

Civil Action Nos. 3:21-cv-01974-X & 3:21-cv-01979-S

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

THE CHARITABLE DAF FUND LP; CLO HOLDCO LTD;
MARK PATRICK; SBAITI & COMPANY PLLC; MAZIN A. SBAITI;
JONATHAN BRIDGES; and JAMES DONDERO,

Appellants,

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Appellees.

In re: Highland Capital Management, L.P.,
Debtor.

On Appeal from the United States Bankruptcy Court for the Northern District of
Texas, Case No. 19-34054, Hon. Stacey G.C. Jernigan, Presiding

STATEMENT OF ISSUES AND DESIGNATION OF RECORD ON APPEAL
BY APPELLANTS THE CHARITABLE DAF FUND, L.P.,
CLO HOLDCO, LTD., MARK PATRICK, SBAITI & COMPANY, PLLC,
MAZIN A. SBAITI, AND JONATHAN BRIDGES

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Pursuant to Federal Rule of Appellate Procedure 6(b)(2)(B), The Charitable DAF Fund, L.P., CLO Holdco, Ltd., Mark Patrick, Sbaiti & Company PLLC, Mazin A. Sbaiti, and Jonathan Bridges (“Appellants”) hereby designate the following items to be included in the record and identify the following issues with respect to their appeal of the Memorandum Opinion and Order of the Honorable Judge Brantley Starr which was entered by this Court on September 28, 2022 (ECF No. 49).

I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Did the district court err in affirming the bankruptcy court’s finding that Appellants violated the bankruptcy court’s gatekeeping orders?

2. Did the district court err in finding that Appellants should be held in contempt for moving the district court for an order allowing leave to sue the CEO of the Debtor, Jim Seery?

3. Did the district court err in affirming the bankruptcy court’s extension of the *Barton* doctrine to claims not brought against a court-appointed receiver, trustee, or their agent, or claims that are otherwise beyond the authority of the bankruptcy court to restrict either substantively or procedurally from being brought in the district court?

4. Did the district court err in affirming the bankruptcy court’s imposition of substantial monetary sanctions against the Appellants when, *inter alia*, there was

no compensable harm to the Debtor or others caused by the allegedly contemptuous conduct rather than by the bankruptcy court's unnecessary imposition of subsequent legal expenses, insufficient non-speculative evidence to support the sanction imposed, and a punitive sanction is beyond the power of a bankruptcy judge?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

1. The previously designated record on appeal from the Bankruptcy Case No. 19-34054-sgj11, as reflected in Appellants' August 30, 2021 Amended Statement of Issues and Record on Appeal (Doc. 2798), attached hereto as Exhibit A.
2. All proceedings in the district court, Civil Action Nos. 3:21-cv-01974-X & 3:21-cv-01979-S, including the record on appeal transmitted from the bankruptcy court (Dkt. No. 8) on September 27, 2021, the Memorandum Opinion and Order of the Honorable Judge Brantley Starr which was entered by this Court on September 28, 2022 (Doc. 49), and Appellants' Notice of Appeal filed October 20, 2022 (Doc. 50).
3. A certified copy of the docket entries kept by the clerk of this Court for Civil Action Nos. 3:21-cv-01974-X & 3:21-cv-01979-S, attached as Exhibit B.

November 7, 2022

Respectfully submitted,

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Counsel for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2022, a true and correct copy of the foregoing was served via the Court's CM/ECF system on counsel for all parties.

/s/ Erik S. Jaffe
Erik S. Jaffe

EXHIBIT A

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and CLO Holdco, Ltd.*

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

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

**APPELLANTS’ AMENDED STATEMENT OF ISSUES AND
DESIGNATION OF RECORD ON APPEAL**

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P., CLO Holdco, Ltd., Mark Patrick, Sbaiti & Company PLLC, Mazin A. Sbaiti, and Jonathan Bridges (“Appellants”) hereby designate the following items to be included in the record and identify the following issues with respect to their appeal of the Memorandum Opinion and Order Holding Certain Parties and Their Attorneys in Civil Contempt of Court for Violation of the Bankruptcy Court Orders which was entered by the United States Bankruptcy Court for the Northern District of Texas on August 3, 2021.

I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Did the bankruptcy court err in concluding that a motion for leave to amend a complaint filed in the district court violated the January 2020 Corporate Governance Order and/or the July 2020 Seery CEO Order?

2. Did the bankruptcy court err in concluding that the January 2020 Corporate Governance Order and July 2020 Seery CEO Order were “in effect” and enforceable, notwithstanding that those orders exculpated federally-imposed fiduciary duties, and/or improperly treat a debtor-retained officer as a trustee by extending both gate-keeping protection and quasi-judicial immunity to that officer, and purportedly conferred exclusive jurisdiction on the bankruptcy court where it otherwise had none?
3. Did the bankruptcy court exceed its jurisdiction or statutory powers by imposing sanctions based on Appellants’ motion for leave to amend in the district court when (1) the Debtor suffered no harm from the motion, which was dismissed a day later, (2) the evidence does not support sanctions in any amount, much less in the amount of \$239,655, and/or (3) no evidence supported an arbitrary \$100,000 sanction for each level of rehearing or appeal?

II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

1. Notice of Appeal for Bankruptcy Case No. 19-34054-sgj11 [Doc. 2713];
2. The judgment, order, or decree appealed from: Memorandum Opinion and Order Holding Certain Parties and Their Attorneys in Civil Contempt of Court for Violation of Bankruptcy Court Orders [Doc. 2660];
3. Any opinion, findings of fact, and conclusions of law of the bankruptcy court relating to the issues on appeal, including transcripts of all oral rulings: Transcript of Hearing on Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders dated June 25, 2021 [Doc. 2500]
4. Docket Sheet kept by the Bankruptcy Clerk;
5. Documents listed below and as described in the Docket Sheet for Bankruptcy Case No. 19-34054-sgj11:

Number	Date Filed	Docket No.	Description/Docket Text
1	12/27/2019	281	<u>281</u> (100 pgs; 4 docs) Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order) (Hayward, Melissa)
2	1/2/2020	297	(4 pgs) BNC certificate of mailing - PDF document. (RE: related document(s) <u>291</u> Order granting motion for expedited hearing (Related Doc <u>283</u>)(document set for hearing: <u>281</u> Motion to compromise controversy)

			Hearing to be held on 1/9/2020 at 09:30 AM DallasJudge Jernigan Ctrm for <u>281</u> , Entered on 12/31/2019.) No. of Notices: 2. Notice Date 01/02/2020. (Admin.)
3	1/9/2020	339	(5 pgs) Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course ((related document # <u>281</u>) Entered on 1/9/2020. (Okafor, M.)
4	6/23/2020	774	(33 pgs) Application to employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
5	7/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
6	7/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P.

			Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
7	11/24/2020	1476	(67 pgs) Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) 1472 Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and 1473 Amended disclosure statement filed by Debtor Highland Capital Management, L.P.). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)
8	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
9	1/8/2021	1707	(10 pgs) Objection to (related document(s): 1625 Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVestDover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
10	1/21/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)
11	1/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1472 Chapter 11 plan). (Annable, Zachery)

12	1/22/2021	1809	(68 pgs) Support/supplemental document (<i>Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Annable, Zachery)
13	2/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
14	4/23/2021	2235	Motion for contempt against The Charitable DAF Fund, L.P.; CLO Holdco, Ltd.; Persons Authorizing The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. to file the Seery Motion; and Sbaiti & Company PLLC regarding Violation of the (i) Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course; and (ii) Order Approving Debtor's Motion under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery) Modified on 4/26/2021 (Ecker, C.).
15	4/23/2021	2236	(25 pgs) Brief in support filed by Debtor Highland Capital Management, L.P. Related document(s) <u>2247</u> Motion for order to show cause (<i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P.. Modified to add link on 4/27/2021 (Ecker, C.).
16	4/23/2021	2237	(590 pgs; 19 docs) Declaration re: (<i>Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P. Related document(s) <u>2247</u> Motion for order to show cause (<i>Debtor's Motion for an Order Requiring the</i>

			<i>Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders)</i> filed by Debtor Highland Capital Management, L.P.. Modified to add link on 4/27/2021 (Ecker, C.).
17	4/23/21	2242	(48 pgs; 3 docs) DUPLICATE ENTRY: See # <u>2241</u> . <i>Notice of Motion for Modification of Order Authorizing Retention of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction</i> filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.). (Attachments: # <u>1</u> Exhibit 1_Complaint # <u>2</u> Exhibit 2_Motion for Leave to File First Amended Complaint) (Sbaiti, Mazin) Modified on 4/26/2021 (Ecker, C.).
18	4/27/2021	2247	(9 pgs) Motion for order to show cause (<i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
19	4/23/2021	2248	Motion to Reconsider (related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd. , The Charitable DAF Fund, L.P. (Ecker, C.) (Entered: 04/27/2021)
20	4/27/2021	2249	(3 pgs) Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2247</u> Motion for order to show cause (<i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2247</u> , (Annable, Zachery)
21	4/27/2021	2252	(3 pgs) Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2247</u> Motion for order to show cause (<i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) Filed

			by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2247</u> , (Annable, Zachery)
22	4/28/2021	2254	(5 pgs) Notice of hearing filed by Plaintiff CLO Holdco, Ltd. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)).Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2248</u> , (Sbaiti, Mazin)
23	4/29/2021	2255	(3 pgs) Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document # <u>2247</u>) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Any response should be filed by May 21, 2021. Entered on 4/29/2021. (Okafor, M.)
24	5/14/2021	2309	(9 pgs) Response to show cause order (related document(s): <u>2255</u> Order on motion to show cause) filed by Respondent Mark Patrick. (Phillips, Louis)
25	5/14/2021	2311	(22 pgs) Response opposed to (related document(s): <u>2248</u> Motion to Reconsider (related documents <u>854</u> Order on application to employ) filed by Plaintiff The Charitable DAF Fund, L.P., Plaintiff CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
26	5/14/2021	2312	(4 pgs) Objection to (related document(s): <u>2247</u> Motion for order to show cause (<i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P., <u>2255</u> Order on motion to show cause. MODIFIED to correct linkage on 5/17/2021 (Ecker, C.).
27	5/14/2021	2313	(146 pgs; 2 docs) Response to show cause order (related document(s): <u>2255</u> Order on motion to show cause) filed by Plaintiff The Charitable DAF Fund, L.P.. (Attachments: # <u>1</u> Appendix) (Sbaiti, Mazin)

28	5/14/2021	2315	(2 pgs) Joinder by <i>to Debtors Objection to Motion for Modification of Order Authorizing Appointment of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2311</u> Response). (Hoffman, Juliana)
29	5/21/2021	2347	(12 pgs) Reply to (related document(s): <u>2311</u> Response filed by Debtor Highland Capital Management, L.P.) filed by Creditor The Charitable DAF Fund, L.P.. (Sbaiti, Mazin)
30	5/21/2021	2349	(36 pgs) Omnibus Reply to (related document(s): <u>2309</u> Response to show cause order filed by Respondent Mark Patrick, <u>2312</u> Objection filed by Interested Party James Dondero, <u>2313</u> Response to show cause order filed by Creditor The Charitable DAF Fund, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
31	5/21/2021	2351	(298 pgs; 5 docs) Declaration re: (<i>Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2349</u> Reply). (Attachments: # <u>1</u> Exhibit 19 # <u>2</u> Exhibit 20 # <u>3</u> Exhibit 21 # <u>4</u> Exhibit 22) (Annable, Zachery)
32	5/21/2021	2355	(302 pgs; 5 docs) Declaration re: (<i>Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2349</u> Reply). (Attachments: # <u>1</u> Exhibit 19 # <u>2</u> Exhibit 20 # <u>3</u> Exhibit 21 # <u>4</u> Exhibit 22) (Annable, Zachery)
33	5/26/2021	2377	(962 pgs; 3 docs) Declaration re: (<i>Second Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P. (RE: related

