a value on them once they have been made
19 certain and liquidated. However, Section 502(b) says the
20 Court can make an estimate if waiting would cause undue delay.
21 And that's the issue.

22 What we've been trying to say throughout, Your Honor, is,
23 why are we doing this now? The answer is, at some point in
24 time, we will be done. When we are done, we will know how
25 much money is left. When that time comes, the answer is we

1 need to then say, all right, here's how much money goes to the
2 equity holders. Not to HCLOM, they have a claim which they
3 negotiated, they have their -- but how much money goes to the
4 equity holders. And --

5 THE COURT: Can I stop you?

6 MR. HARPER: Certainly.

7 THE COURT: Didn't Dugaboy, through the Stinson law
8 firm, object to the extension of the Claimant Trust, which we
9 had a hearing on in June, --

10 MR. HARPER: Yes.

11 THE COURT: -- same as the Hunter Mountain
12 settlement?

13 MR. HARPER: Yes.

14 THE COURT: Okay. I'm just trying to reconcile that
15 with you suggesting we can push off to some later time --

16 MR. HARPER: Because we lost that, Your Honor.

17 THE COURT: -- resolution of Classes 10 and 11.

18 MR. HARPER: Your Honor, we lost that. If the answer
19 is we are now closing the estate and we are saying these
20 claims are done, the trusts are done, we're ready to go, then
21 you're right, it is time to value it. And I agree with that.
22 If all --

23 THE COURT: That's what we're trying to do now.
24 Well, I mean, --

25 MR. HARPER: All right. With everything that's on

1 appeal, with everything that's standing out there, there's
2 more coming. Or not. We'll know soon. They're appealing to
3 the United States Supreme Court right now. Excuse me, they're
4 filing a cert petition to the United States Supreme Court
5 right now, which at least one witness does not consider to be
6 a form of an appeal. But we've got claims out there not only
7 with the district court and otherwise. So the issue is, it
8 makes sense to wait until we actually know how much money
9 there is, and then we do it.

10 THE COURT: What do you think is out there? I mean,
11 I almost feel like, do you know something I don't know? I've
12 only had one case in 19-1/2 years on the bench where there was
13 this serendipitous, oh my gosh, we've got value for equity
14 beyond our wildest imagination. You know what kind of case it
15 was? It was a bitcoin exchange.

16 You look like you're in severe pain.

17 MR. HARPER: I'm sorry, Your Honor. I apologize.
18 Yes.

19 THE COURT: Okay.

20 MR. HARPER: But it has nothing to do with the --

21 THE COURT: Okay. I will tell you my little story.
22 It won't take long.

23 MR. HARPER: Oh, no. Again, please.

24 THE COURT: I had a bitcoin exchange. It was a
25 Chapter 15. It was called Mt. Gox. And at the time, it filed

1 bankruptcy because 800,000 bitcoin went missing. Hacked.
2 Bitcoin was worth between 300 and 400 U.S. dollars for one
3 bitcoin. And guess what happened? I don't know what the cost
4 of bitcoin is right now, but it's a heck of lot higher than
5 that. So there was oodles of money. One time in 19-1/2
6 years. And I guess I can remember maybe one time in 17 years
7 practicing law before that.

8 Do you know something the rest of us don't know? Is there
9 a stash of bitcoin somewhere that Mr. Seery just hasn't
10 stumbled upon yet?

11 MR. HARPER: Your Honor, the -- without getting into
12 privilege, I will tell you my client believes there's more out
13 there, a lot more.

14 THE COURT: Okay. Well, I'm pretty sure --

15 MR. HARPER: But --

16 THE COURT: -- there was an exchange of information
17 in discovery before the Hunter Mountain hearing.

18 MR. HARPER: Correct.

19 THE COURT: That's what I was told.

20 MR. HARPER: Again, Your Honor, I can only -- I'm
21 sorry, Your Honor. I --

22 THE COURT: Mr. Dondero testified at the last
23 hearing, and that would have been the time to tell me, there's
24 a stack of bitcoin. A stack, whatever. But --

25 MR. HARPER: Your Honor, I don't know if anybody's

1 suggesting there is a stack of bitcoin.

2 THE COURT: Okay.

3 MR. HARPER: You know, that may --

4 THE COURT: Well, then what are we doing, is my
5 question? I'm just trying to rationalize the objection.

6 MR. HARPER: Your Honor, what we're trying to do is
7 actually have the claims valued and the claims set having some
8 basis in reality, which they don't now.

9 THE COURT: Well, we had a plan confirmation hearing
10 in February 2021 --

11 MR. HARPER: And I'm not -- right.

12 THE COURT: -- where, here's Class 10, here's Class
13 11. Class 11 is subordinated in distribution rights to Class
14 10. I don't think it was arbitrary. I think it was just
15 trying to give some meaning to different terms in the
16 partnership agreement. But whether it was arbitrary or not,
17 res judicata, collateral estoppel, nobody objected. Okay. No
18 one caused me to focus on the bona fides of doing that.

19 MR. HARPER: I understand, Your Honor.

20 THE COURT: And Dugaboy objected like crazy to the
21 plan. Okay? So that's why I started out with my at what
22 point can you stop making an argument.

23 MR. HARPER: So if I understand what you're saying,
24 can I stop making arguments, while they may be new, but they
25 nonetheless seem to be attacking things that you have concerns

1 about that have already been decided.

2 THE COURT: Repeat that?

3 MR. HARPER: Your Honor, the answer is we know that
4 Section 9.2 must mean something, right? So 9.2 tell us that,
5 if there's money left over, it goes back and it's going to get
6 divided between the equity holders. Right? So the answer is
7 --

8 THE COURT: If there's money left over, --

9 MR. HARPER: -- there is an expectation --

10 THE COURT: -- it's going to be divided among the
11 equity holders? That's not exactly what it says.

12 MR. HARPER: All right, Your Honor. What it says is
13 that, to the extent that there is money beyond the allowed
14 claims, it will be paid out to the holder -- to the people who
15 have interests in the trust. Based on the way the trust is
16 defined and the different provisions, I would say the way I
17 read that is the only -- the people that are left at the end
18 of the day would be the equity holders, and the reason being
19 the 10 and 11 cannot be paid until all claims above, there's
20 been a certification that they've been paid in full. So they
21 will get no more, right? So that's what we learned from
22 looking at the provision there.

23 So, therefore, if there is leftover money -- so the answer
24 is we have already made, when we did this, an assumption that
25 there are going to be certain claims of the Hunter Mountain

1 that are going to be -- have priority, and then there's going
2 to be leftover money that's got to go back. Well, it
3 certainly can't be a case that to the extent there's leftover
4 money ...

5 And Your Honor, I'm not trying to say it's because I care
6 about the leftover money. My point is it has to mean
7 something, right? We know that the basic rule of contract
8 interpretation and law interpretation is we have to assume
9 every provision means something.

10 THE COURT: Well, do we have to assume the provisions
11 of the plan setting forth treatment for Class 10 and Class 11
12 mean something?

13 MR. HARPER: And the way that --

14 THE COURT: I think they're pretty clear.

15 MR. HARPER: Okay. With the exception that they say
16 that they incorporate this. And by the way, the exact same
17 language you're talking about is in here as well. They both
18 say this. It's subordinated. But the question is, are they
19 100 percent subordinated? Doesn't that mean, by the way, if
20 there is extra money, does it 100 percent go to -- if what the
21 Court is saying is accurate -- and again, I'm not trying to --
22 I mean, obviously, you wrote it, so you get to say this is how
23 I interpret my --

24 THE COURT: I didn't write the plan.

25 MR. HARPER: I'm sorry, Your Honor. You signed --

1 you had approved it. So you get to say, this is what I meant.

2 So imagine a world where there's extra money. Does it 100
3 percent go to Hunter Mountain? Do they -- because it goes to
4 the two equity holders. Because they, under this term,
5 because our claim is subordinated, if there's extra money,
6 does it 100 percent go to them?

7 And that just can't be. Right? So because of that, we
8 know that subordination ain't to everything. It goes to the
9 allowed amount of a specific claim, which then leads us to the
10 following. How did we decide this?

11 Now, I understand, Your Honor, and I'm not trying to re-
12 argue what was already there, but what we know and what we
13 just heard testimony on is there was no attempt whatsoever, in
14 deciding what to declare to be an allowed claim, to actually
15 look at how much this was worth or how much it says it will be
16 paid.

17 I mean, normally, when we determine a contract --

18 THE COURT: I heard a lot of testimony about the
19 methodology --

20 MR. HARPER: Uh-huh.

21 THE COURT: -- and what the reason was for choosing
22 the methodology. And as Mr. Morris alluded to, I turned to
23 Dugaboy at the Hunter Mountain settlement hearing and said, do
24 you have evidence of a more appropriate methodology?

25 MR. HARPER: And Your Honor, in the record --

1 THE COURT: And the answer was no. So I had one
2 witness credibly testifying here's the methodology I used, and
3 no countervailing evidence.

4 MR. HARPER: And that same witness has now told you
5 that the way he did it was, I took a look at these tax
6 returns, I said, hey, here's what this says. I did not bother
7 looking at what would have actually have been owed or paid or
8 valued under the actual partnership agreement and terms. And
9 Your Honor, that's just not how we do things.

10 THE COURT: Okay. Well, I can take judicial notice
11 of what I heard at the previous hearing.

12 MR. HARPER: And --

13 THE COURT: His cross-exam, then, too.

14 MR. HARPER: Certainly. And you can take judicial --

15 THE COURT: And I'm not sure I heard anything
16 inconsistent. I think I just got a shorthand version today of
17 what he testified to in a longer version in June.

