

BTXN 116 (rev. 07/08)

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.: 21-03082-sgj

Received in District Court by: _____

Date: _____

Volume Number(s): _____

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Defendant Highland Capital Management Fund Advisors, L.P.

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BTXN 150 (rev. 11/10)

In Re:
 Highland Capital Management, L.P.

Highland Capital Management, L.P.

vs.
 Highland Capital Management Fund Advisors, L.P.

Debtor(s)
 Plaintiff(s)
 Defendant(s)

Case No.: 19-34054-sgj11
 Chapter No.: 11
 Adversary No.: 21-03082-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

Highland Capital Management, LP

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

(c) Attorney's (Firm Name, Address, and Telephone Number)

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DEFENDANT

Highland Capital Management Fund Advisors, L.P.

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 1 1 Incorporated *or* Principal Place of Business In This State 4 4
 Citizen of Another State 2 2 Incorporated *and* Principal Place of Business In Another State 5 5
 Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 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Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):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:

DATED: 4/6/22

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

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 Management Fund Advisors, L.P.*

**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.	§	
<hr/>		
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adversary No. 21-03082
	§	
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.	§	
	§	
	§	
Defendant.	§	

**AGREED MOTION FOR THE ISSUANCE OF A REPORT AND RECOMMENDATION
WITHDRAWING THE REFERENCE**

COMES NOW Highland Capital Management, L.P., as the reorganized debtor (“Highland” or “Plaintiff”), and Highland Capital Management Fund Advisors, L.P. (“HCMFA” or “Defendant”, and together with Highland, the “Parties”), by and through their respective undersigned counsel, file this *Agreed Motion for the Issuance of a Report and Recommendation Withdrawing the Reference* (the “Motion”) respectfully stating as follows:

On October 16, 2019 (the “Petition Date”), Highland filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”).

On December 4, 2019, the Delaware Court entered an order transferring venue of Highland’s bankruptcy case (the “Bankruptcy Case”) to the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”). On January 22, 2021, Highland filed its *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (as Modified) [Bankr. **Docket No. 1808**] (the “Plan”).

On February 22, 2021, the Bankruptcy Court entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [**Docket No. 1943**] (the “Confirmation Order”) which confirmed Highland’s Plan.

On August 11, 2021, the Plan became Effective (as defined in the Plan), and Highland became the Reorganized Debtor (as defined in the Plan). *See Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Bankr. **Docket No. 2700**].

On January 22, 2021, Highland commenced a different adversary proceeding involving the same parties (the “First Adversary Proceeding”) as this adversary proceeding, Adv. No. 21-03004, but involving different promissory notes. In the First Adversary Proceeding, HCMFA filed *Defendant's Motion to Withdraw the Reference* [Docket No. 20], asking the United States District Court for the Northern District of Texas (the “District Court”) to enter an order withdrawing from the Bankruptcy Court the reference of the First Adversary Proceeding. On July 8, 2021, the Bankruptcy Court issued a *Report and Recommendation to District Court Proposing that it (A) Grant Defendant's Motion to Withdraw the Reference at Such Time as Bankruptcy Court Certifies that Action is Trial Ready, and (B) Defer Pretrial Matters to Bankruptcy Court*. [Docket No. 50] (the “First Report and Recommendation”).

On September 14, 2021, the District Court, in Civil Action No. 3:21-CV-00881-X, issued an Order accepting the First Report and Recommendation referring the case for pretrial management to the Bankruptcy Court until that Court notifies the District Court that the case is ready for trial, at which time the reference would be withdrawn. [Docket No 14].

On November 9, 2021, Highland commenced this adversary proceeding, involving the same parties as the First Adversary Proceeding, but involving different promissory notes.

On November 10, 2021, the Bankruptcy Court issued its *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 3] (the “Alternative Scheduling Order”). This Adversary Proceeding was automatically referred to the Bankruptcy Court pursuant to 28 U.S.C. § 157(a) and District Court Miscellaneous Order No. 33, *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc*.

In light of the foregoing, and to avoid unnecessary motion practice, the Parties jointly request that the Bankruptcy Court issue a report and recommendation substantively the same as

the First Report and Recommendation, including that (a) the District Court refer all pre-trial matters to the Bankruptcy Court and withdraw the reference upon certification by the Bankruptcy Court that the case is trial-ready, and (b) to the extent a dispositive motion is brought that the Bankruptcy Court determines should be granted and would finally dispose of claims in this Adversary Proceeding, the Bankruptcy Court should submit a report and recommendation to the District Court for the District Court to adopt or reject.

WHEREFORE, PREMISES CONSIDERED, the Parties respectfully request that the Bankruptcy Court: (i) enter an order granting the Motion; (ii) issue a report and recommendation substantively the same as the First Report and Recommendation issued in the First Adversary Proceeding; and (iii) grant such other and further relief the Court deems necessary and just.

RESPECTFULLY SUBMITTED this 18th day of January, 2022.

STINSON LLP

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Counsel for Highland Capital Management, L.P.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on January 18, 2022, a true and correct copy of this document was served electronically via the Court's CM/ECF system on all parties registered to receive electronic notices in this case, including on the Plaintiff through its counsel of record.

/s/Deborah Deitsch-Perez

Deborah Deitsch-Perez