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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,)	
v.)	Case No. 3:25-cv-01876-K
HIGHLAND CAPITAL)	(Consolidated with Civil
MANAGEMENT, L.P,)	Action No. 25-CV-1901-K)
et al.,)	
Appellees.)	

**DUGABOY’S UNOPPOSED EMERGENCY MOTION TO EXTEND
APPELLATE BRIEFING DEADLINES**



Pursuant to Federal Rules of Bankruptcy Procedure 8013(d) and 9006(b)(1)(A) and (B), and for good cause shown, Appellant The Dugaboy Investment Trust (“Dugaboy” or “Appellant”) respectfully files this Emergency Motion and asks this Court to extend the briefing deadlines¹ in the above-captioned matter as follows:

(1) Dugaboy’s Opening Brief will be due on **November 25, 2025**.

(2) Appellee Highland Capital’s Response to the Opening Briefs of both Dugaboy and Co-Appellant Patrick Daugherty² will be due on **January 9, 2026**.

(3) Both Appellants’ Reply Briefs will be due on **January 30, 2026**.

Appellee Highland Capital does not oppose the relief requested in this Motion. Co-Appellant Patrick Daugherty is likewise unopposed.

Dugaboy respectfully seeks the requested relief on an “emergency” basis under Fed. R. Bankr. P. 8018(d), because one of the deadlines this Motion seeks to extend has already passed. For reasons explained below, Dugaboy did not file its

¹ 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. The Parties previously asked for a thirty-day extension of the appellate briefing deadlines, which the Court granted in its October 8, 2025 order (Dkt. 38). On November 5, 2025, Dugaboy filed an unopposed motion to stay the appellate briefing deadlines (Dkt. 44) pending the Court’s rulings on Dugaboy’s then-pending Motion to Consolidate (Dkt. 39) and/or Highland’s pending Motion to Dismiss (Dkt. 21). On November 18, 2025, the Court denied the motion to stay as moot after denying the Motion to Consolidate (Dkt. 48).

² Mr. Daugherty filed his Opening Brief on November 12, 2025 (Dkt. 46).

opening brief by the existing October 12, 2025 deadline. Then on November 18, 2025, this Court denied Dugaboy's then-pending unopposed motion to stay the briefing deadlines (Dkt. 44) as moot after it denied Dugaboy's Motion to Consolidate (Dkt. 48, electronic order). Given these circumstances, Dugaboy finds it prudent to get its renewed request for relief before the Court as soon as possible. In support of this Emergency Motion, Dugaboy respectfully submits the Declaration of Geoffrey S. Harper ("Harper Dec."), accompanying this Motion as Exhibit 1, and shows as follows:

BACKGROUND

On October 8, 2025, Co-Appellant Patrick Daugherty filed a motion seeking to extend the appellate briefing deadlines in this case (Dkt. 37). On the same day, the Court granted that motion and set the following deadlines which are currently in force (Dkt. 38, electronic order): Appellants' opening briefs were due by November 12, 2025; Highland's response is due by December 17, 2025; and Appellants' replies are due January 6, 2026. Harper Dec. ¶ 2.

On October 23, 2025, Dugaboy filed its *Motion to Consolidate Proceedings and Extend Related Deadlines on Appeal* (Dkt. 39). In that motion, Dugaboy requested that if the Court granted consolidation, it should also vacate the existing briefing deadlines and order the parties to confer and propose a new schedule for a single consolidated cycle of briefing on the issues from all four appeals. *Id.* at 9–10;

Harper Dec. ¶ 3.

