

Clay M. Taylor
Bryan C. Assink
BONDS ELLIS EPPICH SCHAFFER JONES LLP
420 Throckmorton Street, Suite 1000
Fort Worth, Texas 76102
(817) 405-6900 telephone
(817) 405-6902 facsimile
Email: clay.taylor@bondsellis.com
Email: bryan.assink@bondsellis.com

Attorneys for James Dondero

Deborah Deitsch-Perez
Michael P. Aigen
STINSON LLP
3102 Oak Lawn Avenue, Suite 777
Dallas, Texas 75219
(214) 560-2201 telephone
(214) 560-2203 facsimile
Email: deborah.deitschperez@stinson.com
Email: michael.aigen@stinson.com

**Attorneys for James Dondero, Nancy Dondero,
Highland Capital Management Services, Inc. and
NexPoint Real Estate Partners, LLC**

Daniel P. Elms
State Bar No. 24002049
GREENBERG TRAUERIG, LLP
2200 Ross Avenue, Suite 5200
Dallas, Texas 75201
(214) 665-3600 telephone
(214) 665-3601 facsimile
Email: elmsd@gtlaw.com

Attorneys for Nancy Dondero

Douglas S. Draper (La. Bar No. 5073)
Leslie A. Collins (La. Bar No. 14891)
Greta M. Brouphy (La. Bar No. 26216)
HELLER, DRAPER & HORN, L.L.C.
650 Poydras Street, Suite 2500
New Orleans, Louisiana 70130
(504) 299-3300 telephone
(504) 299-3399 facsimile
Email: ddraper@hellerdraper.com
Email: lcollins@hellerdraper.com
Email: gbrouphy@hellerdraper.com

Attorneys for The Dugaboy Investment Trust

Davor Rukavina
Julian P. Vasek
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75202-2790
(214) 855-7500 telephone
(214) 978-4375 facsimile
Email: drukavina@munsch.com

**Attorneys for NexPoint Advisors, L.P. and
Highland Capital Management Fund Advisors, L.P.**

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

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

NEXPOINT ADVISORS, L.P., JAMES
DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

§
§
§
§
§ Adv. Proc. No. 21-03005-sgj
§
§ Case No. 3:21-cv-00880-C
§
§
§
§



HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.,

Defendant.

§
§
§ Adv. Proc. No. 21-03004-sgj

§
§ Case No. 3:21-cv-00881-X

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

JAMES DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

§
§ Adv. Proc. No. 21-03003-sgj

§
§ Case No. 3:21-cv-01010-E

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT
SERVICES, INC., JAMES DONDERO,
NANCY DONDERO, AND THE
DUGABOY INVESTMENT TRUST,

Defendants.

§
§ Adv. Proc. No. 21-03006-sgj

§
§ Case No. 3:21-cv-01378-N

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HCRE PARTNERS, LLC (n/k/a NexPoint
Real Estate Partners, LLC), JAMES
DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

§
§ Adv. Proc. No. 21-03007-sgj

§
§ Case No. 3:21-cv-01379-X

**APPENDIX IN SUPPORT OF DEFENDANTS' MOTION TO CONSOLIDATE THE
NOTE CASES**

Defendants file this Appendix in Support of their *Motion to Consolidate the Note Cases*, and request this Court take judicial notice of the documents contained herein.

Exhibit	Document	Appendix Page(s)
A	Declaration of Deborah Deitsch-Perez in Support of Motion to Consolidate the Note Cases, dated December 10, 2021	App. 1-5
1	Emails between D. Deitsch-Perez and J. Morris, dated December 7, 2021	App. 6-8

Dated: December 10, 2021

Respectfully submitted,

/s/Deborah Deitsch-Perez

Deborah Deitsch-Perez

State Bar No. 24036072

Michael P. Aigen

State Bar No. 24012196

STINSON LLP

3102 Oak Lawn Avenue, Suite 777

Dallas, Texas 75219

(214) 560-2201 telephone

(214) 560-2203 facsimile

Email: deborah.deitschperez@stinson.com

Email: michael.aigen@stinson.com

**ATTORNEYS FOR JAMES DONDERO, NANCY
DONDERO, HIGHLAND CAPITAL MANAGEMENT
SERVICES, INC. AND NEXPOINT REAL ESTATE
PARTNERS, LLC**

/s/Clay M. Taylor

Clay M. Taylor
State Bar No. 24033261
Bryan C. Assink
State Bar No. 24089009
BONDS ELLIS EPPICH SCHAFFER JONES LLP
420 Throckmorton Street, Suite 1000
Fort Worth, Texas 76102
(817) 405-6900 telephone
(817) 405-6902 facsimile
Email: clay.taylor@bondsellis.com
Email: bryan.assink@bondsellis.com
ATTORNEYS FOR JAMES DONDERO