18 MR. HARPER: With the exception of he paid no
19 attention to the documents, to which, by the way, those
20 documents are also, if the Court is taking judicial notice of,
21 were exhibits before.

22 THE COURT: I didn't hear him say he paid no
23 attention to the documents.

24 MR. HARPER: Okay. Fair enough, Your Honor. He paid
25 no attention to the liquidation provisions or how they say

1 claims would be paid or how they would be valued, to the
2 extent there is one. And maybe that would be more precise.
3 And again, I appreciate the Court making sure that we are
4 clear in the record.

5 Your Honor, at the end of the day, let me be -- let me
6 start off with -- let me end with where I started, and so that
7 we don't -- because my whole point was not to find myself in
8 the position I've somehow found myself with the Court. Look,
9 if the Court believes that this was fully resolved before,
10 then there's nothing to do today. I agree. I disagree that
11 it was fully decided, but if the Court believes it was and if
12 the Court believes, hey, you didn't make an objection before
13 so you are stuck with this, then the answer is, Your Honor, we
14 have nothing else to say.

15 THE COURT: What did I not decide then that you think
16 I should decide today?

17 MR. HARPER: How to value Dugaboy's interest. If you
18 believe that was decided in the last hearing, I missed that.
19 I certainly don't see it in the order. I see a settlement
20 agreement and a settlement agreement that provided certain
21 claims. Now we've got a decision, to this.

22 Our point is we don't even think this ought to be done
23 now. But obviously, Your Honor, what was done before is on
24 appeal. We'll hear what the courts up there have to say. But
25 for this point right now, if you believe the answer is, as a

1 matter of law, based on what was said before, that
2 automatically covers here, Your Honor, I respect the Court and
3 I won't argue with you on it.

4 I mean, if that's what you are going to say, then, Your
5 Honor, we agree, we lose, if that's your view. And Your
6 Honor, that's what I'm trying to say. I'm not trying to get
7 in an argument with you. If your belief is that was decided
8 before, then --

9 THE COURT: I'm just asking questions.

10 MR. HARPER: Yeah. I understand, Your Honor. And
11 I'm just -- but I see frustration here, and I'm trying to
12 avoid that by saying one thing I feel very -- I go out of my
13 way with courts to try to say, is look, if you believe this,
14 we win; if you believe this, we lose.

15 Your Honor, if you think that this was covered before and
16 that somehow that resolved, then we're done. I've got nothing
17 for you. Because I certainly am not going to try to do that.
18 I don't think it was. I personally -- and I'm doing my best
19 not to reargue the issues that the Court has already decided.
20 But if the Court feels that I have no choice but to do so,
21 then, you know, I'm sorry for doing so, because that was not
22 my intent. I've never seen a judge who appreciates, as you
23 said, *déjà vu* all over again and having the same argument.
24 I'm trying not to do that. But Your Honor, that's all we
25 have.

1 THE COURT: Okay. Thank you.

2 MR. HARPER: Thank you.

3 THE COURT: Movant gets the last word, if any, in
4 rebuttal.

5 MR. MORRIS: I do have a few comments, Your Honor.
6 I'll try to be brief.

7 I'm trying to deal with each pellet that's coming out of a
8 shotgun, because this was not the objection. The notion that
9 this isn't the time to value the Class 11 unvested contingent
10 interests is wrong. We're on the clock. Dugaboy knows
11 they're on the clock.

12 As Your Honor pointed out, they actually objected to the
13 extension of the Claimant Trust Agreement by a year, although
14 withdrew that objection after they got their precious
15 reservation of rights.

16 The case has to end. I know Mr. Dondero doesn't like
17 that, but it is going to end. The litigation may go on, as
18 Mr. Seery pointed out, but the bankruptcy, right, the Claimant
19 Trust Agreement, the Claimant Trust is going to be dissolved
20 soon. And it can only be dissolved.

21 And I'll try and finish where I started. I said we're
22 here because the plan requires us requires us to be here. The
23 Claimant Trust Agreement requires us to be here because we
24 have to resolve all of the undisputed claims and interests,
25 and that's what we're doing today.

1 I'm not a scholar on res judicata and collateral estoppel.
2 I will tell you that the evidence we presented today pertains
3 to the Class 11 interest holders. So to that extent, I think
4 the Court needs to make findings as to what those Class 11
5 interest holders' claims should be allowed at. It's the same
6 methodology but it's different numbers and it's different
7 interest holders. And I would ask the Court to make specific
8 findings that those unvested contingent interests in Class 11
9 be allowed in the amount set forth in our motion based on the
10 methodology that Mr. Seery presented to the Court.

11 I hear a lot of complaints about the methodology, but I
12 want to make this clear for the appellate court. There is not
13 a scintilla of evidence that Dugaboy has ever presented on
14 what the methodology should be, how the Class 11 interests
15 should be calculated, or what their calculations ought to be.
16 We're still left with nothing.

17 Your Honor asked the question in June, and I think if they
18 had come here with new evidence, right, we wouldn't say res
19 judicata, we wouldn't say collateral estoppel, we would say,
20 oh, the Court has to make a decision on what methodology is
21 appropriate, what methodology is reasonable.

22 Your Honor is only given one choice today. And so you
23 just have to decide, is the methodology appropriate for the
24 Class 11 stakeholders or the Class 11 interest holders?
25 Because there's no alternative. Again, appellate court, no

1 evidence. Appellate court, no evidence of value. We have
2 these hypotheticals. Oh, Mr. Dondero is going to bring more
3 lawsuits. Wait 'til you see the next one, because all of the
4 other ones have been so successful.

5 Why isn't he here to testify? Why isn't he here -- why
6 are they not putting in evidence of value? Why are they not
7 doing anything to rebut Mr. Seery's knowledgeable, informed
8 testimony that there will never be any assets available to
9 satisfy Class 10 and Class 11.

10 And again, I'll go back to Mr. Lang. He knew it. At
11 least, at least I -- I have a lot of respect for Mr. Lang. At
12 least he was able to stand up here and say, if you do it,
13 Dugaboy gets not a dime. He was right. And that's the way it
14 should be because that's what the plan says because that's
15 what the asset base is. Again, there's nothing evil going on
16 here. We're just doing our job.

17 The whole issue of what happens in this completely
18 speculative hypothetical situation that there's a nickel left
19 over after the allowed amounts get paid, that whole issue is
20 absolutely irrelevant to what we're doing here today. It's
21 irrelevant because the only issue before the Court is what's
22 the value of the interests in the class; it's not what happens
23 if there's more money left over. That's one reason why it's
24 irrelevant.

25 It's also irrelevant because we hear time and time again

1 that Dugaboy believes the plan provides that it will get the
2 residual. If it will get the residual, then why is it crying?
3 And if it doesn't provide for a mechanism of what happens if
4 there's a nickel left over after \$330 million is found in some
5 bitcoin account, right, somebody's going to have to come back
6 here and ask for a plan modification and we'll deal with it
7 then. It has nothing to do with the motion before the Court
8 today, and I don't want the Court to go down a path that, in
9 our view, is completely irrelevant. It either provides what
10 Dugaboy thinks, in which case who cares, or it doesn't, and
11 you know what, when somebody finds that bitcoin we'll come
12 back and ask for a plan modification and we'll figure out what
13 to do then.

14 I have nothing further, Your Honor.

15 THE COURT: Thank you.

16 MR. HARPER: Your Honor?

17 MR. MORRIS: Thank you.

18 MR. HARPER: I know -- I'm sorry. I have been asked
19 -- my associate reached out to me, he's asked me to say one
20 sentence. If it's okay with the Court, I don't think he'll
21 want to respond, I think he'll just shake his head and --

22 THE COURT: Usually the movant gets the last word, so
23 this better be important.

24 MR. HARPER: Your Honor, I have been -- I'm sorry.
25 You may not -- I have been asked to raise one issue with you,

1 which simply is that, in case it was not clear earlier, that
2 our view as to which claim -- because the point is, you know,
3 again, we said if there's something left over at the end and
4 how to deal with some issues, what's subordinated, what's not,
5 the point that we have been trying to make is that we think
6 that the partnership agreement talks about priority
7 distributions are made. Those are priority, and those are the
8 only ones to which, you know, Dugaboy believes subordinated.
9 Your Honor, that's what my client -- that's it, Your Honor.
10 Thank you.

11 THE COURT: All right.

12 MR. HARPER: And again, I'm sorry for doing that out
13 of order. I appreciate you.

14 THE COURT: Well, I have allowed a lot of discussions
15 and questioning about the limited partnership agreement, and
16 if I erred on that, I erred on the side of allowing our
17 objector, Dugaboy, to fully make its argument. But I do
18 still, at the end of this hearing, believe what I believed or
19 suggested at the beginning, and that is this is really more
20 about the plan and the confirmation order.

21 The confirmation order approved the plan. The
22 confirmation order approved the Claimant Trust Agreement. And
23 I thought some sort of preclusion doctrine is really the issue
24 here.

25 And just to tie that all together, again, I allowed

1 questioning and argument about the Highland December 2015
2 limited partnership agreement that created three classes -- A,
3 B, and C -- limited partnership interests, but ultimately the
4 arguments about that seem irrelevant at this late stage. I'm
5 trying to pick the right word. Because the time to have
6 argued that the terms of the limited partnership agreement
7 don't support a separation into Class 10, Class 11 of the
8 Class B and C and Class A limited partnership interests, this
9 is just not justified treating Class B and C limited
10 partnership interests, classifying them in Class 10 to get
11 paid ahead of Class 11, that was all very relevant at the plan
12 confirmation hearing. There could have been argument about
13 this just doesn't make sense in light of my reading of the
14 limited partnership agreement, and I could have really drilled
15 down and thought about the merits of those arguments.

