

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No.143717) (admitted pro hac vice)
John A. Morris (NY Bar No. 2405397) (admitted pro hac vice)
Gregory V. Demo (NY Bar No. 5371992) (admitted pro hac vice)
Hayley R. Winograd (NY Bar No. 5612569) (admitted pro hac vice)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

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

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	
Reorganized Debtor.	§	Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
v.	§	
PATRICK HAGAMAN DAUGHERTY,	§	
Defendant/Counter-Plaintiff.	§	

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



HIGHLAND CAPITAL MANAGEMENT, L.P.'S MOTION TO COMPEL PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS

Plaintiff/Counter-Defendant Highland Capital Management, L.P., the reorganized debtor (“Highland” or the “Debtor,” as applicable), by and through its undersigned counsel, hereby files its *Motion to Compel Production of Audio Recordings, Transcripts and Related Documents* (the “Motion”) in the above-captioned adversary proceeding (the “Adversary Proceeding”). In support of its Motion, Highland respectfully states as follows:

I. PRELIMINARY STATEMENT²

1. Patrick Daugherty (“Daugherty”) secretly recorded certain one-on-one telephone conversations he had with James Seery, Highland’s CEO, and possesses audio recordings or transcripts of such conversations (the “Secret Recordings”). Yet, Daugherty refuses to produce these Secret Recordings (or any other conversations he may have surreptitiously recorded with other Highland representatives) in response to Highland’s Requests on the sole ground that such information is somehow not “relevant” to this proceeding. Contrary to Daugherty’s conclusory objections, the Requested Information is plainly relevant and within the broad scope of permissible discovery under Rule 26(b)(1).

2. First, given the limited nature of Daugherty’s relationship with Seery, the Secret Recordings and related documents and information likely concern information that goes to the heart of the issues in this Adversary Proceeding, including (a) the negotiation of the Settlement Agreement that carved out Daugherty’s contingent Reserved Claim for later resolution, (b) the status of the 2008 Audit and related matters, and (c) Daugherty’s ill-founded quest to expand his

² Capitalized terms used and not defined in this Preliminary Statement have the meanings ascribed to such terms below.

demand for HERA's and ERA's "books and records (spreadsheet) maintained on Highland's system," which records were provided to him years ago.

3. Even if the Secret Recordings do not directly concern these issues, the Requested Information is still relevant because it pertains to Daugherty's credibility and trustworthiness. Such issues are well within the scope of Rule 26(b)(1)'s broad scope of discovery. Notably, Daugherty does not object on privilege grounds nor does he contend that production of responsive documents is burdensome. Moreover, Daugherty has no legitimate interest in continuing to conceal his Secret Recordings with his adversaries—and he certainly should not be permitted to effectively serve as the judge here, unilaterally reviewing the Secret Recordings and deciding on his own what is "relevant" under Rule 26(b)(1).

4. For the reasons set forth below, the Motion should be granted.

II. RELEVANT FACTUAL BACKGROUND

A. Daugherty's Reserved Claim and the Parties' Settlement Agreement

5. On October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") commencing the above-captioned bankruptcy case (the "Bankruptcy Case").

6. On April 1, 2020, Daugherty filed Proof of Claim No. 67 ("Claim 67"). On April 6, 2020, Daugherty filed Proof of Claim No. 77 ("Claim 77"), which superseded and replaced Claim 67 in its entirety. On December 23, 2020, Daugherty filed Proof of Claim No. 205 ("Claim 205"), which superseded and replaced Claim 77 in its entirety. Claim 205 included a purported tax claim for \$1,475,816 of "Compensation Award" plus \$1,174,537 of "Estimated Interest", for a total of \$2,650,353 arising from Daugherty's limited partnership interest in Highland from 2008.³

³ Daugherty was an employee of Highland from 1998 to 2011 and a limited partner in Highland from 2004 to 2011.

7. On November 22, 2021, Highland and Daugherty entered into that certain *Settlement Agreement* (the “Settlement Agreement”) resolving all of Claim 205 other than Daugherty’s claim related to any potential reversal of the approximately \$1,475,816 refund that he received from the IRS with respect to his 2008 tax returns (*i.e.*, the Reserved Claim, as defined in the Settlement Agreement).

8. On December 8, 2021, Highland filed *Reorganized Debtor’s Motion for Entry of an Order Approving Settlement with Patrick Haganan Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith* [Bankr. Docket No. 3088] (the “Settlement Motion”). The Settlement Motion was approved by the Bankruptcy Court on March 8, 2022. [Bankr. Docket No. 3298].

