

Case No. 23-10911

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

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

Debtor,

Highland Capital Management, L.P.,

Appellee,

v.

NexPoint Asset Management, L.P., formerly known as Highland Capital Management Fund Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Real Estate Partners, L.L.C., formerly known as HCRE Partners L.L.C.; Highland Capital Management Services, Incorporated; James Dondero,

Appellants.

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

Debtor,

James D. Dondero,

Appellant,

v.

Highland Capital Management, L.P.,

Appellee.

Appeal from the United States District Court for the
Northern District of Texas, the Honorable Brantley Starr
Civ. Act. No. 3:21-cv-00881-X



Consolidated with Case No. 23-10921

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

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

Debtor,

Highland Capital Management, L.P.,

Appellee,

v.

NexPoint Asset Management, L.P., formerly known as Highland
Capital Management Fund Advisors, L.P.,

Appellant.

Appeal from the United States District Court for the
Northern District of Texas, the Honorable Brantley Starr
Civ. Act. No. 3:21-cv-00881-X

**APPELLANTS' UNOPPOSED MOTION TO (1) SUPPLEMENT THE
RECORD, (2) SUSPEND BRIEFING UNTIL THE SUPPLEMENTAL
RECORD IS COMPLETE, AND (3) EXTEND THE LENGTH LIMITS FOR
BRIEFS**

Deborah Deitsch-Perez, Esq.
Michael Aigen, Esq.
STINSON LLP
2200 Ross Avenue, Suite 2900
Dallas, TX 75201
Telephone: (214) 560-2201
Facsimile: (214) 560-2203
ATTORNEYS FOR APPELLANTS

Davor Rukavina
Julian P. Vasek
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75202-2790
(214) 855-7500 telephone
(214) 978-4375 facsimile
ATTORNEYS FOR APPELLANTS
NEXPOINT ASSET MANAGEMENT,
L.P. (F/K/A HIGHLAND CAPITAL
MANAGEMENT FUND ADVISORS,
L.P.) and NEXPOINT ADVISORS, L.P.

Appellants NexPoint Asset Management, L.P., formerly known as Highland Capital Management Fund Advisors, L.P. ("NAM"); NexPoint Advisors, L.P. ("NPA"); NexPoint Real Estate Partners, L.L.C., formerly known as HCRE Partners L.L.C. ("NPREP"); Highland Capital Management Services, Incorporated ("HCMS"); and James Dondero ("Dondero") (collectively "Appellants"), through counsel, respectfully file this unopposed motion (the "Motion") seeking the following relief:

(1) Leave to supplement/correct the record with the record designations currently being compiled by the Bankruptcy Court of the Northern District of Texas, pursuant to Federal Rule of Appellate Procedure 10(e) and 5th Cir. Rule 27.1.11;

(2) A suspension or extension of the briefing schedule, pursuant to Federal Rules of Appellate Procedure 26(b), 5th Cir. Rule 27.1.3, and/or 5th Cir. Rule 27.1.3, pending the compilation and submission of the complete record on appeal by the Bankruptcy Court of the Northern District of Texas; and

(3) An extension of the length limits for briefs set by Federal Rule of Appellate procedure 32(a)(7), pursuant to 5th Cir. Rules 27.1.16 and 32.4.¹

¹ The relief sought in this Motion is purely procedural. *See* 5th Cir. Rule 27.1 (identifying procedural motions the clerk may rule on, which include motions to "supplement or correct records" (5th Cir. Rule 27.1.11), motions to "extend the time for ... filing briefs" (5th Cir. Rule 27.1.3), motions to "stay further proceedings in appeals" (5th Cir. Rule 27.1.3), and motions to "extend the length limits for []briefs" (5th Cir. Rule 27.1.16)). As such, pursuant to 5th Cir. Rule 27.4, Appellants' Motion does not include a certificate of interested persons as described in 5th Cir. Rule 28.2.1.

In support of the Motion, Appellants states as follows:

1. On October 5, 2023, Appellants filed their Unopposed Motion to (1) Consolidate Appeals, (2) Stay Briefing Schedule, and (3) Extend Length Limits for Briefs [DKT 60].