Conscious of the looming November 12 briefing deadline, on November 5, 2025, Dugaboy filed an *Unopposed Motion to Stay Appellate Briefing Deadlines Pending Court’s Ruling on Motion to Consolidate or Motion to Dismiss* (Dkt. 44). Harper Dec. ¶ 4. In that motion, which was unopposed, Dugaboy asked the Court to stay the briefing deadlines pending its ruling on either Dugaboy’s Motion to Consolidate or Highland’s still-pending Motion to Dismiss. Dkt. 44 at 1. Dugaboy explained that a ruling on either of those two Motions could either alter or eliminate the need for the present briefing schedule. *Id.* In particular, Dugaboy pointed to the upcoming November 12 deadline for its opening brief:

“For example, it would be wasteful and pointless for Dugaboy to write the opening brief currently due on Wednesday, November 12, 2025 to address the issues in this proceeding (No. 25-1876-K) in its current form as a standalone appeal, only to tear up that brief and start over if the Court grants Dugaboy’s motion to consolidate the four appeals into a single case with a single consolidated briefing cycle and a single consolidated record.” *Id.*

Because Dugaboy made that request well in advance of the November 12, 2025 deadline, good cause existed under Fed. R. Bankr. P. 9006(b)(1)(A) for the Court to grant it.

On November 12, 2025—the existing deadline for opening briefs—Dugaboy decided not to file an opening brief.³ Harper Dec. ¶¶ 5–__. Dugaboy had good

³ Co-Appellant Patrick Daugherty filed his opening brief on November 12, 2025. *See* Dkt. 46.

reasons for making that decision. First, the pendency of the Motion to Consolidate created considerable uncertainty as to what issues would be before the Court and what would be included in the record. *Id.* ¶ 6. Had the Court granted that motion, it would have directed the parties to prepare a new consolidated statement of issues and a new consolidated record encompassing all four of the pending appeals. *See* Dkt. 39 at 19. In that scenario, it would have been a waste of time and resources to separately brief only the appellate issues that are before this Court. *Id.*

For that reason, as discussed above, Dugaboy hoped to avoid the waste of time, effort, and expense of drafting a brief for the separate appeal that would need to be torn up and redone for a consolidated appeal with a new consolidated record. *Id.* ¶ 7. Avoiding wasteful and duplicative briefing across four different appellate proceedings was one of the main reasons Dugaboy sought consolidation in the first place. *Id.* ¶ 8; *see* Dkt. 39 at 5–6. Now that the Court has denied the consolidation motion (Dkt. 48), it has clarified the shape of this proceeding so that Dugaboy can proceed expeditiously with briefing based on the existing issues and record. Harper Dec. ¶ 9.

Finally, Dugaboy already had two then-pending motions before the Court that requested specific relief from the November 12 deadline (Dkts. 39 and 44). Dugaboy did not want to bother the Court with a seemingly superfluous third request for the same relief. Harper Dec. ¶ 10. In hindsight, Dugaboy recognizes that in an

abundance of caution it would have been better to accompany its prior Motion to Stay with a request for alternative relief from the briefing deadline in the event the Court denied the Motion to Consolidate. *Id.* ¶ 11. Dugaboy seeks that relief now and respectfully asks the Court to grant it based on a finding of excusable neglect.

Dugaboy also seeks extensions of the Response and Reply briefing deadlines as detailed in Sections 2 and 3 below.

RELIEF REQUESTED

1. Extension of Dugaboy’s Time to File its Opening Brief.

Dugaboy respectfully asks the Court to extend the deadline for its Opening Brief to November 25, 2025. Because the existing deadline of November 12, 2025 has already passed, Dugaboy must seek the extension under Fed. R. Bankr. P. 9006(b)(1)(B), which requires a finding that “the failure to act within [the deadline] resulted from excusable neglect.” Based on the facts and circumstances explained above, Dugaboy respectfully submits that its failure to file its Opening Brief by the November 12 deadline was the result of excusable neglect, and accordingly the Court should grant its requested extension.