16 But Dugaboy, who vehemently objected to the plan, never
17 made that argument. No one ever made the argument about the
18 inappropriateness of separating out the limited partnership
19 interests the way the plan does. And the way the plan is
20 structured, I do believe is supportive of the Reorganized
21 Debtors' motion here today. I think the settlement with HMIT
22 and the evidence I heard then and the order I entered then is
23 further supportive of the motion that is before me today.

24 The motion that is before me today I think is not only
25 permissible by Section 502(c) of the Bankruptcy Code, but I

1 think the statement is absolutely true that it's time for this
2 case to end. As we know very well, a plan was confirmed
3 February 2021, went effective August 2021. Here we sit, more
4 than four years later, and everything that really should have
5 happened by now has happened towards completing the plan, with
6 the exception of a few loose ends that were described at the
7 June Hunter Mountain settlement hearing and have further been
8 addressed to some extent in today's motion.

9 We have a few appeals, I don't know how many, from time to
10 time people have reported at Highland hearings, but there may
11 be a handful of appeals left. But it is appropriate at this
12 juncture, all these years later, with all that has happened
13 towards completion of the plan, to allow the Highland Claimant
14 Trust to get an order fixing the allowed amount of the Class 7
15 interests under the plan.

16 I find that the methodology proposed is reasonable. It is
17 my only evidence of what is reasonable, Dugaboy having chosen
18 not to put on evidence. The methodology amounts to looking at
19 the dollars used by the Debtor multiple times to allocate to
20 the various limited partnership interests values that were
21 signed off on by Mr. Dondero.

22 So it's hard to understand why we're here, but I do accept
23 as reasonable methodology the methodology suggested by
24 Reorganized Highland and the Claimant Trust. And so therefore
25 I will fix the allowed amount of the Dugaboy Class 11

1 interests in the amount of \$740,081.61; Strand Advisors at
2 \$994,707.76; Mark K. Okada's at \$192,754.38; Mark and Pamela
3 Okada Family Trust Exempt Trust Number 1 at \$38,868.17; and
4 Mark and Pamela Okada Family Trust Exempt Trust Number 2, its
5 Class 11 interests at \$16,657.79.

6 So these are simply the amounts being allocated as to the
7 Class 11 interests. I don't think anything I'm doing shall be
8 deemed to vest the Class 11 interests at this point in time.
9 And the Court reserves the right to supplement and amend the
10 written form of order on this. Mr. Morris, if you would
11 please upload it, and we will get it signed.

12 Anything else?

13 MR. MORRIS: No, Your Honor, other than I might not
14 get that to you until tomorrow.

15 THE COURT: Oh. That's quite all right. I've got
16 plenty to do.

17 MR. MORRIS: Because I'm hoping to make my way back
18 up north.

19 THE COURT: Plenty to do before I leave.

20 MR. MORRIS: Yeah.

21 THE COURT: Anything further from you, Mr. Harper?

22 MR. HARPER: No, Your Honor. Thank you so much. I
23 appreciate everything.

24 THE COURT: Okay.

25 MR. HARPER: Again, I'm sorry I sort of stuck a --

1 post-surgery, I could either take painkillers or appear in
2 court, and so I'm sorry if I'm grimacing. It has nothing to
3 do with you.

4 THE COURT: Well, I just, I don't know if it's
5 worthwhile for me to say this or not, but I really am
6 perplexed, okay? '

7 MR. HARPER: Understood, Your Honor.

8 THE COURT: I really am very perplexed about this
9 hearing we had today. And I'm really -- Mr. Morris said this
10 is almost Rule 11-sanctionable, and I don't think that was a
11 farfetched statement.

12 MR. HARPER: Understood, Your Honor.

13 THE COURT: I think a lot of us who have been
14 involved with this case for a very long time, we're just very
15 weary of the *déjà vu* all over again. And we're almost too
16 weary to move for sanctions, entertain sanctions.

17 Do you hear what I'm saying? I really want you to hear
18 what I'm saying. It's been a merry-go-round of lawyers. I
19 don't know what else term to use for it. How many lawyers do
20 you think have appeared for Dugaboy in five years or however
21 long this has been? I guess it's been more than five years.

22 MR. HARPER: I think there's been more than five.
23 The short answer is, Your Honor, I have no idea. I do
24 understand what the Court is saying. I think --

25 THE COURT: What do you think it is? Do you think

1 it's three, six, nine, more?

2 MR. HARPER: Your Honor, I would have to tell you I
3 honestly have no earthly idea.

4 THE COURT: Really?

5 MR. HARPER: I apologize.

6 THE COURT: Really?

7 MR. HARPER: Yeah.

8 THE COURT: Okay. Your firm has been involved
9 representing different clients, by the way.

10 MR. HARPER: Yes, we have, Your Honor. We were
11 representing -- we have had to wall those people off
12 appropriately.

13 THE COURT: Okay.

14 MR. HARPER: But yes, I had spoken with them and we
15 have walled accordingly. We didn't want to raise any issues
16 regarding conflict.

17 I hear what Your Court is saying. I understand there's a
18 fine line to walk between the objections that need to be
19 preserved. And if the Court feels that -- walk it over, I
20 appreciate it. Message is taken.

21 THE COURT: No. I'm just --

22 MR. HARPER: Understood, Your Honor.

23 THE COURT: Well, I started out with perplexed. I
24 don't understand the recycling. It feels like recycling of
25 arguments --

1 MR. HARPER: Understood, Your Honor.

2 THE COURT: -- and thinking it's okay. Thinking it's
3 okay.

4 MR. HARPER: Your Honor, I understand what you've
5 said and the message has been received.

6 THE COURT: All right.

7 MR. HARPER: Your bitcoin case reminded me of my --
8 our magical-appearing insurance policy case we had with Judge
9 Hale years ago. So, it's --

10 THE COURT: Okay. I don't know about that. But I'm
11 going to say weary. I'm going to say weary. You said I
12 seemed frustrated. Yes, probably. But more than anything
13 else, I am just weary that we have a revolving door of
14 lawyers.

15 MR. HARPER: I understand, Your Honor.

16 THE COURT: That doesn't make it okay to make the
17 same argument --

18 MR. HARPER: Of course.

19 THE COURT: -- again and again and again.

20 MR. HARPER: Absolutely, Your Honor. Could not agree
21 more.

22 THE COURT: Okay. We're adjourned.

23 MR. HARPER: Thank you, Your Honor.

24 MR. MORRIS: Thank you, Your Honor.

25 THE CLERK: All rise.

(Proceedings concluded at 4:35 p.m.)

--oOo--

CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Kathy Rehling

09/22/2025

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

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EXHIBIT F

MYSTIC SPIRES POST-MORTEM

A COLD-CASE LEGAL THRILLER

BY STACEY JERNIGAN

Chief Judge Stacey Jernigan Brings AI, Influencers, and Social Media to the Crime-Solving Forefront in Her Latest Novel

Disclaimer: Chief Judge, Stacey Jernigan is recognized as a public figure. As such, she has previously been featured in prominent media sources such as NPR, *The Wall Street Journal*, *The Daily Beast*, *LA Weekly*, and *The Dallas Morning News*, regarding statements on cases as well as in response to an individual who incorrectly asserted that one of her fictional characters was based on them. It must be emphasized here that Jernigan is an author of fiction—and that all characters in this story are also fictional.

That said, Jernigan's history as both Chief Judge and former lawyer lends an authentic voice to the nature of Judge Avery Lassiter's process as she unravels the murder case of wealthy hotel heiress Gigi Mesero.

With a nod to Hulu's *Only Murders in the Building*, this whodunit murder mystery involves podcasters who stir up a lethal social media and influencer sensation amid societal true crime fervor. In *Mystic Spires Post-Mortem: A Cold-Case Legal Thriller* by Stacey Jernigan (Brown Books Publishing Group; On sale: October 14, 2025), the sharp and resourceful judge Avery Lassiter is intent on getting to the bottom of a murder case at the Mystic Spires Hotel that has remained unsolved for eight years. When Lassiter hosts a Gigi Mesero-themed murder mystery dinner, each of her law clerks play the role of a murder suspect introducing evidence on themselves. Unable to come to a unanimous decision on the murderer, one of the clerks suggests asking a generative AI platform who it thinks murdered Gigi. This new lead inspires further research, reaching out to a few blogs and podcasts that previously covered the case.

Overnight, a wave of media frenzy ensues. From social media attacks, to leaked confidential information, to a famed podcaster hunting down the new suspect for a livestreamed unsolicited interview—resulting in two more deaths—the case quickly spirals out of control. As the case comes to a head, readers, alongside Lassiter, must ask themselves in what ways AI and social media are helping versus potentially harming the procedure of crime investigation.



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Mystic Spires Post-Mortem | \$16.99
FICTION / Mystery & Detective
ISBN: 978-1-61254-725-1 | Stacey Jernigan
www.SJnovels.com

MYSTIC SPIRES POST-MORTEM

ADVANCE PRAISE FOR *MYSTIC SPIRES POST-MORTEM*

“*Mystic Spires Post-Mortem* is a twisty, time-hopping legal thriller that reads like a prestige mini-series—smart, moody, and addictive. When a hotel heiress is found murdered, the investigation unspools across decades, slowly revealing a web of secrets, ambition, and betrayal. Chief Judge Stacey Jernigan crafts a sharp, propulsive story with vivid Dallas flavor, compelling legal drama, and characters who stay with you long after the last page.”