2. On October 10, 2023, a Clerk’s Order was entered granting the motion to consolidate appeals, but denying the motions to stay the briefing schedule and to extend the length limits for briefs, further indicating that “[a] motion is required to supplement the record AFTER the briefing notice has issued.” [Dkt 65].

3. On October 10, 2023, counsel for Appellants contacted the court clerk’s office for clarification and was advised to file a motion to supplement the record, as noted in the Order, and a motion to suspend the briefing schedule pending the motion to supplement the record, both of which follow below, as well as a motion to extend the length limits of briefs, also modified per the advice of the court clerk’s office.

A. Unopposed Motion to Supplement the Record.

4. Consolidated Case No. 23-10911² is an appeal from certain orders of the District Court for the Northern District of Texas (the “District Court”) entered in that court’s consolidated matter, Civ. Act. No.3:22-cv-0881-x.³ The District Court

² On October 10, 2023, Case Nos. 23-10911 and 23-10921 were consolidated into the instant appeal [DKT 65].

³ The District Court’s consolidated Civ. Act. No. 3:22-cv-0881-x originated as six adversary proceedings filed in the Bankruptcy Court for the Northern District of Texas (Nos. 21-3003, 21-3004, 21-3005, 21-3006, 21-3007 and 21-3082).

orders appealed from include Amended Final Judgments against Appellants issued on August 3, 2023 resulting from (a) the District Court's July 6, 2023 Order Adopting a Report and Recommendation issued by the Bankruptcy Court on July 19, 2022 (and which was supplemented on December 5, 2022); and (b) the District Court's July 6, 2023 Order Adopting a Report and Recommendation issued by the Bankruptcy Court on October 12, 2022 (which was supplemented on January 17, 2023).

5. The primary subjects of the aforementioned Reports and Recommendations of the Bankruptcy Court were (1) a motion for partial summary judgment filed by Debtor against Appellants (referenced in the July 19, 2022 Report and Recommendation) and (2) a separate motion for summary judgment filed against appellant NAM (referenced in the October 12, 2022 Report and Recommendation). All of the summary judgment pleadings and evidence underlying both Reports and Recommendations were filed in the Bankruptcy Court and oral arguments were held before the Bankruptcy Judge, the Hon. Stacey G.C. Jernigan, who then issued her Reports and Recommendations (and Supplements thereto) to the District Court.

6. Appellants timely filed Objections to the Bankruptcy Court's Reports and Recommendations with the District Court.⁴ Related briefing by both Debtor and

⁴ See Advisory Committee Notes to Federal Rule of Bankruptcy Procedure 9033 ("Section 157(c)(1) of title 28 requires a bankruptcy judge to submit proposed findings of fact and conclusions of law to the district court when the bankruptcy

Appellants followed these Objections. Ultimately, on July 6, 2023, the District Court issued its two Orders Adopting Report and Recommendation and Final Judgment, which lead to its August 6, 2023 Amended Final Judgment against Appellants.

7. Ordinarily, in an appeal from a judgment entered by a District Court exercising original bankruptcy jurisdiction, it would not be necessary to file a designation of the record on appeal. *See* Fed. R. App. P. 6(a), 10(a). The record would automatically include all items entered on the District Court’s docket, and any transcripts the parties order. *See, generally, Fed. R. App. P. 10*. However, in this appeal, and because the underlying consolidated civil matter originated with six adversary proceedings filed in the Bankruptcy Court, many critical portions of the appellate record are located only on the Bankruptcy Court’s docket, not on the District Court’s docket.

8. As such, after filing their Notices of Appeal to this Court, and after consultation with the Bankruptcy Court Clerk, Appellants filed a designation of the record on appeal with both the District Court and the Bankruptcy Court, and emailed

judge has heard a non-core proceeding. This rule, which is modeled on Rule 72 F.R.Civ. P., provides the procedure *for objecting to, and for review by, the district court* of specific findings and conclusions.”)(emphasis added). See, also 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

a copy of the designation to the Bankruptcy Clerk to identify which documents to transmit to the District Court.

9. On September 18, 2023, the Operations Support Specialists for the Bankruptcy Court acknowledged receipt of Appellants' designation of the record. On September 19, 2023, in an email to Appellant's counsel, the Bankruptcy Court's Operations Support Specialists estimated that it may be *"late December before we can get the record finalized."* See Exhibit 1, attached hereto.