9. Pursuant to the Settlement Agreement, Highland transferred to Daugherty Highland’s interests in Highland Employee Retention Assets LLC (“HERA”) and ERA Management, LLC (“ERA”), shell entities that had previously been used by Highland after the global financial crisis to retain and compensate certain personnel. In compliance with the Settlement Agreement, Highland also delivered to Daugherty copies of “the HERA and ERA books and records (spreadsheet) maintained on [Highland’s] system.” Settlement Agreement ¶ 8.

B. Highland Commences the Adversary Proceeding

10. On May 2, 2025, Highland commenced this Adversary Proceeding by filing its *Complaint for (1) Disallowance of Claim No. 205 in Its Entirety, (2) Estimation of Claim No. 205 for Allowance Purposes, or (3) Subordination of Any Allowed Portion of Claim No. 205 of Patrick Haganan Daugherty* [Adv. Docket No. 1] (the “Complaint”). In its Complaint, Highland seeks to disallow, estimate for allowance purposes, or subordinate Daugherty’s contingent Reserved Claim.

C. Daugherty Files His Counterclaim

11. On October 3, 2025, Daugherty filed his *Original Counterclaim* [Adv. Proc. Docket No. 39] (the “Counterclaim”). In his first Counterclaim, Daugherty alleges that Highland “breached the Settlement Agreement by refusing to turn over all the HERA and ERA books and records in Highland’s possession.” Counterclaim ¶ 12. On October 24, 2025, Highland filed its answer to the Counterclaim [Docket No. 56].

D. Daugherty Secretly Records Conversations with Jim Seery

12. Daugherty is the defendant in an unrelated lawsuit commenced in January 2022 in the 101st Judicial District Court of Dallas County, Texas, captioned *Scott Byron Ellington v. Patrick Daugherty*, Cause No. DC-22-00304. In that action, Highland’s former general counsel, Scott Ellington, alleges that Daugherty stalked and harassed Ellington and his family (the “Stalking Suit”).

13. While reviewing recent entries on the public docket in the Stalking Suit, Highland learned that Daugherty secretly recorded conversations between Daugherty and Seery (the “Secret Recordings”). Specifically, on August 28, 2025, Daugherty produced to Ellington a 26-minute audio recording of a May 4, 2022 conversation that purported to be between Daugherty and Seery. Daugherty admitted to secretly recording Seery in connection with the Stalking Suit and during the Bankruptcy Case in which “Daugherty is now adverse to Seery and [Highland] in connection with Daugherty’s proof of claim.” Winograd Dec. **Exhibit 1** (*Defendant’s Response to Plaintiff’s Sixth Motion to Compel*) ¶ 17.⁴ See also Winograd Dec. **Exhibit 2** (August 28, 2025 Daugherty

⁴ “Winograd Dec.” refers to the *Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.’s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* filed concurrently herewith.

Deposition Transcript) at 102:1-105:25; Winograd Dec. **Exhibit 3** (*Plaintiff's Sixth Motion to Compel*) ¶¶ 7-8.

14. Daugherty's Secret Recordings appear to be of private telephone conversations which were recorded without any permission from, or notice to, Seery. Any other recordings of Highland personnel were likewise done without their knowledge or consent. Daugherty has no personal or business relationship with Seery or any other Highland personnel except with respect to his Class 8 and Class 9 claims in the Bankruptcy Case (which have been paid in full) and his Reserved Claim, which has been disputed since 2020. Thus, the only substantive subjects about which Daugherty would likely have conversed with Seery or the other Highland personnel concern the Bankruptcy Case, the Settlement Agreement, and Daugherty's claims, including the disputed Reserved Claim.

E. The Parties Engage in Discovery

15. On October 24, 2025, Highland served Daugherty with, among other things, *Highland Capital Management, L.P.'s Requests for the Production of Documents Directed to Patrick Daugherty* (the "Requests"). Requests 9 and 10 seek the information and documents subject to this Motion (the "Requested Information"). Specifically, Requests 9 and 10 seek documents concerning the Secret Recordings and any other recordings of conversations between Daugherty and Highland's representatives concerning Daugherty's Reserved Claim. *See* Winograd Dec. **Exhibit 4** (Requests 9 and 10).

16. Daugherty objected to Requests 9 and 10 (the "Objections"), not on grounds of privilege or burden, but solely on relevance grounds:

REQUEST NO. 9:

All audio or other recordings of any conversations between You and Seery, including any purported transcript or summary of any such conversations.

