

No. 22-11036

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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

IN THE MATTER OF HIGHLAND CAPITAL MANAGEMENT, L.P.,
Debtor

JAMES DONDERO,

Appellant

v.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
Appellee

On Appeal from the United States District Court
for the Northern District of Texas, Dallas Division
Case Nos. 3:21-cv-1974-X & 3:21-cv-1979-S, Hon. Judge Brantley Starr

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE OPENING
BRIEF 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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CERTIFICATE OF INTERESTED PERSONS

No. 22-11036

Charitable DAF v. Highland Capital Management

The undersigned counsel of record certifies that the following persons and entities as described in the fourth sentence of Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal:

Appellants: The Charitable DAF Fund, L.P.
 CLO Holdco, Ltd.
 Mark Patrick
 Sbaiti & Company, PLLC
 Mazin A. Sbaiti
 Jonathan Bridges

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/s/ Erik S. Jaffe
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The Charitable DAF Fund, L.P.;
CLO Holdco, Ltd.; Mark Patrick;
Sbaiti & Company, PLLC;
Mazin A. Sbaiti; and Jonathan Bridges*

Pursuant to Fifth Circuit Rule 31.4.3.2, Appellants Charitable DAF Fund, L.P., CLO Holdco, Ltd., Mark Patrick, Sbaiti & Company, PLLC, Mazin Sbaiti, and Jonathan Bridges and (“Appellants”) respectfully request a Level 2 extension of time in which to file their opening brief, which would extend that deadline from December 27, 2022, to February 6, 2023. This is Appellants’ first request to extend this deadline, and this motion is unopposed.

Good cause exists to grant the requested relief.

1. Appellants filed their notice of appeal on October 20, 2022. On November 15, 2022, the Court issued its briefing notice, which set Appellants’ opening brief for December 27, 2022. On December 12, 2022, co-Appellant James Dondero filed a motion to extend the deadline to file his opening brief to February 6, 2023, which this Court granted on December 13, 2022. Accordingly, there are now two separate briefing schedules in this appeal, where Appellants’ opening brief is due by December 27, 2022, and Mr. Dondero’s opening brief is due by February 6, 2023.

2. This extension is warranted due to significant obligations in other matters that undersigned counsel is handling, including:

- a. Motions hearing on December 19, 2022, in *State of Georgia v. Department of Justice*, No. 21-cv-3138 (TNM) (D.D.C.).

- b. Certiorari-stage amicus brief due on December 28, 2022, in *Kurk v. Los Rios Classified Employees Association*, No. 22-498 (S. Ct.).
- c. Briefing on post-trial Rule 50(b) motion due by December 30, 2022, in *Democracy Partners v. Project Veritas Action Fund*, No. 17-cv-1047 (PLF) (D.D.C.), where undersigned was not responsible for trial or previous briefing, and thus must devote substantial time to reviewing the record.
- d. Merits-stage amicus brief due on January 19, 2023, in *Gonzalez v. Google*, No. 21-1333 (S. Ct.).
- e. Extensive deposition obligations in *In re SB 202*, No. 21-mi-55555 (JPB) (N.D. Ga.). Undersigned counsel will be responsible for helping to take seventy depositions and defend another seventy depositions in January and February 2023.
- f. Significant expert discovery work in *In re SB 202*, No. 21-mi-55555 (JPB) (N.D. Ga.). Undersigned counsel must devote substantial time in January 2023 to completing multiple expert reports, which are due by January 31, 2023.

3. In light of previous extensions in several of these cases, it is not feasible for the undersigned counsel to obtain extensions of the deadlines listed above.

4. Additionally, in the interest of efficiency and ensuring that the briefing in this case proceeds along a uniform schedule, Appellants request that the Court extend the deadline to file their opening brief until February 6, 2023, to coincide with the other Appellant's briefing. Doing so will allow Appellants to coordinate their arguments more efficiently, and for Appellee to respond to each opening brief at the same time, with Appellants' reply briefs also being filed at the same time. That way, if Appellee's response to Mr. Dondero's brief includes any arguments that relate to Appellants, Appellants will be able to address those issues in their reply brief as well.

5. Accordingly, in the interest of ensuring a uniform briefing schedule in this case, and in light of the substantial deadlines in other matters, Appellants respectfully request that the Court extend until February 6, 2023, their deadline to file their opening brief.

December 16, 2022

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Respectfully submitted,

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Mazin A. Sbaiti and Jonathan Bridges*

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume, typeface, and type-style requirements of Federal Rule of Appellate Procedure 27(d)(2)(A). Excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), the motion contains 538 words and was prepared using Microsoft Word and produced in Times New Roman 14-point font.

December 16, 2022

/s/ Erik S. Jaffe
Erik S. Jaffe

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2022 the foregoing Unopposed Motion for Extension of Time was served via the Court’s ECF filing system on all registered counsel of record. I further certify that all parties that must be served have been served.

/s/ Erik S. Jaffe
Erik S. Jaffe