Following Supreme Court precedent, the Fifth Circuit has recognized that excusable neglect is not limited only to circumstances beyond the late party’s control. *In re Eagle Bus Mfg., Inc.*, 62 F.3d 730, 739 (5th Cir. 1995). Rather, there is a “range of possible explanations for a party's failure to comply,” including “cases where a

party may choose to miss a deadline although for a very good reason.” *Pioneer Inv. Servs. Co. v. Brunswick Assoc. Ltd. P’ship*, 507 U.S. 380, 387–88 (1993). The determination as to whether excusable neglect exists is “at bottom an equitable one, taking into account of all relevant circumstances surrounding the party's omission.” *Id.* at 395. *Pioneer*, which specifically analyzed excusable neglect in the context of Fed. R. Bankr. P. 9006(b)(1)(B), identified four factors for courts to consider in making this equitable determination: (1) the “danger of prejudice to the debtor [here, Highland Capital]”; (2) “the length of the delay and its potential impact on judicial proceedings”; (3) “the reason for the delay, including whether it was within the reasonable control of the movant”; and (4) “whether the movant acted in good faith.” 507 U.S. at 395. The Fifth Circuit follows *Pioneer*’s analysis. *See, e.g., Eagle Bus Mfg., Inc.*, 62 F.3d 730, 736–37 (5th Cir. 1995) (applying *Pioneer* factors to a Rule 9006(b) analysis in a bankruptcy case).

First, Highland is plainly not prejudiced by Dugaboy’s requested extension because Highland has agreed not to oppose this Motion for that extension. Harper Dec. ¶ 12. Highland likewise did not oppose Dugaboy’s prior motion to stay the appellate briefing deadlines (*see* Dkt. 44, Nov. 5, 2025). Harper Dec. ¶ 12.

Second, Dugaboy’s request for an extension to November 25, 2025 is a modest and reasonable amount of time that will result in Dugaboy filing its brief less than two weeks after the existing November 12 deadline.

Third, as discussed above, Dugaboy had good reasons for not filing on the November 12 deadline. At minimum, “some confusion and ambiguity” arguably existed regarding the need for Dugaboy to file its brief on November 12, 2025, given that Dugaboy already had two motions pending before the Court that sought relief from the same deadline. *See Eagle*, 62 F.3d at 740.

Finally, Dugaboy has at all times acted in good faith, as evidenced not only by its own conduct described above, but also by the parties’ mutual good faith in the course of their attempts over the last several weeks to negotiate solutions to the scheduling complications of this complex case and the three similarly complex cases before three of this Court’s colleagues. Harper Dec. ¶ 13.

For all of these reasons, the Court should find excusable neglect and grant Dugaboy an extension to November 25, 2025 to file its Opening Brief.

2. Extension of Highland’s Deadline to Respond to Both Appellants’ Briefs.

At the request of Highland’s counsel, Dugaboy also asks the Court to extend Highland’s deadline for responding to both Dugaboy’s and Mr. Daugherty’s opening briefs to January 9, 2025. This request is made well in advance of Highland’s current response deadline of December 17, 2025 (*see* Dkt. 38). Good cause exists for this request under Fed. R. Bankr. P. 9006(b)(1)(A) because it would be wasteful, duplicative, and prejudicial to Highland—and contrary to the parties’ intent in their good-faith negotiations over scheduling issues—to require Highland to file two separate

response briefs on different dates. *See* Harper Dec. ¶ 15. Highland also seeks the requested extension to avoid interfering with its counsel’s holiday plans. *Id.*

3. Extension of Appellants’ Reply Deadlines.

If the Court allows Highland to file its Response on January 9, 2026, then Dugaboy respectfully requests that the deadlines for Appellants’ Replies be extended to January 30, 2026. This request is made well in advance of Appellants’ current reply deadline of January 7, 2025 (*see* Dkt. 38). Good cause exists for this request under Rule 9006(b)(1)(A) because both Dugaboy and Mr. Daugherty will need adequate time to consider Highland’s evidence and arguments and formulate their Replies. Harper Dec. ¶ 16.

For these reasons, Dugaboy respectfully asks the Court to extend the appellate briefing deadlines as proposed above.