10. On September 22, 2023, a notice was entered in the docket of both of the appeals now consolidated under Case No. 23-10911 indicating that the electronic record on appeal had been filed by the District Court [Case No. 23-10911, DKT 43; Case No. 23-10921, DKT 32].

11. That same day, September 22, 2023, this Court issued a letter in both of the appeals now consolidated under Case No. 23-10911 notifying Appellants' counsel that the "record is complete for the purposes of appeal" and establishing a briefing schedule based on the date of the letter [Case No. 23-10911, DKT 44; Case No. 23-10921, DKT 33].

12. However, as referenced above and detailed below, the record on appeal is not complete and, according to the Bankruptcy Court, may not be complete until December of this year.

13. In both of its July 6, 2023 Orders, the District Court stated that “[h]aving carefully considered (1) [Debtor’s] motion and all arguments and evidence admitted into the record in support of the motion, (2) all responses and objections to the motion and all arguments and evidence admitted into the record in support of such responses and objection, and the arguments presented by counsel during the hearing held on [...] the motion, and for the reasons set forth in the Report and Recommendation (the ‘R&R’) filed by the Bankruptcy Court [...] and the Supplement to the R&R filed [by the Bankruptcy Court], the Court **ACCEPTS** the report and recommendation. The Court **OVERRULES** the objections to the report and recommendation and **OVERRULES** the objection to the supplement to the report and recommendation.”

14. The District Court’s July 6, 2023 Orders, while reflecting its decisions on the briefing related to Appellants’ Objections to the Bankruptcy Court’s Reports and Recommendations (and Supplements thereto), were (or should have been) the result of a *de novo* review of those Reports and Recommendations (and Supplements thereto).⁵

⁵ See *Executive Benefits Ins. Agency v. Arkison*, 573 U.S. 25, 34 (2014) (“If a matter is non-core, and the parties have not consented to final adjudication by the bankruptcy court, the bankruptcy judge must propose findings of fact and conclusions of law. Then, the district court must review the proceeding *de novo* and enter final judgment.”); *Rodriguez v. Countrywide Home Loans, Inc.*, 421 B.R. 341, 349 (S.D. Tex. 2009) (“The bankruptcy court makes the initial determination of the core status of the proceedings, however, the district court conducts a *de novo* review of the bankruptcy court’s findings”) (citing *Mirant Corp. v. The Southern Co.*, 337 B.R. 107, 115 n. 13 (N.D. Tex. 2006), internal footnotes omitted); *In re OCA, Inc.*, No. CIV.A. 06-3811, 2006 WL 4029578, at *3 (E.D. La. Sept. 19, 2006) (“The bankruptcy court is authorized to make findings of facts and law in the non-core matters, but these

15. Critically, because Appellant’s Objections were not formal appeals to the District Court (nor were they required to be), no record on appeal was submitted to, or required by, the District Court. As a result, however, many essential portions of the appellate record for the consolidated appeal before this Court are located on the Bankruptcy Court’s docket, rather than on the District Court’s docket, despite the fact that the District Court undertook a *de novo* review and confirmed that it reviewed “all arguments and evidence admitted into the record in support of the [Debtor’s] motion[s] [for summary judgment].”

16. Among other things, the motions for summary judgment themselves and the supporting appendices are all located on the Bankruptcy Court’s docket and therefore the District Court did not include them in the record on appeal in its current form.

17. By way of example, as it relates to Debtor’s motion for partial summary judgment against Appellants (the subject of the Bankruptcy Court’s July 19, 2022 Report and Recommendation), the current record does not include:

determinations will be subject to *de novo* review by the district court. In this sense, the bankruptcy court acts like a magistrate’s court with respect to the proceedings that are related but non-core.”) (internal citations omitted); *Taylor v. Comm’r of Soc. Sec. Admin*, 2022 WL 2992877 (N.D. Tex. July 27, 2022); *Van Horne v. Valencia*, 2022 WL 2800878, at *1 (N.D. Tex. July 18, 2022); *Smith v. Smith*, 154 F.R.D. 661, 665 (N.D. Tex. May 10, 1994).

