

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

WITHDRAWAL OF REFERENCE SERVICE LIST

Transmission of the Record

BK Case No.: 19-34054-sgj11

Adversary No.: 20-03195-sgj

Received in District Court by: _____

Date: _____

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BTXN 150 (rev. 11/10)

In Re:
Highland Capital Management, L.P. and CLO Holdco, Ltd.

Official Committee of Unsecured Creditors

vs.
CLO Holdco, Ltd. et al.

Debtor(s)

Plaintiff(s)

Defendant(s)

Case No.: 19-34054-sgj11

Chapter No.: 11

Adversary No.: 20-03195-sgj

CIVIL CASE COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFF

Official Committee of Unsecured Creditors

(b) County of Residence of First Listed Party:
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Paige Holden Montgomery
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DEFENDANT

CLO Holdco, Ltd., et al.

County of Residence of First Listed Party:
(IN U.S. PLAINTIFF CASES ONLY)

Attorney's (If Known)
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II. BASIS OF JURISDICTION

- 1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question (U.S. Government Not a Party) 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

- | | | | | | |
|---|-------------------------|-------------------------|--|-------------------------|-------------------------|
| Citizen of This State | <input type="radio"/> 1 | <input type="radio"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="radio"/> 4 | <input type="radio"/> 4 |
| Citizen of Another State | <input type="radio"/> 2 | <input type="radio"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="radio"/> 5 | <input type="radio"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="radio"/> 3 | <input type="radio"/> 3 | Foreign Nation | <input type="radio"/> 6 | <input type="radio"/> 6 |

IV. NATURE OF SUIT

- 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 890 Other Statutory Actions

V. ORIGIN

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened
 5 Transferred from another district 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment
-

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
423 Withdrawal 28 USC 157

Brief description of cause:
Motion to withdraw the reference

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
Judge:

Docket Number: 3:21-cv-01112-C 3:21-cv-01173-X

DATED: 5/17/21

FOR THE COURT:
Robert P. Colwell, Clerk of Court
by: /s/Sheniqua Whitaker, Deputy Clerk

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ATTORNEYS FOR DEFENDANT JAMES DONDERO

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

In re:	§	
	§	Case No. 19-34054-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	Chapter 11
Debtor.	§	

OFFICIAL COMMITTEE OF UNSECURED CREDITORS,	§	
	§	
Plaintiff,	§	
	§	Adversary No. 20-03195
vs.	§	
	§	
CLO HOLDCO, LTD., CHARITABLE DAF HOLDCO, LTD., CHARITABLE DAF FUND, LP, HIGHLAND DALLAS FOUNDATION, INC., THE DUGABOY INVESTMENT TRUST, GRANT JAMES SCOTT III IN HIS INDIVIDUAL CAPACITY, AS TRUSTEE OF THE DUGABOY INVESTMENT TRUST, AND AS TRUSTEE OF THE GET GOOD NONEXEMPT TRUST, AND JAMES D. DONDERO,	§	
	§	
Defendants.	§	

RELIEF REQUESTED FROM DISTRICT COURT

JURY TRIAL DEMANDED

**DEFENDANT JAMES DONDERO’S MOTION TO WITHDRAW THE REFERENCE
AND JOINDER IN SUPPORT OF MOTIONS BY OTHER DEFENDANTS TO
WITHDRAW THE REFERENCE**

Defendant James Dondero (“Dondero”) files this *Motion to Withdraw the Reference* (the “Motion”) and joins Defendants CLO Holdco, Ltd., Highland Dallas Foundation, Inc., The Dugaboy Investment Trust, and The Get Good Nonexempt Trust in their motions to do the same. *See* Docket Nos. 24 & 33 (the “Other Motions”). This Motion incorporates by reference the Other Motions and their attached briefs in support, which address the District Court’s jurisdiction, the statutes and rules governing this Motion, and the history of this matter. Dondero respectfully presents the following:

The Bankruptcy Court does not have constitutional authority to enter a final judgment here because the Plaintiff seeks money damages. *Stern v. Marshall*, 564 U.S. 462, 484 (2011).¹ When a party is seeking a claim for money damages, the claim is “unquestionably legal,” *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 476 (1962), such that “the constitutional right to trial by jury cannot be made to depend upon the choice of words used in the pleadings.” *Id.* at 477-78. Dondero has a 7th Amendment right to a jury trial and does not consent to the Bankruptcy Court conducting a jury trial in this adversary proceeding. Dondero does not consent to the Bankruptcy

¹ “Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking if the other branches of the Federal Government could confer the Government’s ‘judicial Power’ on entities outside Article III. That is why we have long recognized that, in general, Congress may not ‘withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.’ When a suit is made of ‘the stuff of the traditional actions at common law tried by the courts at Westminster in 1789,’ and is brought within the bounds of federal jurisdiction, **the responsibility for deciding that suit rests with Article III judges in Article III courts.** The Constitution assigns that job--resolution of ‘the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law’ --to the Judiciary.” (bold emphasis added) (internal citations omitted).

Court entering final orders or judgments in this adversary proceeding. He has not waived his right to a jury trial or to Article III adjudication, and for the reasons set forth in this Motion and the Other Motions, Dondero asks that the reference of this adversary proceeding to the Bankruptcy Court be withdrawn.

Dated: May 10, 2021

Respectfully submitted,

/s/ William R. Howell, Jr.

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ATTORNEYS FOR DEFENDANT JAMES DONDERO

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on May 10, 2021, this document was filed electronically via the Court's CM/ECF system which automatically provides notice to registered parties.

/s/ William R. Howell, Jr.

William R. Howell, Jr.