Dated: November 20, 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 November 20, 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 on November 18 and 19, 2025, Dugaboy counsel Mike Gaddis communicated with Highland counsel John Morris, who advised that Highland does not oppose the relief sought in this Motion. Mr. Gaddis also communicated with counsel for Appellant Daugherty, who is likewise unopposed.

/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 1,909 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 1

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**IN THE UNITED STATES DISTRICT COURT FOR THE
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In re:)	Chapter 11
HIGHLAND CAPITAL)	Case No. 19-34054-sgj11
MANAGEMENT, L.P.,)	
Reorganized Debtor.)	
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THE DUGABOY INVESTMENT)	
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Appellant,)	Case No. 3:25-cv-01876-K
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HIGHLAND CAPITAL)	Action No. 25-CV-1901-K)
MANAGEMENT, L.P,)	
et al.,)	
Appellees.)	

**DECLARATION OF GEOFFREY S. HARPER IN SUPPORT OF
DUGABOY’S UNOPPOSED MOTION TO EXTEND BRIEFING
DEADLINES**

I, Geoffrey S. Harper, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney in the law firm of Winston & Strawn, LLP, and am counsel to Interested Party and Appellant The Dugaboy Investment Trust (“Dugaboy”) in the above-captioned matter. I submit this Declaration in support of Dugaboy’s *Unopposed Emergency Motion to Extend Briefing Deadlines* (the “Emergency Motion”) being filed simultaneously with this Declaration. This Declaration is based on my personal knowledge.

2. Pursuant to the Court’s October 8, 2025 order (Dkt. 38), the appellate briefing deadlines currently in force are as follows: November 12, 2025 for both Appellants’ opening briefs, December 17, 2025 for Highland’s response, and January 7, 2026 for both Appellants’ replies.

3. On October 23, 2025, Dugaboy filed its *Motion to Consolidate Proceedings and Extend Related Deadlines on Appeal* (Dkt. 39). In that motion, Dugaboy requested that if the Court granted consolidation, it should also vacate the existing briefing deadlines and order the parties to confer and propose a new schedule for a single consolidated cycle of briefing on the issues from all four appeals. *Id.* at 9–10.

4. Conscious of the looming November 12 briefing deadline, on Novem-

ber 5, 2025, Dugaboy filed an *Unopposed Motion to Stay Appellate Briefing Deadlines Pending Court’s Ruling on Motion to Consolidate or Motion to Dismiss* (Dkt. 44). In that motion, which was unopposed, Dugaboy asked the Court to stay the briefing deadlines pending its ruling on either Dugaboy’s Motion to Consolidate or Highland’s still-pending Motion to Dismiss. Dkt. 44 at 1. Dugaboy explained that a ruling on either of those two Motions could either alter or eliminate the need for the present briefing schedule. *Id.* In particular, Dugaboy pointed to the upcoming November 12 deadline for its opening brief:

“For example, it would be wasteful and pointless for Dugaboy to write the opening brief currently due on Wednesday, November 12, 2025 to address the issues in this proceeding (No. 25-1876-K) in its current form as a standalone appeal, only to tear up that brief and start over if the Court grants Dugaboy’s motion to consolidate the four appeals into a single case with a single consolidated briefing cycle and a single consolidated record.” *Id.*

5. On November 12, 2025—the existing deadline for opening briefs—Dugaboy decided not to file an opening brief. Dugaboy had good reasons for making that decision.

6. First, the pendency of the Motion to Consolidate created considerable uncertainty as to what issues would be before the Court and what would be included in the record. Had the Court granted that motion, it would have directed the parties to prepare a new consolidated statement of issues and a new consolidated record encompassing all four of the pending appeals. *See* Dkt. 39 at 19. In that scenario, it

would have been a waste of time and resources to separately brief only the appellate issues that are before this Court.