			document(s) <u>2349</u> Reply). (Attachments: # <u>1</u> Exhibit 23 # <u>2</u> Exhibit 24) (Annable, Zachery)
34	6/5/2021	2410	(1192 pgs; 54 docs) Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2255</u> Order on motion to show cause). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> Exhibit 42 # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44 # <u>45</u> Exhibit 45 # <u>46</u> Exhibit 46 # <u>47</u> Exhibit 47 # <u>48</u> Exhibit 48 # <u>49</u> Exhibit 49 # <u>50</u> Exhibit 50 # <u>51</u> Exhibit 51 # <u>52</u> Exhibit 52 # <u>53</u> Exhibit 53) (Annable, Zachery)
35	6/5/2021	2411	(309 pgs; 44 docs) Witness and Exhibit List filed by CLO Holdco, Ltd., The Charitable DAF Fund, L.P., Respondent Mark Patrick (RE: related document(s) <u>2255</u> Order on motion to show cause). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> Exhibit 42 # <u>43</u> Exhibit 43) (Phillips, Louis)
36	6/5/2021	2412	(1192 pgs; 20 docs) Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2248</u> Motion to Reconsider(related

			documents 854 Order on application to employ)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19) (Annable, Zachery)
37	6/7/2021	2417	(10 pgs) Notice (<i>Notice of Proposed Order</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 2248 Motion to Reconsider (related documents 854 Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). (Annable, Zachery)
38	6/7/2021	2418	(23 pgs; 3 docs) Declaration re: (<i>Declaration of Jeffrey N. Pomerantz</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 2417 Notice (generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) (Annable, Zachery)
39	6/7/2021	2419	(249 pgs; 3 docs) Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 2412 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 16 # 2 Exhibit 17) (Annable, Zachery)
40	6/7/2021	2420	(170 pgs; 4 docs) Amended Witness and Exhibit List <i>Exhibits 44, 45, 46</i> filed by CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) 2411 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 44 # 2 Exhibit 45 # 3 Exhibit 46) (Sbaiti, Mazin)
41	6/8/2021	2423	(249 pgs) Amended Witness and Exhibit List (<i>Second Amended</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 2419 List (witness/exhibit/generic)). (Hayward, Melissa)
42	6/10/2021	2439	(4 pgs) Amended Notice of hearing filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) 2248 Motion to Reconsider (related documents 854 Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). Hearing to be held on 6/11/2021 at 10:00 AM at https://us-courts.webex.com/meet/jerniga for 2248 , (Sbaiti, Mazin)

43	6/10/2021	2441	(3 pgs; 2 docs) Agreed Motion to continue hearing on (related documents 2248 Motion to Reconsider) Filed by Plaintiff The Charitable DAF Fund, L.P. (Attachments: # 1 Proposed Order) (Sbaiti, Mazin)
44	6/14/2021	2446	(4 pgs) Second Notice of hearing filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) 2248 Motion to Reconsider (related documents 854 Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). Hearing to be held on 6/25/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 2248 , (Sbaiti, Mazin)
45	6/16/2021	2454	(234 pgs; 3 docs) Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 2421 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 23 # 2 Exhibit 24) (Annable, Zachery)
46	6/16/2021	2456	(2 pgs) Order granting unopposed emergency motion to continue hearing on (related document # 2441) (related documents Motion to Reconsider (related documents 854 Order on application to employ)) Hearing to be held on 6/25/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 2248 , Entered on 6/16/2021. (Okafor, M.)
47	6/18/2021	2460	(13 pgs) Order Requiring Disclosures (RE: related document(s) 3 Chapter 11 Voluntary Petition . Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages); (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)
48	6/25/2021	2492	(2 pgs) Court admitted exhibits date of hearing June 25,

			<p>2021 (RE: related document(s) 2229 Motion to borrow/incur debt (Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief) filed by Debtor Highland Capital Management, L.P., 2248 Motion to Reconsider (related documents 854 Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd. , The Charitable DAF Fund, L.P. (Ecker, C.), 2395 Motion to pay (Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer) filed by Debtor Highland Capital Management, L.P.) (NOTE* COURT ADMITTED EXHIBIT'S DEBTOR'S #1, #2, #3 THAT APPEARS AT DOC. #2472 BY JEFF POMERANTZ AND DUGABOY'S EXHIBIT'S #1, #2, #3, #4, #5, #6, #7 & #8 THAT APPEARS AT #2473 & 2477; NOTE* #2, #3 & #4 APPEARS AT DOC. #2473 & #1, #5, #6, #7 & #8 APPEARS AD DOC. 2477 BY DOUGLAS DRAPER, FOR MOTION AT DOC. #2229); (DEBTOR'S EXHIBIT'S #1 THOROUGH #17 THAT APPEARS AT DOC. #2412, #2419 & #2423 BY JOHN MORRIS AND CHARITABLE DAF FUND, L.P. AND CLO HOLDCO, LTD., EXHIBIT'S #1 THROUGH #44 BY JONATHNA BRIDGES; NOTE* EXHIBIT'S #2, #3, #17 & #19 WERE NOT ADMITTED BY JONATHAN BRIDGES) FOR MOTION AT DOC. #2395) (Edmond, Michael) (Entered: 06/28/2021)</p>
49	6/28/2021	2493	<p>Request for transcript regarding (MOTION FOR MODIFICATION OF ORDER AUTHORIZING RETENTION OF JAMES SEERY, JR.) a hearing held on 6/25/2021. The requested turn-around time is daily. (Edmond, Michael) Modified TEXT on 6/29/2021 (Jeng,Hawaii).</p>
50	6/28/2021	2494	<p>(2 pgs) Order Requiring Post-Hearing Submissions. Details Per Order. (RE: related document(s) 2248 Motion to Reconsider filed by Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P., Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.). Entered on 6/28/2021 (Okafor, M.)</p>

