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

In re: HIGHLAND CAPITAL MANAGEMENT, L.P. Reorganized Debtor.	Chapter 11 Case No. 19-34054-sgj11
THE DUGABOY INVESTMENT TRUST, Appellant, v. HIGHLAND CAPITAL MANAGEMENT, L.P. *et al.,* Appellees.	Case No. 3:26-cv-02315-X

HIGHLAND CAPITAL MANAGEMENT, L.P. AND THE HIGHLAND CLAIMANT TRUST'S REPLY IN FURTHER SUPPORT OF THEIR MOTION TO DESIGNATE RELATED CASE

Highland, by and through its undersigned counsel, respectfully submits this reply (the "Reply") in further support of its Motion to Designate Related Case (the

"Motion" or "Mot."; Dkt. No. 2) and in response to Dugaboy's Opposition thereto (the "Opposition" or "Opp."; Dkt. No. 3).[1]

1. Although nominally styled as an Opposition, ***Dugaboy's filing does not dispute that the Rule 60(b) Appeal squarely meets every criterion for designation as "related" to the Rule 9019 Appeal***. Nor could it: Dugaboy and Highland are parties to both Appeals; both Appeals challenge the same Rule 9019 Settlement; both Appeals are based on substantially similar legal and factual bases; and both Appeals arise from the Highland bankruptcy estate. (*See* Opp. at 2–4, 8–9; Mot. at 4 (citing JS 44 Instructions; Local Civ. R. 3.3(b)(3)).) Respectfully, this Motion can and should be granted on that concession alone.

2. Nevertheless, Dugaboy tacitly blames "the bankruptcy clerk" for not marking the Rule 60(b) Appeal as related to the Rule 9019 Appeal in the civil cover sheet and hides behind that purported decision. (Opp. at 6–7.) But Dugaboy offers no explanation for its own failure to designate the case as related in the first instance or, once Highland brought this issue to Dugaboy's attention, to file a corrective notice. (Mot. at 4 (citing Local Civ. R. 3.3(a), (c)).)[2]

[1] All undefined capitalized terms have the same meanings as in Highland's Motion, and all references to "Dkt." refer to the docket in the Rule 60(b) Appeal, unless otherwise indicated.

[2] *See also* https://www.nysb.uscourts.gov/sites/default/files/Appeals_Guidelines_Combined.pdf (practice guide for S.D.N.Y. bankruptcy court specifically instructing appellants to complete form JS 44 and submit as an attachment to Notice of Appeal to district court). Although there does not appear to be a similar document on the N.D. Tex. bankruptcy court's site, Highland's counsel directed Dugaboy's counsel to this guidance as a helpful example, but Dugaboy persists in blaming the clerk here.

3. Dugaboy does not dispute that, as a routine matter, a later-filed case designated as related to a pending case is assigned to the same judge as the pending case. *See, e.g.*, *Valentine v. Coller*, 2020 WL 1685122, at *1 (S.D. Tex. Apr. 6, 2020) ("[T]he practice of assigning related cases to the same judge is in furtherance of the Court's interest in judicial economy.") (collecting cases). Yet Dugaboy asserts—tellingly, without citing any authority—that "nothing in the applicable federal or local civil rules or bankruptcy rules requires or even allows a 'related' designation to trigger a reassignment of the presiding judge." (Opp. at 1; *see also id.* at 5.) But had Dugaboy researched the issue before making such an assertion, presumably it would have located Fifth Circuit precedent holding that a district court ***must*** transfer an action where, as here, "related cases were pending before" another judge, and that a court's failure to do so is "an abuse of discretion." *Save Power Ltd. v. Syntek Fin. Corp.*, 121 F.3d 947, 952 (5th Cir. 1997); *see also United States v. Osum*, 943 F.2d 1394, 1400–01 (5th Cir. 1991) (cited in Opp. at 5–6).[3]

4. Dugaboy baselessly asserts that a relatedness designation somehow "creates the appearance of improper judge-shopping," because cases should be assigned only "by randomized draw." (Opp. at 5–6.) But by Dugaboy's logic, the

[3] In *Black v. Triplett (In re Triplett)*, 645 B.R. 196, 199–200, 203–04 (Bankr. E.D. Tex. 2022) (cited at Opp. at 6), by contrast, the court denied the intra-district reassignment of *unrelated* adversary proceedings "[f]or the convenience of the parties" after the "Court ruled against Plaintiffs in one of many discovery disputes" and "Defendant separately filed a motion for sanctions in each of these cases."

practice of assigning a related case to the same judge should not exist; this Court—and courts across the country—have clearly determined otherwise. *See* Local Civ. R. 3.3; *Valentine*, 2020 WL 1685122, at *1. What is more, the notion that Highland is "judge-shopping" to avoid Judge Starr is absurd: Judge Starr has (like virtually every judge in the over five *dozen* actions and appeals pursued by Dugaboy's principal, Mr. Dondero) ruled decisively against Dugaboy and Mr. Dondero.[4] Highland has no concerns about Judge Starr, but quite legitimate concerns about Dugaboy's demonstrated strategy of obfuscation and delay.[5]