—**AMY PEASE**, BESTSELLING AUTHOR OF *NORTHWOODS*

“Part murder mystery, part legal thriller, and part social commentary, Jernigan’s *Mystic Spires Post-Mortem* is a truly unique take on the genre. It was fascinating to see how the author pieced together the story—and to watch it unfold through the eyes of all the players, both good and bad. I’ll be looking for more of her work in the future!”

—**TAMARA BERRY**, EDGAR-AWARD-WINNING AUTHOR OF *BURIED IN A GOOD BOOK*

“*Mystic Spires* deliciously blends timeless murder-mystery motifs and hyper-modern perspectives on crime-solving—and all in the Great State of Texas!”

—**KIM SANDERS**, FORMER HOMICIDE DETECTIVE FOR THE DALLAS POLICE DEPARTMENT,
AWARD-WINNING AUTHOR OF *HERMIT OF PARADISE: A NOVEL*

MYSTIC SPIRES POST-MORTEM

ABOUT THE AUTHOR



Stacey Jernigan, a native Texan, has been a judge in Dallas, Texas since 2006. Before that, she was a lawyer and partner at a large international law firm specializing in corporate restructuring matters. She is also an occasional adjunct professor at the SMU Dedman School of Law. Stacey is married to a retired law enforcement officer (Dallas Police Department), with whom she has an adult son and daughter, as well as two Cavalier King Charles Spaniels. She is a frequent speaker at legal conferences around the country and is an avid writer and international traveler. *Mystic Spires Post-Mortem* is her third novel.

“But with technology—with all of these AI tools—are we prone to trust it more than humans in crime-solving and a court of law? Maybe more than we should? And are we at risk of delegating our own thinking—our own reasoning process? Are we going to just, more and more, defer to the machines to sort through a set of facts or legal issues to tell us what to think? That scares me to death. What about cogito ergo sum? ‘I think, therefore I am’? We are facing an existential threat here, maybe. If we begin delegating our thinking, we are done.”

—FROM *MYSTIC SPIRES POST-MORTEM*

MYSTIC SPIRES POST-MORTEM

THE WALL STREET JOURNAL.

JUDGE'S FICTIONAL THRILLER SPARKS REAL-LIFE COURTROOM DRAMA

Plot featuring crooked hedge-funder inspires
actual financier to try to get jurist booted off case

By *Erin Mulvaney*

July 29, 2023 9:12 pm ET

When she isn't handling cases as a U.S. bankruptcy judge, Stacey Jernigan writes legal thrillers, most recently "Hedging Death," whose sweeping plot features a troubled biotech company, a crooked financier and Mexican criminal cartels.

In true write-what-you know fashion, her fictional heroine, Avery Lassiter, bears a striking similarity to the author herself. They are both judges in Texas, former corporate lawyers and dog lovers married to police officers.

James Dondero, former chief executive of hedge-fund company Highland Capital Management, sees another similarity in the novel—between one of the villains and himself.

Dondero says he is the inspiration for Cade Graham, a Dallas hedge-fund playboy suspected of insurance fraud and faking his own death in a fiery car crash. And in a plot twist not yanked from the novel, he is pushing for the judge-cum-writer to step aside from a case she is handling that involves none other than the real-life hedge-funder—Dondero.

Like many fictional works, Jernigan's book includes a disclaimer that its characters "are absolutely fictional." Nevertheless, citing "unquestionable parallels" between his life and Graham's, Dondero is arguing that the fictional depiction exposes Jernigan's real-life bias against him in the long-running legal case.

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MYSTIC SPIRES POST-MORTEM

James Dondero cites ‘unquestionable parallels’ between his life and that of a villain in the novel.

Jernigan has rebuffed his efforts so far, at one point quoting Oscar Wilde: “Life imitates art far more than art imitates life.”

Highland Capital, once a pioneer in trading speculative corporate loans, filed for bankruptcy in 2019 after it became embroiled in a series of legal disputes. The case landed in Jernigan’s court. Dondero, who was subsequently ousted from Highland, has been fighting with the bankrupt firm and its creditors over its winddown.

Dondero claims Jernigan, who has held him in civil contempt twice, hasn’t been fair to him during the bankruptcy proceedings. He has sought her recusal several times—to no avail. Dondero has asked a federal district court to reconsider.

His latest attempt to boot Jernigan cited her fiction writing as evidence of her negative views of the hedge-fund industry. Her first novel, “He Watches All My Paths,” revolves around death threats to the fictional Judge Lassiter. Her second follows the manhunt for the criminal. Both are self-published.

Dondero sees parallels between himself and Graham, one of the villains in the second novel. The novel describes Graham as a “well-known wealthy playboy and high-flying Dallas hedge fund manager,” and as “a real piece of work...a ton of people hate him, don’t trust him, and can’t figure out how on earth he manages to make so much money in both good times and bad times.” The novel involves Graham in a plot to murder American retirees in Mexico for insurance money.



JORDAN FRAKER

According to Dondero, the fictional hedge fund, called Ranger, handles assets similar to those of his former firm, which he said in a court filing was once called Ranger Asset Management. Jernigan’s novels show disdain for hedge-fund managers, he says, citing passages that describe the industry as having “outrageous amounts of hubris” and a “bro culture.”

In a written statement to *The Wall Street Journal*, Dondero said: “The impartiality of judges—and the appearance of impartiality—is a critical component of the federal judiciary. We are well past the point that a reasonable person would see bias.”

MYSTIC SPIRES POST-MORTEM

Jernigan, who has been a judge since 2006, has said he has inundated the court with thousands of pages of material related to recusal requests that were untimely and without merit. The judge, who didn't respond to requests for comment, addressed her fiction briefly in one March opinion, saying that even though some of her work is loosely based on real life, no characters were inspired by Dondero. Jernigan's opinion said she had "never once heard" that Ranger was Highland's original name.

In the ruling, Jernigan said she "regrets this sideshow," but added that many sitting judges write books, though usually nonfiction rather than fiction.

In 2013 Senior U.S. District Judge Michael Ponsor published "The Hanging Judge," a novel about a death-penalty trial. The book came about a dozen years after he presided over the first death-penalty trial in Massachusetts in 50 years, though the facts of the case were far different.

Federal Judge Frederic Block wrote a legal thriller called 'Race to Judgment.'

Frederic Block, a senior U.S. district judge in New York, wrote a legal thriller "Race to Judgment," described on Amazon.com as a "reality-fiction" novel, which is loosely based on a number of high-profile cases he handled. Of course judges should be careful about what they write, he says, but they have important stories to share.

In her order declining to step aside, Jernigan said there were countless examples of authors, from Agatha Christie to Ernest Hemingway, who weave fictional plots that are loosely based on real-life events. "The Presiding Judge is somewhat embarrassed to discuss these literary greats in the same paragraph in which she is mentioning her own fiction works—it is merely to make a point," she said in the ruling.

Dondero's legal team hired law professor Steve Leben of the University of Missouri-Kansas City School of Law to take a look.

"To be sure, the two judges aren't identical, and the book doesn't come across as nonfiction," Leben wrote to the court this month. "But while it's common for fiction authors to draw on their own lives, experiences, and viewpoints to varying degrees, Jernigan has made the similarities numerous and obvious." He concluded the judge ought to recuse herself.



AGATON STROM FOR THE WALL STREET JOURNAL

MYSTIC SPIRES POST-MORTEM

Dondero's former hedge fund Highland, for its part, has opposed his recusal attempts and called him a "vexatious litigant," petitioning this month to limit his legal maneuvering.

Legal ethics experts said what matters is whether Jernigan's impartiality might be reasonably questioned.

"It is a pretty novel situation—pun vaguely intended," said Indiana University law professor Charles Geyh. While many judges write outside of court, he said, "this is complicated as a work of fiction, and the way we evaluate it is tricky."

At least some readers of "Hedging Death" are fans. It scored 4.9 of five stars on Amazon.com, based on eight reviews.

One of her judicial colleagues lauded it in the American Bankruptcy Institute Journal, calling it a courtroom drama with a "Texas flavor" and a surprise ending. "The book," Judge Harlin Hale wrote, "truly has something for every insolvency professional!"

For the full article, click here:

<https://www.wsj.com/arts-culture/books/texas-bankruptcy-judge-stacey-jernigan-novel-hedge-fund-dondero-a5e84c50>

MYSTIC SPIRES POST-MORTEM

METADATA

Title.....	Mystic Spires Post-Mortem
Subtitle	A Cold-Case Legal Thriller
Author	Stacey Jernigan
ISBN	9781612547251
Format.....	Trade Paperback
Retail price	\$17.99
Size	6 x 9
Pages	224
BISAC 1.....	Fiction / Mystery & Detective
BISAC 2	Fiction / Crime
BISAC 3	Fiction / Legal
Publication Date	October 14, 2025
Distribution	Ingram, Baker, & Taylor
Publisher.....	Brown Books
Publisher Website	www.BrownBooks.com
Author Website	www.SJnovels.com

SYNOPSIS

Judge Avery Lassiter is determined to find the truth—with unintended consequences.

Gigi Mesero was more than a wealthy heiress and entrepreneur. She was also the victim of a strange murder at the Mystic Spires Hotel in Dallas, Texas, a case that has remained unsolved for eight years. The mysterious circumstances of the crime, however, haven't allowed it to be forgotten. Some believe it was Gigi's own sister, a popular social media influencer. Some believe it was one of her numerous seedy lovers looking to steal her fortune. Others believe it wasn't murder at all. With a whole slew of theories, detectives and online sleuths have exhausted all avenues. However, when Judge Avery Lassiter becomes obsessed with personally investigating the murder, she and her friends and family will stir up new clues, controversies, and cover-ups.

A tale about lies, technology, and the shifting world of criminal investigation, *Mystic Spires Post-Mortem* invites readers to follow a dangerous trail of death and corruption alongside a cast of determined investigators.