/s/Daniel P. Elms

Daniel P. Elms
State Bar No. 24002049
GREENBERG TRAUIG, LLP
2200 Ross Avenue, Suite 5200
Dallas, Texas 75201
(214) 665-3600 telephone
(214) 665-3601 facsimile
Email: elmsd@gtlaw.com
ATTORNEYS FOR NANCY DONDERO

/s/Douglas S. Draper

Douglas S. Draper (La. Bar No. 5073)
Leslie A. Collins (La. Bar No. 14891)
Greta M. Brouphy (La. Bar No. 26216)
HELLER, DRAPER & HORN, L.L.C.
650 Poydras Street, Suite 2500
New Orleans, LA 70130
(504) 299-3300 telephone
(504) 299-3399 facsimile
Email: ddraper@hellerdraper.com
Email: lcollins@hellerdraper.com
Email: gbrouphy@hellerdraper.com
**ATTORNEYS FOR THE DUGABOY INVESTMENT
TRUST**

/s/Davor Rukavina

Davor Rukavina
Julian P. Vasek
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75202-2790
(214) 855-7500 telephone
(214) 978-4375 facsimile
Email: drukavina@munsch.com

**ATTORNEYS FOR NEXPOINT ADVISORS, L.P. AND
HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.**

CERTIFICATE OF SERVICE

I certify that on December 10, 2021, a true and correct copy of the foregoing document was served via the Court's Electronic Case Filing system to the parties that are registered or otherwise entitled to receive electronic notices in this case.

/s/ Deborah Deitsch-Perez

Deborah Deitsch-Perez

EXHIBIT A

Clay M. Taylor
Bryan C. Assink
BONDS ELLIS EPPICH SCHAFER JONES LLP
420 Throckmorton Street, Suite 1000
Fort Worth, Texas 76102
(817) 405-6900 telephone
(817) 405-6902 facsimile
Email: clay.taylor@bondsellis.com
Email: bryan.assink@bondsellis.com

Attorneys for James Dondero

Daniel P. Elms
State Bar No. 24002049
GREENBERG TRAUIG, LLP
2200 Ross Avenue, Suite 5200
Dallas, Texas 75201
(214) 665-3600 telephone
(214) 665-3601 facsimile
Email: elmsd@gtlaw.com

Attorneys for Nancy Dondero

Davor Rukavina
Julian P. Vasek
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75202-2790
(214) 855-7500 telephone
(214) 978-4375 facsimile
Email: drukavina@munsch.com

**Attorneys for NexPoint Advisors, L.P. and
Highland Capital Management Fund Advisors, L.P.**

Deborah Deitsch-Perez
Michael P. Aigen
STINSON LLP
3102 Oak Lawn Avenue, Suite 777
Dallas, Texas 75219
(214) 560-2201 telephone
(214) 560-2203 facsimile
Email: deborah.deitschperez@stinson.com
Email: michael.aigen@stinson.com

**Attorneys for James Dondero, Nancy Dondero,
Highland Capital Management Services, Inc. and
NexPoint Real Estate Partners, LLC**

Douglas S. Draper (La. Bar No. 5073)
Leslie A. Collins (La. Bar No. 14891)
Greta M. Brouphy (La. Bar No. 26216)
HELLER, DRAPER & HORN, L.L.C.
650 Poydras Street, Suite 2500
New Orleans, Louisiana 70130
(504) 299-3300 telephone
(504) 299-3399 facsimile
Email: ddraper@hellerdraper.com
Email: lcollins@hellerdraper.com
Email: gbrouphy@hellerdraper.com

Attorneys for The Dugaboy Investment Trust

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

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

NEXPOINT ADVISORS, L.P., JAMES
DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Adv. Proc. No. 21-03005-sgj

Case No. 3:21-cv-00880-C

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT FUND
ADVISORS, L.P.,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Adv. Proc. No. 21-03004-sgj
Case No. 3:21-cv-00881-X

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

JAMES DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Adv. Proc. No. 21-03003-sgj
Case No. 3:21-cv-01010-E

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT
SERVICES, INC., JAMES DONDERO,
NANCY DONDERO, AND THE
DUGABOY INVESTMENT TRUST,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Adv. Proc. No. 21-03006-sgj
Case No. 3:21-cv-01378-N

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HCRE PARTNERS, LLC (n/k/a NexPoint
Real Estate Partners, LLC), JAMES
DONDERO, NANCY DONDERO, AND
THE DUGABOY INVESTMENT TRUST,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Adv. Proc. No. 21-03007-sgj
Case No. 3:21-cv-01379-X