5. Lacking any basis to oppose designating the Appeals as related, Dugaboy devotes the bulk of its Opposition to attacking a strawman by arguing against "consolidating the two appeals." (Opp. at 2; *see also id.* at 7–9.) But

[4] *See, e.g.*, *Highland Cap. Mgmt., L.P. v. NexPoint Asset Mgmt., L.P.*, Case No. 3:21-cv-00881-X, Dkt. No. 128 (N.D. Tex. July 6, 2023) (Judge Starr adopting Report and Recommendation finding Mr. Dondero and related entities liable on millions in obligations owed to Highland); *Dondero v. Highland Cap. Mgmt., L.P.*, Case No. 3:20-cv-03390-X, Dkt. No. 25 (N.D. Tex. Mar. 18, 2022) (Judge Starr granting Highland's motion to dismiss Dondero's appeal of the bankruptcy court's 9019 order approving the settlement with Acis Capital Management and Josh Terry); *Dugaboy Inv. Tr. v. Highland Cap. Mgmt., L.P.*, Case No. 3:21-cv-01295-X, Dkt. No. 34 (N.D. Tex. Sept. 22, 2022) (Judge Starr affirming the Bankruptcy Court 9019 order approving the settlement with UBS Securities and UBS AG). *See also Highland Cap. Mgmt., L.P. v. Highland Cap. Mgmt. Fund Advisors, L.P. (In re Highland Cap. Mgmt., L.P.)*, 2022 WL 2826903 (Bankr. N.D. Tex. July 19, 2022) (Jernigan, C.J.) (R&R detailing factual and legal deficiencies in Mr. Dondero's numerous "self-serving" contentions), *aff'd*, 116 F.4th 422 (5th Cir. 2024).

[5] On this one Rule 9019 settlement alone, Dugaboy has objected, moved for a stay of the approval order, appealed the approval order, moved for Rule 60(b) relief, sought reconsideration of the denial of Rule 60(b) relief, appealed the Rule 60(b) denial, and opposed designating those two appeals as "related." Dugaboy has also backed parallel litigation in other jurisdictions seeking to attack the settlement collaterally, including a lawsuit in the Texas Business Court, a Cayman Islands liquidation proceeding, and a Chapter 15 recognition proceeding, all of which are pending (but none of which has been successful). How much more evidence could one need that Dugaboy's goal here is to throw as much sand in the gears as possible?

Highland did not move to *consolidate* the Appeals; it moved only to designate the Appeals as related, which Dugaboy's own authority recognizes is not the same thing. *See Coates v. SAIA Motor Freight Line, LLC*, 2020 WL 1912020, at *2 (N.D. Miss. Apr. 8, 2020) (denying motion to transfer because "Rule 42 applies to consolidated civil actions," not related actions) (cited at Opp. at 5). Dugaboy is therefore opposing a nonexistent motion.[6]

6. At bottom, Dugaboy's goal is to delay resolution of the 9019 Settlement by forcing a different judge to wade through the same issues that, in a fully briefed appeal, are pending before one of his colleagues. Indeed, the fact that Dugaboy has required this much ink to be spilled over a purely ministerial matter—and where Dugaboy does not even dispute that the case meets all stated criteria for the simple box-checking that should have sufficed—is proof positive that Dugaboy is engaged in pure gamesmanship.

WHEREFORE, Highland respectfully requests that this Court enter an order (1) designating the Rule 60(b) Appeal as related to the Rule 9019 Appeal, (2) reassigning the Rule 60(b) Appeal to Judge Kinkeade, and (3) granting Highland such additional relief as may be just and proper.

[6] Dugaboy's assertion that Highland has "steadfastly opposed consolidation" is false. (Opp. at 1; *see also id.* at 7–9.) Highland has sought or stipulated to consolidation where appropriate (*see, e.g.*, Rule 9019 Appeal Dkt. No. 18 (seeking consolidation of Dugaboy and Patrick Daugherty's separate appeals of the Rule 9019 Order)), has opposed consolidation where not appropriate (*see* Opp. at 3–4, 7–9), and reserves the right to seek consolidation of the Appeals here.

Dated: July 17, 2026

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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 1,332 words.

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/s/ Zachery Z. Annable
Zachery Z. Annable

CERTIFICATE OF SERVICE

I hereby certify that, on July 17, 2026, a true and correct copy of the foregoing Reply was served electronically via the Court's CM/ECF system upon all parties receiving electronic notice in this case.

/s/ Zachery Z. Annable
Zachery Z. Annable