EXHIBIT G

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Counsel for Appellant The Dugaboy Investment Trust

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

In re:	)	Chapter 11
HIGHLAND CAPITAL	)	Case No. 19-34054-sgj11
MANAGEMENT, L.P.,	)	
Reorganized Debtor.	)	
	)	
THE DUGABOY INVESTMENT	)	
TRUST,	)	
	)	
Appellant,	)	Case No. 3:25-cv-02579-B
v.	)	
HIGHLAND CAPITAL	)	
MANAGEMENT, L.P,	)	
et al.,	)	
Appellees.	)	

**TO THE EXTENT NECESSARY, APPELLANT THE DUGABOY
 INVESTMENT TRUST’S MOTION FOR LEAVE TO APPEAL ORDER
 DENYING FIFTH MOTION TO RECUSE**

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Pursuant to the Court’s order of September 26, 2025, (Dkt. 2), Appellant The Dugaboy Investment Trust (“Dugaboy”) respectfully files this Motion for Leave to Appeal.

INTRODUCTION

To the extent the Court’s leave is required for Dugaboy to appeal the order denying the motion to recuse, the Court should grant such leave. Under 28 U.S.C. § 158(a)(3) and Federal Rule of Bankruptcy Procedure 8004(a)(2), a party must seek leave to appeal an interlocutory order prior to final disposition of a case. While Dugaboy did not seek leave before appealing the order denying recusal, it appealed without leave only because, based on its interpretation of current controlling case law, no such leave was required because the appeal is of a final order and as of right. *See* Fed. R. Bankr. P. 8003. The bankruptcy court has issued at least two final orders on matters intertwined with the recusal motion that is the subject of this appeal. The appeal was not deemed by Dugaboy as interlocutory and, therefore, Dugaboy had no intention of violating any procedural rule. But because the Court has specifically instructed Dugaboy to file a Motion for Leave, Dugaboy now so files. And to the extent such leave is required, the Court should grant the motion.

FACTUAL BACKGROUND¹

This Motion seeks the Court’s leave to appeal from the bankruptcy court’s September 2, 2025 “*Order Denying Fifth Motion to Recuse Judge.*” Bankr. Dkt.² 4379. This recusal motion (Bankr. Dkt. 4372) focuses squarely on the uniquely prejudicial circumstances created by Chief Judge Stacey G.C. Jernigan’s publication of two fiction novels with numerous similarities to her real cases and litigants, in particular a villain bearing very close similarity to Mr. Dondero. And from being deterred by the ensuing public controversy, Chief Judge Jernigan worked on a forthcoming third book during the same time frame she issued the orders that Dugaboy seeks to appeal.³ Indeed, in a stunning decision, Chief Judge Jernigan is seeking to use the controversy and the filing of further recusal motions as a key part of her publicity campaign to sell her new book.⁴ Not only does her marketing campaign give Chief Judge Jernigan a direct financial interest in further recusal proceedings involving Mr. Dondero, it effectively pressures her to stick to her guns

¹ Under Fed. R. Bankr. P. 8004(b)(1), a motion for leave to appeal must include “(A) the facts needed to understand the question presented; (B) the question itself; (C) the relief sought; (D) the reasons why leave to appeal should be granted; and (E) a copy of the interlocutory order or decree and any related opinion or memorandum.” A copy of the Bankruptcy Court’s Order denying the motion to recuse is attached as Exhibit A.

² “Bankr. Dkt” refers to the main bankruptcy case, *In re Highland Management, L.P.*, Bankr. N.D. Tex. Case No. 19-34054-sgj-11.

³ Ex. B (publicity flyer for forthcoming third novel).

⁴ *See id.* (quoting extensively from a 2023 Wall Street Journal article that interviewed Mr. Dondero and discussed the controversy at length).

and reject any further recusal requests for fear of disappointing her fan base and losing sales.

Dugaboy's impetus for filing the recent recusal motion stems from the Fifth Circuit's April 16, 2025 decision on rehearing of a mandamus petition from the Bankruptcy Court's denial of a previous recusal motion. *Dondero v. Jernigan*, No. 24-10287, 2025 WL 1122466, at *7 (5th Cir. Apr. 16, 2025). In that decision, the Fifth Circuit acknowledged the lack of any precedent for the situation created by Chief Judge Jernigan's novels, stating that "[d]ue to the similarities between the characters in Chief Judge Jernigan's novel and the litigants currently before her court, a strong argument could be made that [Chief Judge Jernigan] had a duty to recuse," but ultimately declined to order recusal because it concluded that the extremely high standard for mandamus relief had not been met. *See id.* (emphasis added). In other words, the Fifth Circuit suggested a motion to recuse might have succeeded if brought under the ordinary abuse-of-discretion standard in a regular appeal. *See id.*

Dugaboy took up that challenge, filing a new recusal motion that encouraged Chief Judge Jernigan to "step back" before proceeding with an appeal. Bankr. Dkt. 4372 at 5. Instead, Chief Judge Jernigan denied that motion. Bankr. Dkt. 4379.

Shortly after declining to recuse, Chief Judge Jernigan held a hearing and

issued an Order (Bankr. Dkt. 4401)⁵ in which she granted Highland’s Motion to Fix the Allowed Amount of Dugaboy’s Class 11 Interests (*see* Bankr. Dkt. 4362). The purpose and effect of the Class 11 Order was to “fix” the value of Dugaboy’s claims to a ceiling of a specific dollar amount and cut off any avenue for possible further recoveries. In other words, this was a “final order” with respect to Dugaboy’s claims. *See, e.g., In re Coastal Plains Inc.*, 338 B.R. 703, 713 (N.D. Tex. 2006) (explaining finality for appellate purposes in “the unique procedural posture of bankruptcy cases”). Moreover, Chief Judge Jernigan repeatedly stated on the record that she thought the objections to the motion were extremely close to being sanctionable because the entire issue was final and subject to *res judicata*. *See, e.g.*, Exhibit C, Sept. 18, 2025 Hearing Transcript at 76:8–16; 13:12–19. Since Chief Judge Jernigan stressed that the matter had either become final weeks earlier or was certainly final by the time of the hearing, the Bankruptcy Court’s Class 11 Order again showed that an appeal was appropriate as a matter of course and was not interlocutory. *See id.* 13:12–19; 164:4–13.

Furthermore, the concerns behind the recusal motion came on full display at the September 18, 2025 hearing on the Class 11 Motion, thus closely connecting the appeals on these two matters. In what was perhaps the most extreme display to date

⁵ Dugaboy is challenging this Order in another appeal, N.D. Tex. Case No. 3:25-cv-02724-L, currently before Judge Lindsay.

of bias against Mr. Dondero and anyone associated with him, Chief Judge Jernigan threatened Dugaboy’s current counsel, Geoffrey Harper, with Rule 11 sanctions if he continued to “recycle” arguments previously made by prior Dugaboy attorneys, while also rebuking him for offering novel arguments that prior counsel never made. *See* Ex. C, Hrg. Tr. 21:23–22:02; 61:9–62:1; 76:4–77:3; 77:17–78:19.

See 76:8–16:

THE COURT: I really am very perplexed about this hearing we had today. And I’m really—Mr. Morris said this is almost Rule 11-sanctionable, and I don’t think that was a farfetched statement.

MR. HARPER: Understood, Your Honor.

THE COURT: I think a lot of us who have been involved with this case for a very long time, we’re just very weary of the *déjà vu* all over again. And we’re almost too weary to move for sanctions, entertain sanctions. Do you hear what I’m saying? I really want you to hear what I’m saying. It’s been a merry-go-round of lawyers. I don’t know what else term to use for it. How many lawyers do you think have appeared for Dugaboy in five years or however long this has been?

Compare, e.g., 21:23–22:06:

THE COURT: Why wasn’t your client making this argument in February 2021 when the plan was performing?

MR. HARPER: Your Honor, I can’t answer that. I do not know.

THE COURT: Well, you can’t change lawyers and use that as an excuse. So what is your excuse?

Chief Judge Jernigan’s threat was clear: Lawyers who represent Dugaboy or Dondero do so at their own peril. Parties who seek to preserve objections as required by law—as even opposing counsel conceded was necessary at that time—

were risking monetary sanctions or worse from Chief Judge Jernigan. And new arguments were also dangerous. So at the same time Chief Judge Jernigan was circulating publicity about her new book and seeking to drum up interest because of the issues raised in this case, Chief Judge Jernigan was making further rulings and arguments. Indeed, had Chief Judge Jernigan ruled otherwise, it would have required significant changes to her publisher's promotional materials⁶ and probably depressed her book sales.

The effect (and presumably the purpose) of the Bankruptcy Court's admonition was to create a chilling effect meant to deter Dugaboy's and Mr. Dondero's counsel from performing their ethical duty to zealously advocate on behalf of their clients.

As Chief Judge Jernigan herself has repeatedly stated, the issue is final.⁷ Now is the time to resolve the merits of Dugaboy's appeal on the recusal issue. Both the Class 11 ruling and the approval of the Rule 9019 settlement have brought the overall bankruptcy case close to completion, especially on the issues of concern to Dugaboy.⁸ By contrast, to the extent Dugaboy participates in further bankruptcy-

⁶ See Ex. B., publicity flyer for forthcoming third novel that extensively discusses the long-running controversies between Chief Judge Jernigan and Mr. Dondero.

⁷ See, e.g., Ex. C, Sept. 18, 2025 Hrg. Tr. at 73:24–74:2 (“I think the statement is absolutely true that it's time for this case to end.”).