51	6/28/2021	2495	(26 pgs) Notice (<i>Notice of Filing of Second Amended and Restated Investment Advisory Agreement</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2494</u> Order Requiring Post-Hearing Submissions. Details Per Order. (RE: related document(s) <u>2248</u> Motion to Reconsider filed by Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P., Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.). Entered on 6/28/2021 (Okafor, M.). (Annable, Zachery)
52	6/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
53	6/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u>) Entered on 6/30/2021. (Okafor, M.)
54	7/2/2021	2517	(8 pgs; 2 docs) Motion for leave (<i>Debtor's Unopposed Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i>) (related

			document(s) <u>2247</u> Motion for order to show cause) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A--Proposed Order) (Annable, Zachery)
55	7/2/2021	2518	(15 pgs; 2 docs) Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2517</u> Motion for leave (<i>Debtor's Unopposed Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i>) (related document(s) <u>2247</u> Motion for order to show cause)). (Attachments: # <u>1</u> Exhibit 56) (Annable, Zachery)
56	6/8/2021	2519	(1 pg) Court admitted exhibits date of hearing June 8, 2021 (RE: related document(s) <u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u>) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (COURT ADMITTED DEBTOR'S EXHIBIT'S #12 THROUGH #55 THAT APPEAR AT DOC. #2410 BY JOHN MORRIS; (NOTE* EXHIBIT'S #1 THROUGH #11 WERE NOT ADMITTED) & THE COURT ADMITTED DEFENDANT'S EXHIBIT'S #1, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26, #27, #28, & #30 THRUUGHT #44 ALL ADMITTED BY LOUIS PHILLIPS; (NOTE* EXHIBIT'S #13, #14 & #29 WERE NOT ADMITTED) (Edmond, Michael) (Entered: 07/02/2021)
57	7/7/2021	2527	(2 pgs) Order granting Debtor's motion to supplement the record in the Contempt Hearing held on June 8, 2021 (related document # <u>2517</u>) Entered on 7/7/2021. (Okafor, M.)
58	7/8/2021	2530	(7 pgs; 3 docs) Certificate of mailing regarding appeal (RE: related document(s) <u>2513</u> Notice of appeal .filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). Appellant Designation due by 07/16/2021.)

			(Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
59	7/8/2021	2531	(2 pgs) Notice regarding the record for a bankruptcy appeal to the U.S. District Court.(RE: related document(s) <u>2513</u> Notice of appeal filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). (Whitaker, Sheniqua)
60	7/8/2021	2532	(47 pgs) Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-01585-S. (RE: related document(s) <u>2513</u> Notice of appeal . filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). (Whitaker, Sheniqua)
61	7/8/2021	2534	(85 pgs; 5 docs) Brief in support filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2494</u> Order (generic)). (Attachments: # <u>1</u> Exhibit 1_June 8, 2021 Hearing Transcript Excerpts # <u>2</u> Exhibit 2_June 25, 2021 Hearing Transcript Excerpts # <u>3</u> Exhibit 3_Subscription and Transfer Agreement # <u>4</u> Exhibit 4_Members Agreement) (Sbaiti, Mazin)
62	7/9/2021	2547	(306 pgs; 44 docs) Notice of Response and Disclosures related to sua sponte Order Requiring Disclosures filed by Interested Parties Highland Dallas Foundation, Inc., Charitable DAF Fund, LP, CLO Holdco, Ltd. (RE: related document(s) <u>2460</u> Order Requiring Disclosures (RE: related document(s) <u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Attachments: # <u>1</u> Exhibit 1.Patrick Declaration # <u>2</u> 2.Transcript, June 8, 2021 Hearing, Excerpts

			<p># <u>3</u> Exhibit 3. Structure Chart # <u>4</u> Exhibit 4. Kenneth K. Bebozo Memorandum # <u>5</u> Exhibit 5. Certificate of Incorporation - CLO HoldCo, Ltd. # <u>6</u> Exhibit 6. Memorandum of Association of CLO HoldCo, Ltd. # <u>7</u> Exhibit 7. Ordinary Share Registry - CLO HoldCo # <u>8</u> Exhibit 8. Certificate of Registration of Exempted Limited Partnership - DAF Fund # <u>9</u> Exhibit 9. DAF Fund LP Agreement # <u>10</u> Exhibit 10. DAF Fund General Partner Register # <u>11</u> Exhibit 11. Amended and Restated Memorandum of Association of DAF Holdco # <u>12</u> Exhibit 12. Register of Management Shares DAF Holdco # <u>13</u> Exhibit 13. Register of Participating Shares DAF Holdco # <u>14</u> Exhibit 14. Certificate of Formation of DAF GP # <u>15</u> Exhibit 15. Assignment and Assumption of Membership Interests Agreement Dated March 24, 2021 # <u>16</u> Exhibit 16. HDF Certificate of Incorporation # <u>17</u> Exhibit 17. IRS Determination - HDF # <u>18</u> Exhibit 18. Narrative Description of Activities # <u>19</u> 19. RESERVED FOR POSSIBLE SUPPLEMENTATION # <u>20</u> Exhibit 20. HDF Bylaws # <u>21</u> Exhibit 21. HSBF Certificate of Incorporation # <u>22</u> Exhibit 22. IRS Determination - HSBF # <u>23</u> Exhibit 23. SBF Overview Letter # <u>24</u> Exhibit 24. GKCCF Certificate of Formation # <u>25</u> Exhibit 25. GKCCF Letter # <u>26</u> Exhibit 26. Bylaws HKCF # <u>27</u> Exhibit 27. Share Transfer Form # <u>28</u> Exhibit 28. March 25 Resolution - DAF Holdco # <u>29</u> Exhibit 29. April 2 Resolution - CLO HoldCo # <u>30</u> Exhibit 30. Written Resolution - Murphy # <u>31</u> Exhibit 31. Charitable Giving Overview, Grant Summary: 2012-2020 # <u>32</u> Exhibit 32. The Family Place Letter # <u>33</u> Exhibit 33. Cristo Rey Letter # <u>34</u> Exhibit 34. DCAC Letter # <u>35</u> Exhibit 35. Complaint # <u>36</u> Exhibit 36. CLO HoldCo - Register of Directors # <u>37</u> Exhibit 37. DAF Holdco - Register of Directors # <u>38</u> Exhibit 38. Register of Directors - Liberty CLO Holdco, Ltd. # <u>39</u> Exhibit 39. Share Register - Liberty CLO Holdco, Ltd. # <u>40</u> Exhibit 40. Register of Directors - MGM Studios Holdco, Ltd # <u>41</u> Exhibit 41. Share Register - MGM Studios Holdco, Ltd # <u>42</u> Exhibit 42. Register of Directors - HCT Holdco 2 - Ltd. # <u>43</u> Exhibit 43. Share Register - HCT Holdco 2, Ltd.) (Phillips, Louis)</p>
63	7/12/2021	2556	(24 pgs; 4 docs) Notice of Filing of Supplement and Additional Exhibits filed by Interested Parties CLO Holdco, Ltd., Highland Dallas Foundation, Inc., The Charitable DAF Fund, L.P. (RE: related

