Docket #0052 Date Filed: 7/13/2026

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: HIGHLAND CAPITAL MANAGEMENT, L.P., Reorganized Debtor.	Chapter 11 Case No. 19-34054-sgj11
MARK S. KIRSCHNER, AS LITIGATION TRUSTEE OF THE LITIGATION SUB-TRUST **Plaintiff,** **v.** **JAMES D. DONDERO; SCOTT ELLINGTON; ISAAC LEVENTON; GRANT JAMES SCOTT III; STRAND ADVISORS, INC.; NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.; DUGABOY INVESTMENT TRUST AND NANCY DONDERO, AS TRUSTEE OF DUGABOY INVESTMENT TRUST; GET GOOD TRUST AND GRANT JAMES SCOTT III, AS TRUSTEE OF GET GOOD TRUST; HUNTER MOUNTAIN INVESTMENT TRUST; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; AND SAS ASSET RECOVERY, LTD.** **Defendants.**	Adv. Pro. No. 21-03076-sgj **Civil Action No. 3:22-CV-203-S** *Consolidated with:* Case No. 3:22-CV-229 Case No. 3:22-CV-253 Case No. 3:22-CV-367 Case No. 3:22-CV-369 Case No. 3:22-CV-370

REPLY BRIEF AND NOTICE OF ORDER IN SUPPORT OF MOTION TO LIFT STAY

1934054260714000000000002

Plaintiff Hunter Mountain Investment Trust ("HMIT") files this Reply Brief and Notice of Order ("Reply") in Support of its Motion to Lift Stay [Doc. 48] ("Motion"), and respectfully shows the Court as follows:

1. This matter was stayed pursuant to the Court's May 7, 2026 Order ("Stay Order") for one reason ***only***:

> The parties have advised the Court that a Motion for Relief from Order and Motion to Vacate has been filed in the underlying bankruptcy case and may impact this case. Accordingly, this case is STAYED pending resolution of the Motion, without prejudice to it being reopened upon a motion by any party or to enter a judgment.

[Doc. 44] (citations omitted).

2. The referenced motion, Dugaboy Investment Trust's ("Dugaboy") *Motion for Relief from Order and Motion to Vacate* [Bk. Doc. 4513][1] ("Motion to Vacate"), was denied by Bankruptcy Judge O'Dell on June 15, 2026. *See* Memorandum Opinion [Bk. Doc. 4678] and Order [Bk. Doc. 4679]. Dugaboy subsequently filed its *Motion to Alter or Amend and for Reconsideration of Order Denying Motion for Relief from Order and Motion to Vacate* [Bk. Doc. 4684] (the "Motion for Reconsideration"), but the Motion for Reconsideration also was denied by Bankruptcy Judge Odell on July 10, 2026 [Bk. Doc. 4689] ("Order Denying Reconsideration") (attached as **Exhibit 1**).

[1] "Bk. Doc." refers to the docket in Chapter 11 Case No. 19-34054-sgj11, *In re: Highland Capital Management, L.P.* ("Bankruptcy Case").

3. The Defendants' continued opposition to lifting the stay relies exclusively upon the pendency of the Motion for Reconsideration. Thus, there is no colorable basis for a continued stay of these proceedings. Any additional delay is neither required nor supportable. HMIT has been waiting patiently to move this case forward and should be allowed to do so now. HMIT submits that it is time to put a stop to the Defendants' delay tactics.

4. This suit was filed as an adversary proceeding in October 2021, more than five and a half years ago.[2] Dugaboy's first Motion to Vacate asked for reconsideration of a prior order approving the transfer of the claims in this proceeding to HMIT—so Dugaboy's most recent Motion for Reconsideration was at least the ***third bite at the same apple*** in the Bankruptcy Court, with each bite getting progressively harder to justify. There are no more bites to take.

5. As HMIT's Motion details, the Motion to Vacate was an effort to set aside the Bankruptcy Court's order approving a settlement which included the assignment of the claims in this matter to HMIT.[3] Dugaboy objected to the settlement and assignment of claims, but its objections were overruled. *See Order Pursuant to Bankruptcy Rule 9019 and 11 U.S.C. § 363 Approving Settlement Between the Highland Entities and the HMIT Entities*

[2] *See* Adv. Pro. No. 21-03076-sgj ("Adv. Doc." or "Adversary Proceeding").

[3] *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* [Bk. Doc. 4216], ¶ 2.

and Authorizing Actions Consistent Therewith [Bk. Doc. 4297] ("Settlement Order"). Dugaboy appealed and requested a stay of the Settlement Order from the Bankruptcy Court [Bk. Doc. 4326], which was likewise denied. *See Memorandum Opinion and Order Regarding Stay Requests [Addressing Doc. Nos. 4326 & 4308]* [Bk. Doc. 4333]. And then Dugaboy's Motion to Vacate, filed nearly a year after the Settlement Order was approved, was rejected, with Judge O'Dell concluding that the Motion to Vacate presented "no[] newly discovered evidence that necessitates vacatur of the [Settlement Order]." [Bk. Doc. 4678, ¶ 23].