**DECLARATION OF DEBORAH DEITSCH-PEREZ IN SUPPORT OF DEFENDANTS’
RESPONSE AND MOTION TO CONSOLIDATE THE NOTE CASES**

Deborah Deitsch-Perez, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declares as follows:

1. I am a member of the law firm of Stinson LLP, counsel to Defendant James Dondero and Nancy Dondero, Highland Capital Management Services, Inc. and NexPoint Real Estate Partners, LLC, and I submit this Declaration in support of the *Defendants’ Motion to Consolidate the Note Cases*, which is being filed concurrently with this Declaration. I submit this Declaration based on my personal knowledge and the documents listed below.

2. Attached as **Exhibit 1** is a true and correct copy of email correspondence between myself and Plaintiff’s counsel on December 7, 2021, in which I agreed (at Debtor’s request and with the authorization of all Defendants) to consolidate *all* of the Note Cases for the purposes of review of the Reports and Recommendations resulting from Debtor’s motions for summary judgment before the Bankruptcy Court, which Debtor indicated would be served on or about December 17, 2021. It also reflects my representation to Debtor that Defendants would agree to consolidate four of the five Note Cases, 3:21-cv-0080-C, 3:21-cv-01010-E, 3:21-cv-01378-N, and 3:21-cv-01379-X, for trial.

3. The fifth Note Case, the “HCMFA case” (case no. 3:21-cv-00881-X) has a considerably different defense and thus HCMFA requested that its case be tried separately, but agreed to consolidation for review of the Bankruptcy Court’s Reports and recommendations. The Debtor declined the Defendants’ proposal.

4. On December 7, 2021, I also indicated to opposing counsel that we would revisit the issue with HCMFA if that was a sticking point (albeit with no promises made), although I urged it was an issue that could and should be left to be addressed after the resolution of the

summary judgment motions. Debtor's response was to file a motion to consolidate all of the Note Cases before the court presiding over the third-filed case.

Dated: December 10, 2021

/s/Deborah Deitsch-Perez
Deborah Deitsch-Perez

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on December 10, 2021, a true and correct copy of the foregoing document was served via the Court's CM/ECF system on all parties who are registered to receive notices in this case.

/s/ Deborah Deitsch-Perez
Deborah Deitsch-Perez

EXHIBIT 1

Gratt, Stephanie M.

From: Deitsch-Perez, Deborah R.
Sent: Tuesday, December 7, 2021 4:24 PM
To: John A. Morris
Subject: RE: conferring

Here is what we just proposed in a nutshell.

If the B Ct recommends SJ, we would agree to consolidate the review before Judge Starr which is the first filed note case in the district court (not before a sr judge), and has 2 note cases already. The actual first filed is Cummings, but is he senior, and I hear, close to retirement, and in Lubbock.

We would agree to consolidate all but the HCMFA case for trial. HCMFA has markedly different issues and would like to have a separate trial.

We anticipate appealing the arbitration decision and would agree to consolidate before Starr, but would also agree to suspend briefing (to be set at some later point). We are only appealing to forestall any waiver argument Debtor might make, given that there is no urgency given Debtor's agreement that it is only moving for SJ on counts 1 and 2. I understand Debtor will drop the new claims if it prevails on the original claims.

We have proposed to the larger group responses re Debtor's proposed exhibits. We do not anticipate that there will be disputes over many. Please send designations for the depositions when you have them.

From: John A. Morris <jmorris@pszjlaw.com>
Sent: Tuesday, December 7, 2021 2:31 PM
To: Deitsch-Perez, Deborah R. <deborah.deitschperez@stinson.com>
Subject: RE: conferring

External Email – Use Caution

Do you have a proposal?

We are filing this today. If there is something you want us to consider, please lay it out and we can discuss.

But we asked for consent five days ago.

Let me know. I am free at 4:00 pm Central. If you have a proposal, please send it in advance.

Thanks.

From: Deitsch-Perez, Deborah R. [<mailto:deborah.deitschperez@stinson.com>]
Sent: Tuesday, December 07, 2021 3:28 PM
To: John A. Morris <jmorris@pszjlaw.com>
Subject: conferring

When would a good time be? I am open other than 5-5:30 my time

Deborah R. Deitsch-Perez
Partner

STINSON LLP

3102 Oak Lawn Avenue, Suite 777

Dallas, TX 75219

Direct: 214.560.2218 \ Mobile: 214.232.7582 \ [Bio](#)

Assistant: DAL.LSSTeam2@stinson.com \ 469.587.8860

STINSON.COM

This communication (including any attachments) is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.