⁸ This near finality of the overall case, combined with final orders specifically addressing Dugaboy's interests, is what distinguishes the current recusal motion from an earlier recusal appeal that Judge Kinkeade denied in 2022. See *Dondero et al. v. Jernigan (In re Highland Capital*

court proceedings, Chief Judge Jernigan’s escalating pattern of bias will cause it further harm. Finally, if Dugaboy is forced to wait years for all remaining claims to be resolved, it may be too late and too difficult to unwind the wrongful transactions that have harmed its interests.

QUESTION PRESENTED

To the extent that this appeal would be interlocutory and leave is needed, the question that would be presented on appeal is whether Chief Judge Jernigan abused her discretion in denying Dugaboy’s motion to recuse.⁹

RELIEF SOUGHT

To the extent leave is needed, Dugaboy asks this Court to allow it to appeal the denial of its Fifth Motion for Recusal. If successful, Dugaboy will seek an order requiring Chief Judge Jernigan to recuse herself from this bankruptcy case and any other present or future matters involving James Dondero or others associated with him. Dugaboy will also seek vacatur or reversal of all potentially bias-tainted

Mgmt., L.P.), Civ. No. 3:21-CV-0879-K, 2022 WL 394760 (N.D. Tex. Feb. 9, 2022) (Kinkeade, J.).

⁹ Abuse of discretion is the Fifth Circuit’s standard for reviewing a judge’s denial of a motion to recuse on direct appeal. *See, e.g., Andrade v. Chojnacki*, 338 F.3d 448, 454 (5th Cir. 2003). But other circuits apply a de novo standard of review. *See, e.g., Grove Fresh Distributors, Inc. v. John Labatt, Ltd.*, 299 F.3d 635, 639 (7th Cir. 2002); *Amaro-Borilla v. Barr*, 792 F. App’x. 493, 494 (9th Cir. 2020) (mem. op.). In seeking review of the Fifth Circuit decision discussed above (*Dondero v. Jernigan*, No. 24-10287, 2025 WL 1122466 (5th Cir. Apr. 16, 2025)), Dugaboy and Mr. Dondero have filed a petition for certiorari with the United States Supreme Court presenting this question: “Should a judge’s order declining to recuse be reviewed de novo or for abuse of discretion?” *See Dondero et al. v. Jernigan et al*, Petition for a Writ of Certiorari, Case No. 25-355 (Sept. 22, 2025).

decisions or actions taken by Chief Judge Jernigan starting from the time she began writing her books, including at minimum the four decisions that are the subject of Dugaboy's appeals.¹⁰

ARGUMENT AND AUTHORITIES

A. Standard for Final Appeals.

District courts have jurisdiction to hear appeals “from final judgments, orders, and decrees.” 28 U.S.C. § 158(a)(1). Because the jurisdictional statute allows appeal from both “cases and proceedings” in bankruptcy court, *see id.* § 158(a), the Supreme Court has held that “proceedings” within a larger bankruptcy case can separately support final appeals if they give final resolution to particular parties or discrete disputes. *Ritzen Group, Inc. v. Jackson Masonry, LLC*, 589 U.S. 35, 37 (2020). Because a bankruptcy case “embraces an aggregation of individual controversies, orders in bankruptcy cases qualify as ‘final’ when they definitively dispose of discrete disputes within the overarching bankruptcy case.” *Id.*

The Fifth Circuit has likewise held that for purposes of determining the finality of a bankruptcy order, each matter that arises between the filing of the bankruptcy petition and the issuing of a closing order is treated as a separate

¹⁰ This recusal order is one of four decisions by the Bankruptcy Court that Dugaboy is now appealing. These related appeals before other District Courts are of the Order Approving Settlement Between the Highland Entities and the HMIT Entities (Dkt. 4297), the Order Regarding Stay Requests (Dkt. 4333), and the Order Fixing Allowed Amount of Class 11 Interests (Dkt. 4401).

proceeding. *See Smith v. Revie (In re Moody)*, 817 F.2d 365, 367–68 (5th Cir. 1987). The Fifth Circuit “has long rejected adoption of a rigid rule that a bankruptcy case can only be appealed as a single judicial unit at the end of the entire bankruptcy proceeding.” *In re Bartee*, 212 F.3d 277, 282 (5th Cir. 2000) (internal quotation marks omitted). And this Court has previously held that a “final” order in a bankruptcy case includes any order that “ends a discrete judicial unit in the larger case.” *Coastal Plains*, 338 B.R. at 713.

The Fifth Circuit has repeatedly recognized that because of the complexity of bankruptcy cases and subsidiary proceedings and the large number of interested parties, what constitutes a “final” judgment or order in the bankruptcy context is more broad and flexible than in other types of proceedings. *See In re ASARCO, LLC*, 650 F.3d 593, 599–600 (5th Cir. 2011). “Our approach to determining whether an order is . . . appealable in a bankruptcy case is flexible,” and views “finality in bankruptcy proceedings . . . in a practical, less technical light.” *In re Kizzee–Jordan*, 626 F.3d 239, 242 (5th Cir. 2010). Instead, in the Fifth Circuit “[a]n appealed bankruptcy order will be considered final if it constitutes either a final determination of the rights of the parties to secure the relief they seek, or a final disposition of a discrete dispute within the larger bankruptcy case.” *Id.* at 242.

B. Standard for Interlocutory Appeals.

District courts also have jurisdiction to hear appeals “from interlocutory

orders and decrees . . . of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title.” 28 U.S.C. § 158(a)(3). Whether to grant leave for an interlocutory appeal is within the discretion of the district court. *In re O’Connor*, 258 F.3d 392, 399–400 (5th Cir. 2001). In making this determination, district courts in the Fifth Circuit typically analyze the standards set forth under 28 U.S.C. § 1292(b). *In re Searex Energy Servs.*, Civ. No. No. 09–5817, 2009 WL 2868243, at *1 (E.D. La. Sept. 1, 2009). Under this standard, (1) a controlling issue of law must be involved; (2) the question must be one where there is substantial ground for difference of opinion; and (3) an immediate appeal must materially advance the ultimate termination of the litigation. 28 U.S.C. § 1292(b); *Kelley v. Cypress Fin. Trading Co., L.P.*, 518 B.R. 373, 377 (N.D. Tex. 2014).

C. To the Extent Required, the Court Should Grant Leave to Appeal Because the Bankruptcy Court Has Already Issued Final Appealable Orders on Matters Intertwined with Recusal.

1. The Bankruptcy Court’s approval of the Rule 9019 Settlement is a final appealable order.

“A bankruptcy case need not be appealed as a single judicial unit at the end of the entire bankruptcy proceeding.” *In re Tullius*, 500 F. App’x. 286, 289 (5th Cir. 2012). Instead, an appealable order “will be considered final if it constitutes either a final determination of the rights of the parties to secure the relief they seek, or a final disposition of a discrete dispute within the larger bankruptcy case.” *Kizzee–*

Jordan, 626 F.3d at 242. Here, the Bankruptcy Court’s approval of the proposed settlement (Bankr. Dkt. 4297) resolves pending litigation claims between two of the biggest players, Highland Capital and Hunter Mountain Investment Trust (HMIT), for amounts putatively valued in the hundreds of millions that dwarf the values of smaller claims belonging to Dugaboy and other creditors.¹¹ The approval of a settlement between the largest players disposing of the vast majority of the money is a significant step toward ending and winding up most of the core bankruptcy case. Fifth Circuit law is clear that such a settlement is close enough to a final judgment or final order for the whole case, which allows Dugaboy to pursue final appeals on intertwined matters such as the denial of recusal. *See, e.g., In re Reagor-Dykes Motors, L.P.*, 613 B.R. 878, 887 (Bankr. N.D. Tex. 2020) (“An order approving a settlement under Rule 9019 has res judicata effect as a final order.”).

The finality of a bankruptcy court’s approval of a settlement under Rule 9019 also depends on whether the appellants will have another chance to object to the settlement agreement. *See Ades-Berg Investors v. Breeden (In re Bennett Funding Group)*, 439 F.3d 155, 160 (2d Cir. 2006). In this case, they did not. *See* Bankr. Dkt. 4297 (Bankruptcy Court’s order). For these reasons, the Bankruptcy Court’s approval of the Rule 9019 settlement creates sufficient finality for the case as a

¹¹ *See, e.g.*, Highland and HMIT’s motion to approve the settlement, Bankr. Dkt. 4216 (May 19, 2025), at 4–5.

whole to allow Dugaboy to pursue the denial of recusal as a final appeal by right.

2. *The Class 11 Order is a final order directly related to the recusal issue.*

The Bankruptcy Court’s Order Fixing the Allowed Amount of Class 11 Interests (Bankr. Dkt. 4401) is also a final appealable order because it “fixed” the purported dollar value of Dugaboy’s claims and closed off any avenue for possible further recoveries. In other words, this was effectively a final judgment on the “discrete judicial unit” of Dugaboy’s claims. *See Coastal Plains*, 338 B.R. at 713. The Fifth Circuit has held that “as long as an order allowing a claim or priority [in a bankruptcy proceeding] effectively settles the amount due the creditor, the order is ‘final.’” *In re Moody*, 849 F.2d 902, 903 (5th Cir. 1988) (citing *In re Saco Local Development Corp.*, 711 F.2d 441, 448 (1st Cir.1983)). The Bankruptcy Court’s Class 11 Order did precisely that, finding that “Class 11 [Dugaboy] is subordinated to Class 10 [HMIT] such that holders of Allowed Class 11 Interests cannot receive any distributions from the Claimant Trust until the holders of allowed Class 10 Interests are paid in full.” Bankr. Dkt. 4401 ¶ 8.

