

No. 22-10889

**In the
UNITED STATES COURT OF APPEALS
for the Fifth Circuit**

In the matter of Highland Capital Management, L.P.,

Debtor.

James Dondero, Defendant in the above-captioned adversary proceeding and a creditor, indirect equity holder, and party in interest in the above-captioned bankruptcy case,

Appellant,

v.

Highland Capital Management, L.P., Plaintiff in the above-captioned adversary proceeding and the Debtor in the above-captioned bankruptcy case,

Appellee.

**Appeal from the United States District Court
for the Northern District of Texas, Dallas Division
Honorable David Godbey, United States District Judge
No. 3:21-cv-01590-N**

**UNOPPOSED MOTION FOR LEVEL 2 EXTENSION
OF TIME TO FILE APPELLANT'S BRIEF**

To the Honorable Court:

Pursuant to 5TH CIR. R. 31.4.3.2, Appellant James Dondero ("Appellant")



requests a Level 2 extension of time to file his Appellant's Brief, which would extend the current due date from November 7, 2022 to December 17, 2022 (the Monday following the Saturday on which the 40th day falls). No other extension has been requested or granted, and this motion is not opposed. The following discussion will explain the special circumstances that make a Level 1 extension insufficient and thus warrant a Level 2 extension.

1. Since the briefing notice was issued in this case on September 28, 2022, the undersigned counsel for Appellant have been and will be involved in other matters, all of which materially affect when they can begin working on the Appellant's Brief in this case. The details of these matters are:

- (a) preparing a response to a motion to dismiss due on September 30, 2022 and to be heard on October 7, 2022 by the County Court at Law No. 5 in Dallas County, Texas in *Industrial Manor, LP v. General Electric Corp.*, No. CC-22-03480-E;
- (b) preparing an appellees' brief due on October 6, 2022 in the Houston Fourteenth Court of Appeals in *Baylor College of Medicine v. XL Insurance America, Inc.*, No. 14-22-00145-CV;
- (c) preparing post-judgment motions due on October 21, 2022 in the 295th Judicial District Court of Harris County, Texas in *Baylor College of Medicine v. Underwriters at Lloyd's Syndicates, et al.*, No. 2020-53316;
- (d) preparing for oral argument on October 25, 2022 in the Dallas Court of Appeals in *Parks, et al. v. Ford Motor Co.*, No. 05-21-00632-CV;

- (e) preparing a summary judgment response due on October 28, 2022 for a hearing to be held on November 5, 2022 in the 134th Judicial District Court of Dallas County, Texas in *Ricketts v. DKL Transportation, et al.*, No. DC-20-19259;
- (f) preparing a petition for review due on November 7, 2022 in the Texas Supreme Court in *Westwood Motorcars, LLC v. Virtuolotry, LLC*, No. 22-0846;
- (g) assisting in a jury trial set to begin on November 8, 2022 in the 68th Judicial District Court of Dallas County, Texas in *Zubarik v. Valley View Park Estates Home Owners Ass'n*, No. DC-19-18220;
- (h) assisting in a jury trial set to begin on November 28, 2022 in the 298th Judicial District Court of Dallas County, Texas in *Dallas Police & Fire Pension System v. Buck Global LLC*, No. DC-18-16385; and
- (i) preparing for oral argument on November 30, 2022 in the Texas Supreme Court in *Sarah Gregory and New Prime, Inc. v. Jaswinder Chohan, et al.*, No. 21-0017.

2. In the matters listed in (a), (c), and (e), the deadlines are set by the rules and cannot be extended. In the other matters, the deadlines either have been extended once or cannot be extended further. In addition, one (or both) of the undersigned counsel serve as the lead appellate counsel in each of these cases and is responsible for preparing the briefs or presenting the argument in all of them. As a result of their involvement in these cases, the undersigned likely will be unable to begin significant work on the Appellant's Brief in this case until late November 2022, at the earliest.

3. Finally, in addition to these scheduling conflicts, the special circumstances of this case also make it impracticable to file an adequate Appellant's Brief within the time allowed by a Level 1 extension. Because the undersigned counsel were not directly involved in the proceedings below, they will have to thoroughly review the record on appeal—which is extensive—and read all the pertinent cases. This process will be time consuming.

4. For all these reasons, Appellant James Dondero respectfully requests that the Court extend the time to file his Appellant's Brief to December 17, 2022.

Respectfully submitted,

/s/ Jeffrey S. Levinger

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CERTIFICATE OF CONFERENCE

On October 14, 2022, the undersigned conferred with John A. Morris, one of the counsel for Appellee, regarding this motion. Mr. Morris stated that the motion will not be opposed.

/s/ Jeffrey S. Levinger

Jeffrey S. Levinger

CERTIFICATE OF SERVICE

The undersigned certifies that on October 14, 2022, the foregoing Unopposed Motion for Level 2 Extension of Time to File Appellant's Brief was electronically filed with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the Appellate CM-ECF System. Participants in this case who are registered CM-ECF users will be served electronically by the Appellate CM-ECF System.

/s/ Jeffrey S. Levinger

Jeffrey S. Levinger