		<p>document(s)2547 Notice of Response and Disclosures related to sua sponte Order Requiring Disclosures filed by Interested Parties Highland Dallas Foundation, Inc., Charitable DAF Fund, LP, CLO Holdco, Ltd. (RE: related document(s)2460 Order Requiring Disclosures (RE: related document(s)3 Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Attachments: # 1 Exhibit 1.Patrick Declaration # 2 2.Transcript, June 8, 2021 Hearing, Excerpts # 3 Exhibit 3.Structure Chart # 4 Exhibit 4.Kenneth K. Bebozo Memorandum # 5 Exhibit 5.Certificate of Incorporation - CLO HoldCo, Ltd. # 6 Exhibit 6.Memorandum of Association of CLO HoldCo, Ltd. # 7 Exhibit 7.Ordinary Share Registry- CLO HoldCo # 8 Exhibit 8.Certificate of Registration of Exempted Limited Partnership - DAF Fund # 9 Exhibit 9.DAF Fund LP Agreement # 10 Exhibit 10.DAF Fund General Partner Register # 11 Exhibit 11.Amended and Restated Memorandum of Association of DAF Holdco # 12 Exhibit 12.Register of Management Shares DAF Holdco # 13 Exhibit 13.Register of Participating Shares DAF Holdco # 14 Exhibit 14.Certificate of Formation of DAF GP # 15 Exhibit 15.Assignment and Assumption of Membership Interests Agreement Dated March 24, 2021 # 16 Exhibit 16.HDF Certificate of Incorporation # 17 Exhibit 17.IRS Determination - HDF # 18 Exhibit 18.Narrative Description of Activities # 19 19.RESERVED FOR POSSIBLE SUPPLEMENTION # 20 Exhibit 20.HDF Bylaws # 21 Exhibit 21.HSBF Certificate of Incorporation # 22 Exhibit 22.IRS Determination - HSBF # 23 Exhibit 23.SBF Overview Letter # 24 Exhibit 24.GKCCF Certificate of Formation # 25 Exhibit 25.GKCCF Letter # 26 Exhibit 26.Bylaws HKCF # 27 Exhibit 27.Share Transfer Form # 28 Exhibit 28.March</p>
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			25 Resolution - DAF Holdco # 29 Exhibit 29. April 2 Resolution - CLO HoldCo # 30 Exhibit 30. Written Resolution - Murphy # 31 Exhibit 31. Charitable Giving Overview, Grant Summary: 2012-2020 # 32 Exhibit 32. The Family Place Letter # 33 Exhibit 33. Cristo Rey Letter # 34 Exhibit 34. DCAC Letter # 35 Exhibit 35. Complaint # 36 Exhibit 36. CLO HoldCo - Register of Directors # 37 Exhibit 37. DAF Holdco - Register of Directors # 38 Exhibit 38. Register of Directors - Liberty CLO Holdco, Ltd. # 39 Exhibit 39. Share Register - Liberty CLO Holdco, Ltd. # 40 Exhibit 40. Register of Directors - MGM Studios Holdco, Ltd # 41 Exhibit 41. Share Register - MGM Studios Holdco, Ltd # 42 Exhibit 42. Register of Directors - HCT Holdco 2 - Ltd. # 43 Exhibit 43. Share Register - HCT Holdco 2, Ltd.)). (Attachments: # 1 Supplement # 2 Exhibit 19. Letter From The Dallas Foundation # 3 Exhibit Exhibit 44. Baltimore Sun Article re: Nonprofit Offshore Structures) (Phillips, Louis)
64	7/15/2021	2571	(8 pgs) Response opposed to (related document(s): <u>2534</u> Brief filed by Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd., Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P.) filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)

Dated: August 30, 2021

Respectfully submitted,

SBAITI & COMPANY PLLC

/s/ Mazin A. Sbaiti

Mazin A. Sbaiti

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Counsel for Appellants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically through the Court's ECF system, which provides notice to all parties of interest, on this 30th day of August, 2021.

/s/ Mazin A. Sbaiti

Mazin A. Sbaiti

EXHIBIT B

APPEAL,BKAPP,CLOSED,LEAD

**U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 3:21-cv-01974-X**

The Charitable DAF Fund, L.P. et al v. Highland Capital Management LP
Assigned to: Judge Brantley Starr
Case in other court: BK Court, 19-34054-sgj11; Adversary Number
USCA5, 22-11036
Cause: 28:0158 Notice of Appeal re Bankruptcy Matter (BA

Date Filed: 08/23/2021
Date Terminated: 09/28/2022
Jury Demand: None
Nature of Suit: 422 Bankruptcy: Appeal 28 USC 158
Jurisdiction: Federal Question

Debtor

Highland Capital Management LP

Appellant

The Charitable DAF Fund LP

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Appellant

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V.

Appellee

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Bankruptcy Judge

Stacey G Jernigan

represented by **Stacey G Jernigan**
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V.