6. The Settlement Order has been fully implemented, and Defendants' serial attempts to have it vacated or stayed have been rejected repeatedly, by two different bankruptcy judges.[4] Dugaboy's latest Motion for Reconsideration merely reiterated the same rejected arguments and has now met the same fate.

7. Procedurally, Dugaboy's latest bite at the same apple was brought under Fed. R. Civ. P. 59(e), and asked the Bankruptcy Court to "alter or amend" it's June 16 Order denying the Motion to Vacate [Bk. Doc. 4679], which itself asked the Bankruptcy Court to "alter or amend" its Settlement Order under Fed. R. Civ. P. 60(b). However, the Bankruptcy Court had "considerable discretion" to deny Dugaboy's Rule 60(b) Motion to Vacate (*Edward H. Bohlin Co. v. Banning Co.*, 6 F.3d 350, 355 (5th Cir. 1993)), and it is well understood that reconsideration under Rule 59(e) should "not be used to relitigate

[4] *See* [Bk. Doc. 4297, 4678].

old matters." *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008) (quoting Wright and Miller, *Federal Practice and Procedure* § 2810.1 (2d ed. 1995)). It is therefore no surprise that the Bankruptcy Court swiftly and summarily denied Dugaboy's Motion for Reconsideration.

8. As Highland Capital Management, L.P., the reorganized debtor in the chapter 11 case, and the Highland Claimant Trust explained in their response to the Motion for Reconsideration [Bk. Doc. 4687], the Bankruptcy Court gave Dugaboy every opportunity to pursue its Rule 60(b) Motion to Vacate, and heard ample evidence. The Bankruptcy Court not only granted Dugaboy discovery from HMIT and Highland Capital, including both documentary productions and depositions, it then afforded Dugaboy a three-day trial at which "the Court admitted hundreds of exhibits and heard testimony from five witnesses." [Bk. Doc. 4678, ¶ 9]. HMIT submits that it is time to stop the delay and allow HMIT to prosecute its claims and develop its case.

Respectfully submitted,

/s/ Sawnie A. McEntire
Sawnie A. McEntire
Texas Bar No. 13590100
smcentire@pmmlaw.com
Ian B. Salzer
Texas Bar No. 24110325
isalzer@pmmlaw.com
PARSONS MCENTIRE MCCLEARY PLLC
1700 Pacific Avenue, Suite 4400
Dallas, Texas 75201
Tel. (214) 237-4300
Fax (214) 237-4340

ATTORNEYS FOR PLAINTIFF
HUNTER MOUNTAIN INVESTMENT TRUST

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on July 13, 2026, in compliance with the Federal Rules of Civil Procedure.

/s/ Ian B. Salzer
Ian B. Salzer

EXHIBIT 1

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 10, 2026

United States Bankruptcy Judge

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

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	**Case No. 19-34054-sgj11**
	§	
	§	
Debtor.	§	

ORDER DENYING MOTION TO RECONSIDER

On June 15, 2026, the Court entered its Memorandum Opinion and Order denying the relief sought by the Dugaboy Investment Trust's ("Dugaboy") *Memorandum of Law in Support of the Dugaboy Investment Trust's Motion for Relief from Order and Motion to Vacate*. Dkt Nos. 4678, 4679.

Thereafter, on June 29, 2026, Dugaboy filed its *Motion to Alter or Amend and for Reconsideration of Order Denying Motion for Relief from Order and Motion to Vacate* (the "Motion to Reconsider").[1] Dkt. No. 4684. On July 6, 2026, Highland Capital Management, L.P. and the Highland Claimant Trust (together, "Highland") filed their opposition to the Motion to Reconsider. Dkt. No. 4687.

[1] On the same day, Dugaboy also filed a Notice of Appeal. Dkt. No. 4685.

Then, on July 9, 2026, Dugaboy filed its *Notice of Intent to Reply and Request for Hearing on its* [Motion to Reconsider], in which Dugaboy attached a complaint pending in the 14th Judicial District of Dallas County filed by Mark Patrick and DFW Charitable Foundation against Matt Gaetz, Lance Gooden, and another defendant. Dkt. No. 4688.

The Court reviewed the Motion to Reconsider, Highland's opposition, and Dugaboy's July 9 notice. The Court finds that further briefing and a hearing on the issues raised in the Motion to Reconsider are not necessary for the Court to rule on the Motion to Reconsider.

Based on its review of the pleadings, the Court finds that Dugaboy's Motion to Reconsider is without merit. It is, therefore,

ORDERED that the Motion to Reconsider [Dkt. No. 4684] is denied; and it is further

ORDERED that, under Fed. R. Bankr. P. 8002(b)(1), (2), Dugaboy's Notice of Appeal [Dkt. No. 4685] becomes effective upon entry of this Order.

End of Order