

No. 22-11036

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

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**In the Matter of Highland Capital Management, L.P.,**

*Debtor.*

**The Charitable DAF Fund L.P., CLO Holdco Limited; Mark Patrick;  
Sbaiti & Company, P.L.L.C.; Mazin A. Sbaiti; Jonathan Bridges,**

*Appellants,*

**v.**

**Highland Capital Management, L.P.,**

*Appellee.*

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**In the Matter of Highland Capital Management, L.P.,**

*Debtor.*

**James Dondero,**

*Appellant,*

**v.**

**Highland Capital Management, L.P.,**

*Appellee.*

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

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**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 December 27, 2022 to February 6, 2023 (the Monday following the Sunday 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 November 15, 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) assisting in a jury trial that began on November 15, 2022 and preparing for hearing on post-verdict motions on December 12, 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;
- (b) preparing for oral argument that was originally scheduled for November 30, 2022 but was reset to January 31, 2023 in the Texas Supreme Court in *Sarah Gregory and New Prime, Inc. v. Jaswinder Chohan, et al.*, No. 21-0017;
- (c) preparing an appellants’ brief due on December 7, 2022 in the Tenth Circuit Court of Appeals in *Youngberg, et al. v. General Motors Corp.*, No. 22-7047;

- (d) preparing for a judgment and JNOV hearing on December 15, 2022 in the 191st Judicial District Court of Dallas County, Texas in *Hawkins v. Oncor Electric Delivery Co.*, No. DC-17-04820;
- (e) preparing for a motion to transfer venue hearing on November 16, 2022 in the 298th Judicial District Court of Dallas County, Texas in *Lopez v. Extract Companies, et al.*, No. DC-21-03589;
- (f) preparing an appellants' brief due on December 19, 2022 in this Court in *Dondero v. Highland Capital Management, L.P.*, No. 22-10889;
- (g) preparing for a bench trial set to begin on December 19, 2022 in the 471st Judicial District Court of Collin County, Texas in *KWA Construction, L.P. v. ADC West Ridge, L.P.*, No. 366-00389-2018; and
- (h) preparing an appellant's brief due on January 17, 2023 in this Court in *Antero Resources Corp. v. Kawcak*, No. 22-10918.

2. In all the matters listed above, 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 mid-January 2023, 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 February 6, 2023.

Respectfully submitted,

*/s/ Jeffrey S. Levinger*

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*James Dondero*

#### **CERTIFICATE OF CONFERENCE**

On December 12, 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 December 12, 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**