Notice Only

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Date Filed	#	Docket Text
08/23/2021	<u>1</u>	Pursuant to Fed. R. Bankr. P. 8003(d), the bankruptcy clerk has transmitted the notice of appeal filed in <u>bankruptcy case</u> number 19-34054 and the notice of appeal has now been docketed in the district court in case 3:21-cv-1974. (The filing fee has been paid in the Bankruptcy Court.) Pursuant to <u>Fed. R. Bankr. P. 8009</u> , before the record on appeal can be assembled and filed in the district court, designations of items to be included in the record on appeal and statements of issues must be filed in the bankruptcy case. If a sealed document is designated, the designating party must file a motion in the district court case for the document to be accepted under seal. See also <u>District Court Local Bankruptcy Rule</u> 8012.1. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms and Instructions found at www.txnd.uscourts.gov , or by clicking here: <u>Attorney Information - Bar Membership</u> . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Attachments: # <u>1</u> Notice of appeal and supporting documents) (Whitaker - TXNB, Sheniqua) (Entered: 08/23/2021)
08/23/2021		New Case Notes: A filing fee has been paid. (ygl) (Entered: 08/24/2021)

08/30/2021	2	***PLEASE DISREGARD/DOCUMENT TO BE REFILED***CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Sbaiti & Company PLLC, The Charitable DAF Fund LP, Mazin A. sbaiti. (Sbaiti, Mazin) Modified on 8/30/2021 (ykp). (Entered: 08/30/2021)
08/30/2021	3	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Sbaiti & Company PLLC, The Charitable DAF Fund LP, Mazin A. sbaiti. (Sbaiti, Mazin) (Entered: 08/30/2021)
09/24/2021	4	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-12250384) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing)Attorney Jeffrey N Pomerantz added to party Highland Capital Management LP(pty:dbpos) (Pomerantz, Jeffrey) (Entered: 09/24/2021)
09/24/2021	5	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-12250397) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing)Attorney Gregory V Demo added to party Highland Capital Management LP(pty:dbpos) (Demo, Gregory) (Entered: 09/24/2021)
09/27/2021	6	ELECTRONIC ORDER granting 4 Application for Admission Pro Hac Vice of Jeffrey N. Pomerantz. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 9/27/2021) (chmb) (Entered: 09/27/2021)
09/27/2021	7	ELECTRONIC ORDER granting 5 Application for Admission Pro Hac Vice of Gregory V. Demo. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 9/27/2021) (chmb) (Entered: 09/27/2021)
09/27/2021	8	Notice Transmitting COMPLETE BK Record on Appeal re 1 Notice Transmitting BK Appeal or Withdrawal of Reference (Attachments: # 1 Mini Record Vol. 1, # 2 Appellant Record Vol. 2, # 3 Appellant Record Vol. 3, # 4 Appellant Record Vol. 4, # 5 Appellant Record Vol. 5, # 6 Appellant Record Vol. 6, # 7 Appellant Record Vol. 7, # 8 Appellant Record Vol. 8, # 9 Appellant Record Vol. 9, # 10 Appellant Record Vol. 10, # 11 Appellant Record Vol. 11, # 12 Appellant Record Vol. 12, # 13 Appellant Record Vol. 13, # 14 Appellant Record Vol. 14, # 15 Appellant Record Vol. 15, # 16 Appellant Record Vol. 16, # 17 Appellant Record Vol. 17, # 18 Appellant Record Vol. 18, # 19 Appellant Record Vol. 19, # 20 Appellant Record Vol. 20, # 21 Appellant Record Vol. 21, # 22 Appellant Record Vol. 22, # 23 Appellant Record Vol. 23, # 24 Appellant Record Vol. 24, # 25 Appellant Record Vol. 25, # 26 Appellant Record Vol. 26, # 27 Appellant Record Vol. 27, # 28 Appellant Record Vol. 28, # 29 Appellant Record Vol. 29, # 30 Appellant Record Vol. 30, # 31 Appellant Record Vol. 31, # 32 Appellant Record Vol. 32, # 33 Appellant Record Vol. 33, # 34 Appellant Record Vol. 34, # 35 Appellant Record Vol. 35, # 36 Appellant Record Vol. 36, # 37 Appellant Record Vol. 37, # 38 Appellant Record Vol. 38, # 39 Appellant Record Vol. 39, # 40 Appellant Record Vol. 40, # 41 Appellant Record Vol. 41, # 42 Appellant Record Vol. 42, # 43 Appellant Record Vol. 43, # 44 Appellant Record Vol. 44, # 45 Appellee Record Vol. 45, # 46 Appellee Record Vol. 46) (Blanco - TXNB, Juan) (Entered: 09/27/2021)
10/14/2021	9	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-12301473) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing)Attorney John A Morris added to party Highland Capital Management LP(pty:dbpos) (Morris, John) (Entered: 10/14/2021)
10/18/2021	10	Joint MOTION to Consolidate Cases <i>Appellants' Unopposed Joint Motion to (I) Consolidate Bankruptcy Appeals; (II) Conform Briefing Schedules; and (III) Extend Time for Applicants to File Their Opening Briefs</i> filed by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Sbaiti & Company PLLC, The Charitable DAF Fund LP, Mazin A. sbaiti (Sbaiti, Mazin) (Entered: 10/18/2021)
10/22/2021	11	ELECTRONIC ORDER granting 9 Application for Admission Pro Hac Vice of John A. Morris. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 10/22/2021) (chmb) (Entered: 10/22/2021)

