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Attorneys for Petitioner Hunter Mountain Investment Trust

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

HUNTER MOUNTAIN
INVESTMENT TRUST

Appellant

MUCK HOLDINGS, LLC, et al

Appellees

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Case No. 3:23-cv-00737-N

**HUNTER MOUNTAIN INVESTMENT TRUST’S OPPOSED MOTION FOR
EXPEDITED BRIEFING SCHEDULE
ON MOTION FOR INTERLOCUTORY APPEAL**

Hunter Mountain Investment Trust (“HMIT” or “Movant”), submits this Opposed Motion for Expedited Briefing Schedule (“Motion for Expedited Schedule”) on its

[1]



Emergency Motion for Leave to File Interlocutory Appeal (“Emergency Motion”). In support of this Motion, Movant states the following:

1. All Respondents to this Motion have received notice of this Motion for Expedited Briefing Schedule, which is opposed.

2. The Emergency Motion seeks leave to file an appeal from an interlocutory order or decree of a Bankruptcy Court under 28 U.S.C. §158(a)(3) and pursuant to the Bankruptcy Court’s “gatekeeping” orders, as well as the injunction and exculpation provisions in the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (Doc. 1943), as modified (the “Plan”).

3. Pursuant to Fed. R. Bank P. 8004(b)(2), a party may file with the district clerk a response in opposition or a cross-motion on appeal with fourteen (14) days after the motion for leave to file interlocutory appeal is served—this Rule applies in non-emergency cases.

4. Fed. R. Bank P. 9006 (c)(1) authorizes a shortened time for a response under certain circumstances. For the reasons set forth fully in the Emergency Motion, and as set forth herein, Movant has established good cause and requests that the Court schedule an expedited response deadline on the Emergency Motion of April 10, 2023.

5. Good cause exists because of a fast-approaching date (April 16, 2023) that one or more of the Proposed Defendants, the Respondents herein, will argue constitutes the expiration of the statute of limitations as to some of the common law claims which

Movant seeks to assert. It is now clear that Respondents seek to weaponize the Bankruptcy Court's "gatekeeping orders" to create arguments invoking the statute of limitations. Although HMIT offered to enter tolling agreements with each of the Respondents, this offer was either rejected or ignored. Accordingly, this Motion has become necessary. Expedited consideration of the Emergency Motion is needed to protect and preserve the rights of the Reorganized Debtor, the Highland Claimant Trust, and HMIT. HMIT is seeking to bring its claims individually and derivatively on behalf of the Reorganized Debtor and the Highland Claimant Trust. The Bankruptcy Court, however, has denied any expedited consideration.

WHEREFORE, Hunter Mountain Investment Trust, as Movant, respectfully requests this Court (i) grant this Motion for Expedited Briefing Schedule, (ii) providing that any response or cross-appeal related to the Emergency Motion be filed by Monday, April 10, 2023, and (iii) grant such other and further relief as is just and proper.

DATED: April 6, 2023

Respectfully Submitted,

**PARSONS MCENTIRE MCCLEARY
PLLC**

By: /s/ Sawnie A. McEntire

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*Attorneys for Hunter Mountain
Investment Trust*

CERTIFICATE OF CONFERENCE

Counsel for Mr. Seery, who also claims to represent the Reorganized Debtor, and the Highland Claimant Trust states that he is opposed to the expedited consideration of the Emergency Motion and this appeal. In light of the nature of the proposed proceedings, whereby HMIT proposes to represent the Reorganized Debtor and the Highland Claimant Trust derivatively, HMIT does not agree with (and does not admit) the propriety of, the substantive content of, or any procedural need for Mr. Morris's request to be identified as counsel for the Reorganized Debtor and the Highland Capital Trust, but HMIT is filing this certificate solely to accommodate Mr. Morris's request. Although we specifically conferred with counsel for all other Respondents on April 3, 2023, they have not confirmed their position related to the Emergency Motion or this appeal. We, therefore, assume they are opposed. A renewed attempt to confer was made to all Respondents' counsel on April 6, 2023, but no counsel responded to the inquiry. Accordingly, it is once against assumed that all Respondents are opposed to this Motion.

/s/ Sawnie A. McEntire

Sawnie A. McEntire

CERTIFICATE OF SERVICE

I certify that on the 6th day of April 2023, a true and correct copy of the foregoing Motion was served on all counsel of record or, as appropriate, on the Respondents directly.

/s/ Sawnie A. McEntire
Sawnie A. McEntire

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**HUNTER MOUNTAIN
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Appellant,

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ORDER GRANTING MOTION FOR EXPEDITED BRIEFING SCHEDULE

Upon review of Hunter Mountain Investment Trust’s Motion for Expedited Briefing Schedule (“Motion”), the Court finds that the Motion is meritorious and should be GRANTED. It is therefore:

ORDERED that the Motion is **GRANTED**; and

IT IS FURTHER ORDERED that the response, if any, to the Emergency Motion for Leave to File Interlocutory Appeal shall be filed no later than Monday, April 10, 2023.

DATE

PRESIDING JUDGE

Submitted by:

PARSONS MCENTIRE MCCLEARY PLLC

/s/ Sawnie A. McEntire

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