
No. 22-10983

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

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

Debtor.

**THE DUGABOY INVESTMENT TRUST,
APPELLANT**

v.

**HIGHLAND CAPITAL MANAGEMENT, L.P.,
APPELLEE**

**APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
Civ. Act. No. 3:21-CV-01295-X**

**APPELLEE'S OPPOSED MOTION FOR EXTENSION OF TIME TO FILE RESPONSE
BRIEF**

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities, as described in the fourth sentence of 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.

1. **Appellant:**

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2. **Appellee (Reorganized Debtor):**

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/s/ *Melissa S. Hayward*
Melissa S. Hayward

Appellee and Reorganized Debtor Highland Capital Management, L.P. (“Debtor” or “Highland”) respectfully moves this Court for an extension of the date for the filing of Appellee’s response brief (the “Response Brief”).

1. Appellant The Dugaboy Investment Trust (“Appellant” or “Dugaboy”) has appealed from an order of the United States Bankruptcy Court for the Northern District of Texas approving a settlement between Highland and UBS, LLC, and the District Court’s affirmance of the order.

2. Dugaboy’s principal brief was due to be filed on November 28, 2022. Dugaboy requested Highland’s consent for an extension to December 13, 2022 (a total of 15 days), to which Highland assented. On December 13, 2022, Dugaboy filed its principal brief.

3. Highland’s Response Brief is presently due to be filed on January 12, 2023. Highland requested Dugaboy’s consent for an extension of time to file the Response Brief to February 10, 2023—a total of 29 days. Highland made the request due to the upcoming holidays, other existing obligations in Highland (some of which are described below), and—as specifically explained to Dugaboy’s counsel—to

accommodate the schedule of the attorney responsible for the initial draft of Highland's Response Brief.

4. Regrettably, and without explanation, Dugaboy refused to consent to any extension greater than the 15-day extension that Dugaboy requested and obtained from Highland, thereby necessitating this motion.

5. This appeal is but one action of many proceedings between Highland and its former principal, James Dondero, and his many allies and affiliates, of which Dugaboy is one. *See* Dist. Ct. Decision at 3 (*Dugaboy Inv. Tr. v. Highland Capital Mgmt. LP*, 2022 U.S. Dist. LEXIS 172351, at *4 (N.D. Tex. Sep. 22, 2022)); *Highland Capital Mgmt., L.P. v. Highland Capital Mgmt. Fund Advisors, L.P. (In re Highland Capital Mgmt., L.P.)*, 2022 Bankr. LEXIS 1989, at *13 (Bankr. N.D. Tex. July 19, 2022) (Dondero's sister is Dugaboy's trustee and Dondero is sole beneficiary during his lifetime).

6. Pursuant to Local Rule 31.4, Highland states:

- a. Highland requests that the time for it to file its Response Brief be extended from January 12, 2023 to February 10, 2023, a total of 29 days.
- b. This is Highland's first request for an extension of time to file its Response Brief.
- c. Good cause exists for this extension, in that (a) Highland's Response Brief in *The Dugaboy Investment Trust and Get Good Trust et al v.*

Highland Capital Management L.P., USCA Case No. 22-10960 (5th Cir.) (the “HarbourVest Appeal”) is due January 19, 2023; (b) Highland must prepare for and argue in support of its motion to dismiss, and in opposition to plaintiff’s motion to withdraw the reference, in *Charitable DAF Fund, L.P. v. Highland Capital Management, L.P.*, Case No. 19-34054-sgj11 (Bankr. N. D. Tex.), Adv. Pro. No. 21-03067 on January 25, 2023; and (c) the attorney responsible for the initial draft of Highland’s response in this appeal has commitments in other matters in January.

d. Dugaboy has been contacted and it is opposed to the relief requested.

7. This request is not made for purposes of delay or advantage, but solely so that justice may be done.

WHEREFORE, Appellee respectfully requests that the deadline for it to file its Response Brief herein be extended through and including February 10, 2023.

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Dated this 19th day of December,
2022.

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CERTIFICATE OF CONFERENCE

Pursuant to Fifth Circuit Rules 26(b) and 27, the undersigned certifies that on December 13 and 14, 2022, counsel for Appellee, John A. Morris, conferred with counsel for Appellant, Douglas S. Draper, via email regarding the relief requested in the foregoing motion. Counsel for Appellant stated that Appellant is opposed to the relief requested in the foregoing motion.

/s/ Melissa S. Hayward _____
Melissa S. Hayward

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2022, the foregoing motion was electronically filed using the appellate CM/ECF system. I further certify that all participants in this case are registered CM/ECF users and that service will be accomplished via CM/ECF.

/s/Melissa S. Hayward
Attorney for Appellee