10/25/2021	12	ORDER CONSOLIDATING CASES: Member case(s) 3:21-CV-01979-S consolidated with lead case 3:21-CV-01974-X. James Dondero added to case pursuant to consolidation. Attorney Clay M Taylor, Bryan Christopher Assink, David L Kane, Douglas Joseph Lipke, Michael Eidelman, Thomas P Cimino, Jr, William W Thorsness for James Dondero added to case pursuant to consolidation. Appellants opening briefs are due no later than 12/13/2021. (Ordered by Judge Brantley Starr on 10/25/2021) (ygl) (Entered: 10/25/2021)
12/06/2021	13	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-12431875) filed by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP (Attachments: # 1 Proposed Order)Attorney Erik S Jaffe added to party Jonathan Bridges(pty:a), Attorney Erik S Jaffe added to party CLO Holdco Ltd(pty:a), Attorney Erik S Jaffe added to party Mark Patrick(pty:a), Attorney Erik S Jaffe added to party Mazin A Sbaiti(pty:a), Attorney Erik S Jaffe added to party Sbaiti & Company PLLC(pty:a), Attorney Erik S Jaffe added to party The Charitable DAF Fund LP(pty:a) (Jaffe, Erik) (Entered: 12/06/2021)
12/06/2021	14	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-12431970) filed by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP (Attachments: # 1 Proposed Order)Attorney Brian J Field added to party Jonathan Bridges(pty:a), Attorney Brian J Field added to party CLO Holdco Ltd(pty:a), Attorney Brian J Field added to party Mark Patrick(pty:a), Attorney Brian J Field added to party Mazin A Sbaiti(pty:a), Attorney Brian J Field added to party Sbaiti & Company PLLC(pty:a), Attorney Brian J Field added to party The Charitable DAF Fund LP(pty:a) (Field, Brian) (Entered: 12/06/2021)
12/07/2021	15	ELECTRONIC ORDER granting 13 Application for Admission Pro Hac Vice of Erik S. Jaffe. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 12/7/2021) (chmb) (Entered: 12/07/2021)
12/07/2021	16	ELECTRONIC ORDER granting 14 Application for Admission Pro Hac Vice of Brian J. Field. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 12/7/2021) (chmb) (Entered: 12/07/2021)
12/13/2021	17	Appellant's BRIEF by James Dondero. (Assink, Bryan) (Entered: 12/13/2021)
12/13/2021	18	Appendix in Support filed by James Dondero re 17 Appellant's Brief (Assink, Bryan) (Entered: 12/13/2021)
12/13/2021	19	Appellant's BRIEF by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP. (Jaffe, Erik) (Entered: 12/13/2021)
12/17/2021	20	MOTION for Extension of Time to File Response/Reply to 17 Appellant's Brief filed by Highland Capital Management LP (Attachments: # 1 Proposed Order) (Annable, Zachery) (Entered: 12/17/2021)
12/20/2021	21	ELECTRONIC ORDER granting 20 Motion to Extend Time to File Response. Highland Capital Management, L.P.'s response is due February 14, 2022. (Ordered by Judge Brantley Starr on 12/20/2021) (chmb) (Entered: 12/20/2021)
12/23/2021	22	CERTIFICATE OF SERVICE by Highland Capital Management LP re 20 MOTION for Extension of Time to File Response/Reply to 17 Appellant's Brief (Annable, Zachery) (Entered: 12/23/2021)
12/24/2021	23	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney John B. Goerlich (Filing fee \$100; Receipt number 0539-12480158) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing, # 2 Proposed Order) (Hayward, Melissa) (Main Document 23 replaced/flattened PDF on 12/27/2021) (ygl). (Entered: 12/24/2021)
12/24/2021	24	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Matthew M. Madden (Filing fee \$100; Receipt number 0539-12480159) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing, # 2 Proposed Order) (Hayward, Melissa) (Entered: 12/24/2021)
12/24/2021	25	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Roy T. Englert, Jr. (Filing fee \$100; Receipt number 0539-12480160) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing, # 2 Proposed Order) (Hayward, Melissa) (Entered: 12/24/2021)

12/24/2021	26	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Shikha Garg (Filing fee \$100; Receipt number 0539-12480161) filed by Highland Capital Management LP (Attachments: # 1 Certificate of Good Standing, # 2 Proposed Order) (Hayward, Melissa) (Entered: 12/24/2021)
12/28/2021	27	ELECTRONIC ORDER granting 23 Application for Admission Pro Hac Vice of John B. Goerlich. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 12/28/2021) (chmb) (Entered: 12/28/2021)
12/28/2021	28	ELECTRONIC ORDER granting 24 Application for Admission Pro Hac Vice of Matthew M. Madden. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 12/28/2021) (chmb) (Entered: 12/28/2021)
12/28/2021	29	ELECTRONIC ORDER granting 25 Application for Admission Pro Hac Vice of Roy T. Englert, Jr.. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 12/28/2021) (chmb) (Entered: 12/28/2021)
12/28/2021	30	ELECTRONIC ORDER granting 26 Application for Admission Pro Hac Vice of Shikha Garg. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Brantley Starr on 12/28/2021) (chmb) (Entered: 12/28/2021)
01/13/2022	31	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Highland Capital Management LP. (Annable, Zachery) (Entered: 01/13/2022)
01/19/2022	32	CERTIFICATE OF SERVICE by Highland Capital Management LP re 31 Cert. Of Interested Persons/Disclosure Statement (Annable, Zachery) (Entered: 01/19/2022)
02/14/2022	33	Appellee's BRIEF by Highland Capital Management LP. (Annable, Zachery) (Entered: 02/14/2022)
02/17/2022	34	CERTIFICATE OF SERVICE by Highland Capital Management LP re 33 Appellee's Brief (Annable, Zachery) (Entered: 02/17/2022)
02/22/2022	35	MOTION for Extension of Time to File Response/Reply to 19 Appellant's Brief, 33 Appellee's Brief filed by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP with Brief/Memorandum in Support. (Attachments: # 1 Proposed Order) (Jaffe, Erik) (Entered: 02/22/2022)
02/23/2022	36	ELECTRONIC ORDER granting 35 Motion to Extend Time to File Response/Reply. Appellants shall file their reply briefs by March 21, 2022. (Ordered by Judge Brantley Starr on 2/23/2022) (chmb) (Entered: 02/23/2022)
03/21/2022	37	Appellant's REPLY BRIEF by James Dondero. (Assink, Bryan) (Entered: 03/21/2022)
03/21/2022	38	Appellant's REPLY BRIEF by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP. (Jaffe, Erik) (Entered: 03/21/2022)
05/26/2022	39	MOTION to Withdraw as Attorney filed by Highland Capital Management LP (Attachments: # 1 Proposed Order) (Goerlich, John) (Entered: 05/26/2022)
05/31/2022	40	ELECTRONIC ORDER granting 39 Motion to Withdraw as Attorney. Attorney John B Goerlich terminated. (Ordered by Judge Brantley Starr on 5/31/2022) (chmb) (Entered: 05/31/2022)
08/16/2022	41	Unopposed MOTION to Withdraw as Attorney filed by James Dondero with Brief/Memorandum in Support. (Attachments: # 1 Proposed Order) (Taylor, Clay) (Entered: 08/16/2022)
08/17/2022	42	ELECTRONIC ORDER granting 41 Motion to Withdraw as Attorney. Attorneys Bryan Christopher Assink and Clay M Taylor are withdrawn as counsel for James Dondero. (Ordered by Judge Brantley Starr on 8/17/2022) (chmb) (Entered: 08/17/2022)
08/23/2022	43	NOTICE of <i>Supplemental Authority</i> filed by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP (Attachments: # 1 Exhibit(s) A: CA5-Nexpoint Advisors v. Highland Cap Mgmt) (Jaffe, Erik) (Entered: 08/23/2022)