Both the 9019 Order and the Class 11 ruling meet the bankruptcy standard for final judgments, one because it resolved most of the remaining claims for the case as a whole, and the other because it specifically resolved Dugaboy’s claims. The recusal order, which is directly intertwined to both those appeals, can be pursued as a final appeal simultaneously with them.

3. *Recusal is necessary based on the Court's continuing and escalating displays of bias.*

The facts of Chief Judge Jernigan's conduct at the September 18 hearing on the Class 11 motion (as described above) are so egregious as to underscore the need for recusal. Most garden-variety recusal motions do not feature a judge who (1) has written and continues to write novels featuring a villain who is a thinly disguised impersonation of a major litigant in the case before her, (2) seeks publicity and extra sales of those same novels by trading on the controversy over prior recusal motions—where further rulings will no doubt appear in future publicity campaigns; or (3) has threatened counsel with Rule 11 sanctions for preserving objections by repeating colorable and non-frivolous arguments made by prior counsel, in a transparent effort to chill and deter Mr. Dondero's chosen counsel from zealously advocating on his behalf. If this Court denies Dugaboy's Motion for Leave to Appeal, there will be no restraint on and no recourse from Judge Jernigan's continuing and escalating hostility toward Dugaboy and Mr. Dondero, with his counsel effectively muzzled by baseless threats of sanctions.

D. Even Taken As An Interlocutory Appeal, Leave Should Be Granted to Appeal Under 28 U.S.C. §158(a)(3) and 28 U.S.C. §1292(b).¹²

Dugaboy’s appeal is final and not interlocutory for the reasons given above. But even if it were interlocutory, the Court should grant leave to appeal the recusal decision as an interlocutory order. As explained below, the issues presented in the underlying appeal meet the three criteria for granting leave to file an interlocutory appeal under 28 U.S.C. §1292(b).

1. The issue of whether Judge Jernigan should have recused herself presents a controlling question of law.

The first prerequisite for allowing an interlocutory appeal is that the primary issue in the underlying appeal presents a controlling question of law. “Whether an issue of law is controlling generally hinges upon its potential to have some impact on the course of the litigation.” *Ryan v. Flowserve Corp.*, 444 F. Supp. 2d 718, 723 (N.D. Tex. 2006). Courts have reasoned that “[a]lthough the resolution of an issue need not necessarily terminate an action in order to be ‘controlling,’ it is clear that a question of law is ‘controlling’ if reversal of the [order] would terminate the action.” *Adhikari v. Daoud & Partners*, 2012 WL 718933, at *2 (S.D. Tex. Mar. 5, 2012). Chief Judge Jernigan’s decision to deny the recusal motion will have a substantial impact on the remainder of the litigation to the extent that Dugaboy or Mr. Dondero

¹² By arguing that this appeal meets the standards for granting leave to file an interlocutory appeal, Dugaboy does not waive its primary argument that this appeal is a final appeal for which leave is not required.

participate in further proceedings before Chief Judge Jernigan, as they or their counsel will likely face the same biased treatment. Any future rulings are at risk of being similarly tainted (or at least of being perceived as tainted). By contrast, these problems will go away if Chief Judge Jernigan recuses herself and is replaced by a different judge.

Furthermore, if this Court determines at the merits stage that Chief Judge Jernigan should have recused herself from Dugaboy and Dondero-related matters when she began writing her novels, then many of her prior decisions (including the four orders that Dugaboy is appealing) may be vacated or reversed. Thus, regardless of how this Court rules on the Motion for Leave, the issue of recusal remains central to the bankruptcy and its resolution and is therefore “controlling” for purposes of this analysis.

2. **A substantial ground for difference of opinion exists as to the issue of recusal.**

The second prerequisite for interlocutory appeal requires that the “controlling question of law” be one on which there is a “substantial ground for difference of opinion.” *In re Cobalt Int’l Energy, Inc. Securities Litig.*, 2016 WL 949065, *4 (S.D. Tex. Mar. 14, 2016). A substantial ground for a difference of opinion exists here because this is a “novel and difficult question of first impression.” *Ryan*, 444 F. Supp. 2d at 723–24. The Fifth Circuit specifically noted that the question whether a federal judge writing fiction novels about actual participants in her cases presents

grounds for recusal was without precedent. No. 24-10287, 2025 WL 1122466, at *7 (“To our knowledge, no court . . . has ever analyzed § 455(a) on facts like these.”). No court has had to decide on such unique facts before, showing a substantial ground for a difference of opinion.¹³

3. **An immediate appeal of the recusal issue will materially advance the ultimate termination of this litigation.**

Finally, the third prerequisite is whether allowing an interlocutory appeal will materially advance the ultimate termination of the litigation. This is because the “institutional efficiency of the federal court system is among the chief concerns motivating § 1292(b),” and judicial economy is therefore at the very heart of the analysis. *Ryan*, 444 F. Supp. 2d at 723.

An interlocutory appeal materially advances the ultimate termination of the litigation when it conserves the time and resources of the courts and parties involved. “An appeal materially advances the termination of litigation when it accelerates or simplifies trial proceedings.” *Panda Energy Intern., Inc. v. Factory Mut. Ins.*, 2011 WL 610016, at *5 (N.D. Tex. Feb. 14, 2011). “Whether an immediate appeal may

¹³ A second possible “substantial ground for difference of opinion” exists because (as discussed above) there is a circuit split on the standard of review for a recusal denial on a direct appeal after final judgment. The Fifth Circuit says the standard is abuse of discretion, while other circuits apply de novo review. *Compare Andrade v. Chojnacki*, 338 F.3d 448, 454 (5th Cir. 2003) (abuse of discretion) with, e.g., *Grove Fresh Distributors, Inc. v. John Labatt, Ltd.*, 299 F.3d 635, 639 (7th Cir. 2002) and *Amaro-Borilla v. Barr*, 792 F. App’x 493, 494 (9th Cir. 2020) (mem. op.) (de novo). As noted above, Dugaboy and Mr. Dondero have petitioned the U.S. Supreme Court for a writ of certiorari to resolve this circuit split. *Dondero et al. v. Jernigan et al.*, No. 25-355 (pet. filed Sept. 22, 2025).

materially advance the ultimate termination of the litigation requires courts to assess whether interlocutory appeal will speed up or slow down the litigation.” *Pemex Exploracion y Produccion v. BASF Corp.*, 2011 WL 11569219, at *12 (S.D. Tex. Feb 11, 2011).

If the present Motion is denied, the recusal decision will not face meaningful review under an ordinary appellate standard until the final resolution of the bankruptcy for all parties, which could be years away. Waiting until the ultimate conclusion of the underlying bankruptcy for all parties to allow Dugaboy’s appeal to move forward would result in needless delay and wasteful expense for everyone involved. By allowing appeal now and proceeding to briefing on the merits, this case can more quickly be put back on track to its final resolution.

E. Leave to Appeal Should Be Granted For Reasons of Practicality and Fairness.

If Dugaboy is not allowed to proceed with a timely appeal, it may lose the recusal issue by default. If Dugaboy must wait years until the ultimate conclusion of the bankruptcy proceeding for all parties before this Court can even consider the merits of its arguments, Dugaboy risks losing its chance for meaningful relief to the encroachment of equitable mootness. Under this doctrine, courts can dismiss appeals of bankruptcy decisions to favor the finality of reorganization plans. *See Matter of Texxon Petrochemicals LLC*, 67 F. 4th 259, 261 (5th Cir. 2023). Equitable mootness allows such dismissals when the debtor’s reorganization has progressed to

the point that granting the requested relief would be impractical or inequitable to other parties. *In re CTLI, LLC*, 534 B.R. 895, 910 (Bankr. S.D. Tex. 2015). Even if effective relief could “conceivably be fashioned,” courts may deny motions as equitably moot if implementing such relief would disrupt the reorganization process or harm the interests of other parties. *Id.*

As a result of this equitable Catch-22, Dugaboy is told on the one hand to delay its appeal until final judgment in the main bankruptcy proceeding, but once it gets there it risks being told that it is “too late” and equity now demands that it yield what it was owed to those who now have it. *See id.* The Fifth Circuit has already recognized that Dugaboy will be prejudiced if forced to wait for the conclusion of the entire bankruptcy proceeding. *See* No. 24-10287, 2025 WL 1122466, at *3 (“If a party could not challenge bias until appealable final judgment has issued, prejudice will have already worked its evil.”).

Accordingly, if this Motion for Leave is not granted, Dugaboy may never get its day in court to appeal Judge Jernigan’s denial of recusal under a regular appellate standard of review.

CONCLUSION

For the reasons above, the Court should grant this Motion for Leave to Appeal because final orders have been entered in this bankruptcy as to Dugaboy’s interests, and therefore Dugaboy may pursue the present appeal as a final appeal by right.

Alternatively, this Court should treat Dugaboy's Motion for Leave to Appeal as seeking an interlocutory appeal and grant it. An immediate appeal will materially advance the ultimate termination of this litigation and will provide meaningful and necessary guidance on novel and important issues on which substantial grounds for difference of opinion exist. All the requirements for interlocutory review are satisfied here, and Dugaboy's appeal on the recusal issue should be allowed to proceed on its merits.

Dated: October 10, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Geoffrey S. Harper

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 10, 2025, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1(b), the undersigned hereby certifies that on October 10, 2025 he conferred with John Morris, counsel for the Highland Appellees, and was informed that the Appellees are opposed to the relief requested in this Motion.

/s/ Geoffrey S. Harper
Geoffrey S. Harper

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 4,742 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 in footnotes).