7. For that reason, Dugaboy hoped to avoid the waste of time, effort, and expense of drafting a brief for the separate appeal that would need to be torn up and redone for a consolidated appeal with a new consolidated record.

8. Avoiding wasteful and duplicative briefing across four different appellate proceedings was one of the main reasons Dugaboy sought consolidation in the first place.

9. Now that the Court has denied the consolidation motion (Dkt. 48), it has clarified the shape of this proceeding so that Dugaboy can proceed expeditiously with briefing based on the existing issues and record.

10. Dugaboy already had two then-pending motions before the Court that requested specific relief from the November 12 deadline (Dkts. 39 and 44), and Dugaboy did not want to bother the Court with a seemingly superfluous third request for the same relief.

11. In hindsight, Dugaboy recognizes that in an abundance of caution it would have been better to accompany its prior Motion to Stay with a request for alternative relief from the briefing deadline in the event the Court denied the Motion to Consolidate.

12. Highland has agreed not to oppose this Motion for an extension of

Dugaboy's opening brief deadline. Highland likewise did not oppose Dugaboy's prior motion to stay the appellate briefing deadlines. See Dkt. 44, filed on November 5, 2025.

13. Over the past several weeks, Dugaboy, Highland, and Mr. Daugherty have engaged in good faith discussions in an attempt to negotiate solutions to the scheduling complications of this complex case and the other three pending appeals.

14. On November 18 and 19, 2025, prior to filing the instant Motion, Dugaboy counsel Mike Gaddis engaged in discussions with counsel for Highland and Mr. Daugherty, who both agreed not to oppose the relief requested herein.

15. Among other things, Highland's counsel expressed a strong preference for a single deadline to respond to both Dugaboy's and Mr. Daugherty's opening briefs, because it would be wasteful, duplicative and prejudicial to require Highland to file two separate response briefs on different dates. Highland also seeks the requested extension to avoid interfering with its counsel's holiday plans. Dugaboy agreed to include these requests in its Motion.

16. Dugaboy also seeks an extension to January 30 for both Appellants to file their reply briefs, which is three weeks after the proposed response deadline for Highland (January 9). This extension will allow Appellants adequate time to consider Highland's evidence and arguments and formulate their replies.

17. I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 20, 2025

By: /s/ Geoffrey S. Harper
Geoffrey S. Harper

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.)	
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THE DUGABOY INVESTMENT)	
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Appellant,)	Case No. 3:25-cv-01876-K
v.)	(Consolidated with Civil
HIGHLAND CAPITAL)	Action No. 25-CV-1901-K)
MANAGEMENT, L.P,)	
et al.,)	
Appellees.)	

ORDER GRANTING UNOPPOSED EMERGENCY MOTION TO EXTEND APPELLATE BRIEFING DEADLINES

The Court has considered Appellant The Dugaboy Investment Trust’s *Unopposed Emergency Motion to Extend Appellate Briefing Deadlines* (the “**Motion**”)¹ in which Dugaboy has asked this Court to extend the appellate briefing deadlines as follows: (1) extend Dugaboy’s Appellant’s deadline to file its Opening Brief to November 25, 2025; (2) extend Appellee Highland’s deadline to file its Response to both of the Opening Briefs of Appellant Dugaboy and Appellant Patrick Daugherty to January 9, 2026; and (3) extend both Appellants’ deadline to file their

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

Reply Briefs to January 30, 2026. Based on the argument presented by counsel and the fact that the proposed Motion is unopposed, the Court hereby finds and concludes that the Motion is well taken. Accordingly, it is hereby **ORDERED THAT**:

The Motion to Extend Appellate Briefing Deadlines is **GRANTED**.

Dugaboy shall file its Opening Brief by November 25, 2025. Highland shall file its Response to both Appellants' Opening Briefs by January 9, 2026. Both Appellants shall file their Reply Briefs by January 30, 2026.

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

Ed Kinkeade
United States District Judge