08/26/2022	44	MOTION to Strike 43 Notice (Other), (), MOTION for Leave to File Response to Appellants' Notice of Supplemental Authority(<i>Motion to Strike DAF Appellants' Notice of Supplemental Authority or, in the Alternative, for Leave to Respond</i>) filed by Highland Capital Management LP (Attachments: # 1 Exhibit(s) A) (Annable, Zachery) (Entered: 08/26/2022)
08/29/2022	45	ELECTRONIC ORDER denying 44 Motion to Strike ; granting 44 Motion for Leave to File. (Unless the document has already been filed, clerk to enter the document as of the date of this order.) The Court DENIES the motion to strike the notice of supplemental authority filed by the DAF Appellants. The Court GRANTS the motion for leave to file a response. (Ordered by Judge Brantley Starr on 8/29/2022) (chmb) (Entered: 08/29/2022)
08/29/2022	46	RESPONSE filed by Highland Capital Management LP re: 43 Notice (Other). (mla) (Entered: 08/30/2022)
08/30/2022	47	CERTIFICATE OF SERVICE by Highland Capital Management LP re 44 MOTION to Strike 43 Notice (Other), MOTION for Leave to File Response to Appellants' Notice of Supplemental Authority(<i>Motion to Strike DAF Appellants' Notice of Supplemental Authority or, in the Alternative, for Leave to Respond</i>) (Annable, Zachery) (Entered: 08/30/2022)
09/07/2022	48	CERTIFICATE OF SERVICE by Highland Capital Management LP re 46 Response/Objection (Annable, Zachery) (Entered: 09/07/2022)
09/28/2022	49	Memorandum Opinion and Order: For the foregoing reasons, the order of the bankruptcy court is AFFIRMED in part and VACATED in part. (Ordered by Judge Brantley Starr on 9/28/2022) (chmb) (Entered: 09/28/2022)
09/28/2022		Civil Case Terminated per 49 Memorandum Opinion and Order. (axm) (Entered: 09/28/2022)
10/20/2022	50	NOTICE OF APPEAL as to 49 Memorandum Opinion and Order to the Fifth Circuit by Jonathan Bridges, CLO Holdco Ltd, Mark Patrick, Mazin A Sbaiti, Sbaiti & Company PLLC, The Charitable DAF Fund LP. Filing fee \$505, receipt number ATXNDC-13241029. T.O. form to appellant electronically at Transcript Order Form or US Mail as appropriate. Copy of NOA to be sent US Mail to parties not electronically noticed. IMPORTANT ACTION REQUIRED: Provide an electronic copy of any exhibit you offered during a hearing or trial that was admitted into evidence to the clerk of the district court within 14 days of the date of this notice. Copies must be transmitted as PDF attachments through ECF by all ECF Users or delivered to the clerk on a CD by all non-ECF Users. See detailed instructions here . (Exception: This requirement does not apply to a pro se prisoner litigant.) Please note that if original exhibits are in your possession, you must maintain them through final disposition of the case. (Field, Brian) (Entered: 10/20/2022)
10/27/2022		USCA Case Number 22-11036 in USCA5 for 50 Notice of Appeal filed by Mark Patrick, The Charitable DAF Fund LP, CLO Holdco Ltd, Jonathan Bridges, Mazin A Sbaiti, Sbaiti & Company PLLC. (svc) (Entered: 10/27/2022)
10/27/2022	51	NOTICE OF APPEAL as to 49 Memorandum Opinion and Order to the Fifth Circuit by James Dondero. Filing fee \$505, receipt number ATXNDC-13260117. T.O. form to appellant electronically at Transcript Order Form or US Mail as appropriate. Copy of NOA to be sent US Mail to parties not electronically noticed. IMPORTANT ACTION REQUIRED: Provide an electronic copy of any exhibit you offered during a hearing or trial that was admitted into evidence to the clerk of the district court within 14 days of the date of this notice. Copies must be transmitted as PDF attachments through ECF by all ECF Users or delivered to the clerk on a CD by all non-ECF Users. See detailed instructions here . (Exception: This requirement does not apply to a pro se prisoner litigant.) Please note that if original exhibits are in your possession, you must maintain them through final disposition of the case. (Levinger, Jeffrey) (Entered: 10/27/2022)
11/07/2022		Record on Appeal for USCA5 22-11036 (related to 50 , 51 appeal): Record consisting of: 48 ECF electronic record on appeal (eROA) is certified, PLEASE NOTE THE FOLLOWING: Licensed attorneys must have filed an appearance in the USCA5 case and be registered for electronic filing in the USCA5 to access the paginated eROA in the USCA5 ECF system. (Take these steps immediately if you have not already done so. Once you have filed the notice of appearance and/or USCA5 ECF registration, it may take up to 3 business days for the circuit to notify the district clerk that we may grant you access to the eROA in the USCA5 ECF system.) To access the paginated record, log in to the USCA5 ECF system, and under the Utilities menu, select Electronic Record on Appeal. Pro se litigants may request a copy of the record by contacting the appeals deputy in advance to arrange delivery. (svc) (Entered: 11/07/2022)