/s/ Geoffrey S. Harper
Geoffrey S. Harper

EXHIBIT H

From: [John A. Morris](#)
To: [Harper, Geoffrey](#)
Cc: [Jeff Pomerantz](#); [Gregory V. Demo](#); [Hayley R. Winograd](#); [Zachery Annable](#); [Drew K. York](#); [Jason S. Brookner](#); [Drake Rayshell](#); [Joshua Smeltzer](#); ["Michael Lang"](#); [Gaddis, Mike](#)
Subject: FW: A Second Request to Consolidate Appeals re Highland Capital 9019 motions
Date: Wednesday, August 13, 2025 9:06:00 AM
Attachments: [image009.png](#)
[image002.png](#)
[3 25-cv-1876 Dkt 21--Appellees" Motion to Dismiss Appeal as Moot.pdf](#)
[3 25-cv-1876 Dkt 22--Seery Declaration ISO Appellees" Motion to Dismiss Appeal as Moot.pdf](#)

Geoffrey:

In case you did not see it, attached is Highland's Motion to Dismiss the appeals of the HMIT 9019/363 Order and supporting declaration (the "MTD"). If granted, the motion will (for lack of a better word) moot your email below.

But if it is not, the Highland Entities will oppose consolidating the appeals of the HMIT 9019/363 Order with the appeal of the denial of the stay because the appeals involve different orders entered at different times based on different records such that further consolidation would create the risk of confusion.

For example, the motion for the stay under 11 U.S.C. section 105 was based *exclusively* on documents and information (the Attorney General's 7/9/25 letter filed in the Bankruptcy Court seeking an indefinite stay of the entire bankruptcy case and a Complaint filed by the JOLs in the Cayman Islands on July 15, 2025) that were not considered by the Bankruptcy Court when it entered the HMIT 9019/363 Order for the simple reason that they did not exist.

Having said that, we are available to confer on any questions concerning the briefing of the MTD.

Regards,

John

John A. Morris

Pachulski Stang Ziehl & Jones LLP

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Los Angeles | New York | Wilmington, DE | Houston | San Francisco

From: Harper, Geoffrey <GHarper@winston.com>

Sent: Tuesday, August 12, 2025 6:56 PM

To: John A. Morris <jmorris@pszjlaw.com>; Drew K. York <dyork@grayreed.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwl.law>; Gaddis, Mike <MGaddis@winston.com>

Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Gregory V. Demo <GDemo@pszjlaw.com>; Hayley R. Winograd <hwinograd@pszjlaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: A Second Request to Consolidate Appeals re Highland Capital 9019 motions

Counsel:

Thanks for everyone's cooperation and working through the consolidation of the two appeals of the court's 9019 settlement approval. I am writing to request that everyone agree to one further consolidation. As you know, the bankruptcy court issued an order denying the motion to stay the 9019 Order and Dugaboy has appealed that denial. I believe that the issues related to the stay are intertwined with the 9019 approval order such that it makes sense to consolidate this appeal in as well. (After all, one possible outcome of separate appeals would be the strange situation where one court stops the settlement approval order right after another court approves it.)

If everyone is in agreement to this further consolidation, we are happy to take the laboring oar in drafting a proposed motion and order and sending it around for approval to the group.

Geoffrey Harper

Partner

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From: John A. Morris <jmorris@pszjlaw.com>

Sent: Wednesday, August 6, 2025 11:25 AM

To: Harper, Geoffrey <GHarper@winston.com>; Drew K. York <dyork@grayreed.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwl.law>; Gaddis, Mike <MGaddis@winston.com>

Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Gregory V. Demo <GDemo@pszjlaw.com>; Hayley

R. Winograd <hwinograd@pszjlaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: RE: Highland: Motion to Consolidate HMIT 9019 Appeals

Thank you.

John A. Morris

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From: Harper, Geoffrey <GHarper@winston.com>

Sent: Wednesday, August 6, 2025 12:17 PM

To: John A. Morris <jmorris@pszjlaw.com>; Drew K. York <dyork@grayreed.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwl.law>; Gaddis, Mike <MGaddis@winston.com>

Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Gregory V. Demo <GDemo@pszjlaw.com>; Hayley R. Winograd <hwinograd@pszjlaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: RE: Highland: Motion to Consolidate HMIT 9019 Appeals

Dugaboy does not oppose the consolidation.

Geoffrey Harper

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**WINSTON
& STRAWN**
LLP

From: John A. Morris <jmorris@pszilaw.com>

Sent: Wednesday, August 6, 2025 11:08 AM

To: Drew K. York <dyork@grayreed.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwllaw.com>; Harper, Geoffrey <GHarper@winston.com>; Gaddis, Mike <MGaddis@winston.com>

Cc: Jeff Pomerantz <jpomerantz@pszilaw.com>; Gregory V. Demo <GDemo@pszilaw.com>; Hayley R. Winograd <hwinograd@pszilaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: RE: Highland: Motion to Consolidate HMIT 9019 Appeals

Thank you, Drew.

Can someone please respond on behalf of Dugaboy?

John

John A. Morris

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From: Drew K. York <dyork@grayreed.com>

Sent: Wednesday, August 6, 2025 12:07 PM

To: John A. Morris <jmorris@pszilaw.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwllaw.com>; gharper@winston.com; mgaddis@winston.com

Cc: Jeff Pomerantz <jpomerantz@pszilaw.com>; Gregory V. Demo <GDemo@pszilaw.com>; Hayley R. Winograd <hwinograd@pszilaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: RE: Highland: Motion to Consolidate HMIT 9019 Appeals

John,

Mr. Daugherty does not oppose the motion to consolidate to Judge Kinkeade.

Regards,
Drew

From: Drew K. York <dyork@grayreed.com>

Sent: Tuesday, August 05, 2025 2:26 PM

To: John A. Morris <jmorris@pszilaw.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwllaw.com>; gharper@winston.com; mgaddis@winston.com

Cc: Jeff Pomerantz <jpomerantz@pszilaw.com>; Gregory V. Demo <GDemo@pszilaw.com>; Hayley R. Winograd <hwinograd@pszilaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: RE: Highland: Motion to Consolidate HMIT 9019 Appeals

Hi John,

Working to confirm our position. Will get back to you by tomorrow.

Regards,
Drew

Drew K. York

Partner

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From: John A. Morris <jmorris@pszilaw.com>

Sent: Tuesday, August 05, 2025 10:34 AM

To: Drew K. York <dyork@grayreed.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwllaw.com>; gharper@winston.com; mgaddis@winston.com

Cc: Jeff Pomerantz <jpomerantz@pszilaw.com>; Gregory V. Demo <GDemo@pszilaw.com>; Hayley R. Winograd <hwinograd@pszilaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: [EXTERNAL] RE: Highland: Motion to Consolidate HMIT 9019 Appeals

Resending with Mr. Gaddis' correct e-mail address.

John A. Morris

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From: John A. Morris

Sent: Tuesday, August 5, 2025 11:30 AM

To: Drew K. York <dyork@grayreed.com>; Jason S. Brookner <jbrookner@grayreed.com>; Drake Rayshell <drayshell@grayreed.com>; Joshua Smeltzer <jsmeltzer@grayreed.com>; Michael Lang <mlang@cwllaw.com>; ngaddis@winston.com; gharper@winston.com

Cc: Jeff Pomerantz <jpomerantz@pszjlaw.com>; Gregory V. Demo <GDemo@pszjlaw.com>; Hayley R. Winograd <hwinograd@pszjlaw.com>; Zachery Annable <zannable@haywardfirm.com>

Subject: Highland: Motion to Consolidate HMIT 9019 Appeals

Counsel:

Dugaboy and Mr. Daugherty each appealed the Bankruptcy Court's Order granting Highland's motion to approve the HMIT settlement pursuant to Bankruptcy Rule 9019 and Bankruptcy Code section 363.

Since the appeals were assigned to different judges, Highland intends to move to consolidate the appeals before Judge Kinkeade (Case No. 3:25-cv-01876-K, the first assigned appeal) for purposes of judicial economy, to save Appellees the cost and expense of litigating two appeals of the same Order based on the same evidentiary record, and to avoid potentially inconsistent judgments.

Please let us know if your respective client is opposed or unopposed to the relief requested.

Regards,

John

John A. Morris

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and that consolidation of the Appeals serves the interest of judicial efficiency.

Accordingly, it is hereby **ORDERED THAT**:

1. The Motion to Consolidate Appeals is **GRANTED**.
2. The three Appeals in Case No. 3:25-cv-02072-S, Case No. 3:25-cv-02579-B, and Case No. 3:25-cv-02724-L, are hereby consolidated under Case No. 3:25-cv-01876-K, which is designated as the lead case for the Appeals.
3. All future filings related to the Appeals shall be filed on the docket for Case No. 3:25-cv-01876-K.
4. The current briefing deadlines in Case No. 3:25-cv-01876-K are hereby vacated.
5. To further expedite the efficient progress of the Consolidated Appeal, the Parties shall meet and confer to address the following matters:
 - a) Preparing a single consolidated Statement of Issues that, as much as practicable, streamlines the issues presented for appellate review;
 - b) Designating a single consolidated Record that includes all items previously designated for inclusion in the records of the four separate proceedings; and
 - c) Proposing a reasonable schedule of deadlines for a single cycle of consolidated briefing on all appealed issues.

- i. To allow the Parties sufficient space to properly brief their appealed issues, the Court will enlarge the word limits as follows: 26,000 words for each Appellant's Opening Brief; 26,000 words for Appellees' Response Brief; and 13,000 words for each Appellant's Reply Brief.

6. No later than one (1) week after the entry of this Order, the Parties shall file a joint report with this Court addressing their compliance with the matters in Paragraph (4) above. If the Parties are unable to agree on particular points, they may file separate statements outlining their respective positions.

IT IS SO ORDERED this [] day of October, 2025.

Ed Kinkeade
United States District Judge