RESPONSE: Daugherty objects that the request seeks documents that are not relevant to the claims or defenses asserted in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Any recorded conversations have no bearing on Plaintiff’s claims in this action, which relate solely to the treatment of Daugherty’s Reserved Claim. Based on this objection, Daugherty is not producing any responsive documents.

REQUEST NO. 10:

All audio or other recordings of any conversation between You and any current or former employee, agent, or representative of Highland concerning the 2008 Refund, the 2008 K-1, and the 2008 Audit, including any purported transcript or summary of any such conversation.

RESPONSE: Daugherty objects that the request seeks documents that are not relevant to the claims or defenses asserted in this adversary proceeding. Fed. R. Civ. P. 26(b)(1). Any recorded conversations have no bearing on Plaintiff’s claims in this action, which relate solely to the treatment of Daugherty’s Reserved Claim. Based on this objection, Daugherty is not producing any responsive documents.

Winograd Dec. **Exhibit 5** (Daugherty’s Objections) at 5.

17. The parties (through counsel) met and conferred by email and Zoom calls and resolved all discovery disputes except those concerning the Requested Information. As to that, Daugherty stands by his relevance Objections and refuses to provide the Requested Information.

III. ARGUMENT

A. Legal Standard

18. Rule 26 of the Federal Rules of Civil Procedure (incorporated in this Adversary Proceeding by Rule 7026 of the Federal Rules of Bankruptcy Procedure) permits broad discovery of “any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” FED. R. CIV. P. 26(b)(1). “To be relevant under Rule 26(b)(1), a document or information need not, by itself, prove or disprove a claim or defense or have strong probative force or value.” *Samsung Elecs. Am., Inc. v. Yang Kun Chung*, 321 F.R.D. 250, 280 (N.D. Tex. 2017). Thus, “courts construe discovery rules liberally to serve the purposes of discovery: providing parties with information essential to the proper litigation of all relevant facts, eliminating

surprise, and promoting settlement.” *Kinney v. Select Portfolio Servs.*, 2015 WL 7871044, at *2 (S.D. Tex. Dec. 3, 2015) (internal quotations omitted); *see also Rangel v. Gonzalez Mascorro*, 274 F.R.D. 585, 590 (S.D. Tex. 2011) (“The threshold for relevance at the discovery stage is lower than at the trial stage.”); *Exp. Worldwide, Ltd. v. Knight*, 241 F.R.D. 259, 262 (W.D. Tex. 2006) (“Relevancy is construed liberally so that the basic issues and facts of the case are disclosed to the fullest extent practical.”).

19. A litigant may request the production of documents falling “within the scope of Rule 26(b)” from another party if the documents are in that party’s “possession, custody, or control.” FED. R. CIV. P. 34(a). To enforce discovery rights, a “party seeking discovery may move for an order compelling an answer, designation, production, or inspection.” FED. R. CIV. P. 37(a)(3); *see also Smith v. DeTar Hosp. LLC*, 2011 WL 6217497, at *2 (S.D. Tex. Dec. 14, 2011) (“The party posing discovery may move to compel the disclosure of any materials requested so long as such discovery is relevant and otherwise discoverable.”) (citing FED. R. CIV. P. 37(a)).

20. “The party resisting discovery must show specifically how each discovery request is not relevant or otherwise objectionable.” *Murillo Modular Grp., Ltd. v. Sullivan*, 2016 WL 6139096, at *3 (N.D. Tex. Oct. 20, 2016) (citing *McLeod, Alexander, Powel & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990)); *Orchestrate HR, Inc. v. Trombetta*, 178 F. Supp. 3d 476, 506 (N.D. Tex. 2016) (noting that in order to successfully resist a motion to compel, the opposing party must “specifically object and show that the requested discovery does not fall within Rule 26(b)(1)’s scope of relevance (as now amended) or that a discovery request would impose an undue burden or expense or is otherwise objectionable”); *Kinney v. Select Portfolio Servs.*, 2015 WL 7871044, at *2 (S.D. Tex. Dec. 3, 2015) (“The party resisting discovery has the burden of establishing lack of relevance by demonstrating that the requested information either does not

come within the broad scope of relevance or that the potential harm caused by discovery would outweigh the ordinary presumption in favor of broad disclosure.”); *In re Wade*, 2012 WL 5449308, at *4 (Bankr. S.D. Tex. Nov. 7, 2012) (same).

21. “Where relevance is in doubt, the court should be permissive in allowing discovery.” *Kinney*, 2015 WL 7871044, at *2. The trial court has “broad discretion” in determining whether to permit discovery. *McKinney/Pearl Rest. Partners, L.P. v. Metro. Life Ins. Co.*, 322 F.R.D. 235, 242 (N.D. Tex. 2016).

B. Daugherty Should Be Compelled to Produce the Requested Information

22. The Requested Information is within the broad scope of discovery under Rule 26(b)(1). The information sought in Requests 9 and 10 is plainly relevant here. As set forth above, Daugherty has admitted to secretly recording multiple conversations with Seery as his “adverse” party in the Bankruptcy Case and in connection with Daugherty’s contingent Reserved Claim. Therefore, the Secret Recordings are *directly relevant* to the claims and defenses asserted in the Adversary Proceeding to the extent they concern (a) the negotiation of the Settlement Agreement that carved out Daugherty’s contingent Reserved Claim for later resolution, (b) the status of the 2008 Audit and related matters, and (c) Daugherty’s quest to expand his demand for HERA’s and ERA’s “books and records (spreadsheet) maintained on Highland’s system.”

23. Even if the information sought in Requests 9 and 10 does not directly concern these specific issues, the recordings are still relevant under Rule 26(b)(1) because they concern the litigants and implicate Daugherty’s credibility. *See Ramos v. Capitan Corp.*, 2017 WL 1278737, at *3 (W.D. Tex. Feb. 2, 2017) (“Information relevant to a party’s credibility may fall within Rule 26(b)’s scope.”) (citing *Murillo*, 2016 WL 6139096, at *9). Daugherty admitted that he secretly recorded conversations he had with Seery without Seery’s knowledge or consent, and that he

possesses such recordings. Daugherty also (falsely) contended that one of the Secret Recordings proved that Seery lied during a deposition given in the Stalking Suit.

24. Under the circumstances, Highland has the right to obtain all of Daugherty's Secret Recordings of Highland's representatives, including Seery, and to use this discovery to support its claims and refute Daugherty's defenses and counterclaims, including by impeaching Daugherty's credibility. Daugherty has no legitimate interest in continuing to conceal the Secret Recordings and should not be permitted to be the sole arbiter of what is "relevant."

CONCLUSION

WHEREFOR, Highland respectfully requests that the Court (a) grant the Motion and direct Daugherty to produce the Secret Recordings and all other information responsive to Requests 9 and 10, and (b) grant any other relief that the Court deems just and proper.

Dated: December 24, 2025

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable

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

Counsel for Plaintiff/Counter-Defendant Highland Capital Management, L.P.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on December 17, 2025, John Morris, counsel for Highland, communicated with Drew York, counsel for Daugherty, regarding the relief requested in the foregoing Motion. Daugherty is **OPPOSED** to the relief requested in the Motion.

/s/ Zachery Z. Annable

Zachery Z. Annable

CERTIFICATE OF SERVICE

I hereby certify that, on December 24, 2025, a true and correct copy of the foregoing Motion was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this Adversary Proceeding.

/s/ Zachery Z. Annable
Zachery Z. Annable

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
-----	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff/Counter-Defendant,	§	Adv. Proc. No. 25-03055-bwo
	§	
v.	§	
	§	
PATRICK HAGAMAN DAUGHERTY,	§	
	§	
Defendant/Counter-Plaintiff.	§	

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

**ORDER GRANTING HIGHLAND CAPITAL MANAGEMENT, L.P.'S MOTION TO COMPEL
PRODUCTION OF AUDIO RECORDINGS, TRANSCRIPTS, AND RELATED DOCUMENTS**

Having considered (i) the *Motion to Compel Production of Audio Recordings, Transcripts and Related Documents* (the "Motion")² of Highland Capital Management, L.P. ("Highland"), plaintiff and counter-defendant in the above-captioned adversary proceeding (the "Adversary Proceeding"), (ii) the *Declaration of Hayley R. Winograd in Support of Highland Capital Management, L.P.'s Motion to Compel Production of Audio Recordings, Transcripts, and Related Documents* (the "Winograd Declaration") filed concurrently with the Motion, and (iii) any response of Patrick Daugherty ("Daugherty") in opposition to the Motion; and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue is proper in this district pursuant to 28 U.S.C. § 1409; (d) notice of the Motion was proper and sufficient under the circumstances and no further or additional notice need be given; and (e) the factual and legal bases set forth in the Motion and the Winograd Declaration establish sufficient cause for the relief granted in this Order. Accordingly, after due deliberation, **IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is **GRANTED** in its entirety.
2. Daugherty is to immediately produce to Highland the Secret Recordings and all other information responsive to Requests 9 and 10 of Highland's Requests dated October 24, 2025.
3. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

###End of Order###

² Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Motion.