- Debtor’s motion for partial summary judgment, its related declaration, its brief in support, its amended brief in support, or the appendix in support;⁶
- Appellants’ summary judgment response, brief in opposition or supplemental appendix;⁷
- Debtor’s reply and supplemental appendix;⁸
- Briefing related to motions to strike certain summary judgment evidence,⁹ or
- the transcript of the hearing on Debtor’s motion for partial summary judgment.¹⁰

18. As it relates to Debtor’s motion for summary judgment against appellant NAM (the subject of the Bankruptcy Court’s October 12, 2022 Report and Recommendation), the current record does not include:

- Debtor’s motion for summary judgment, its brief in support, its declaration in support or appendix in support;¹¹
- Appellant NAM’s summary judgment response, brief in opposition or supplemental appendix;¹²

⁶ Dkt. 132, 133, 134, 135, 137 and 138 filed in Adv. Proc. 21-03003-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

⁷ Dkt. 45, 46 and 47 filed in Adv. Proc. 21-03082-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

⁸ Dkt. 159 and 160 filed in Adv. Proc. 21-03003-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

⁹ Dkt. 169, 170, 173, 174, 175, 179, 180 and 187 filed in Adv. Proc. 21-03003-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

¹⁰ Dkt. 189 filed in Adv. Proc. 21-03003-sgj (Bankr. N.D. Tex.). The same document was filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with a different docket number.

¹¹ Dkt. 132, 133, 134, 135, 137 and 138 filed in Adv. Proc. 21-03003-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

¹² Dkt. 52, 53 and 54 filed in Adv. Proc. 21-03082-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

- Debtor's reply and supplemental appendix,¹³ or
- the transcript of the hearing on Debtor's motion for summary judgment.¹⁴

19. To adequately brief the orders of the District Court appealed from, which specifically addressed and reviewed, *de novo*, the Bankruptcy Court's Reports and Recommendations on two motions for summary judgment filed by Debtor, Appellants needs the complete summary judgment records from the Bankruptcy Court. Therefore, pursuant to Federal Rule of Appellate Procedure 10(e) and 5th Cir. Rule 27.1.11, Appellants file this motion to supplement the record on appeal with the record already being compiled by the Bankruptcy Clerk to be submitted to this Court by December of this year.

20. Counsel for Appellants conferred with counsel for Appellee specifically addressing this motion to supplement the record. Appellee's counsel confirmed that Appellee does NOT oppose this motion.

B. Unopposed Motion to Suspend Briefing Schedules.

21. As stated above, on September 22, 2023 the Court issued a letter in both of the appeals now consolidated under Case No. 23-10911 notifying Appellants'

¹³ Dkt. 62 and 63 filed in Adv. Proc. 21-03082-sgj (Bankr. N.D. Tex.). The same documents were filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with different docket numbers.

¹⁴ Dkt. 70 filed in Adv. Proc. 21-03082-sgj (Bankr. N.D. Tex.). The same document was filed in other adversary proceedings consolidated under District Court Case No. 3:21-cv-0881-x, but with a different docket number.

counsel that the “record is complete for the purposes of appeal” and establishing a briefing schedule based on the date of the letter [Case No. 23-10911, DKT 44; Case No. 23-10921, DKT 33]. Under the current schedule, Appellants’ brief and record excerpts would be due by November 1, 2023.

22. For the reasons set forth in ¶¶ 4-19 above, Appellants file this motion to suspend the briefing schedule until the complete record on appeal, which includes the critical summary judgment pleadings, evidence and transcripts cited above, can be compiled by the Bankruptcy Clerk and submitted to this Court. Without this suspension, the parties will be unable to complete briefing as they will be unable to cite to essential evidence that needs to be in the record and will likely not be in the record until December.

23. Counsel for Appellants conferred with counsel for Appellee specifically addressing this motion to suspend the briefing schedule until the record is completed by the Bankruptcy Court in December of this year. Appellee’s counsel confirmed that Appellee does NOT oppose this motion.

C. Unopposed Motion to Extend the Length Limits for Briefs.

24. In their previously-filed motion [DKT 60], Appellants requested, among other things, an extension of the page limits for briefs to 100 pages for

principal briefs and 30 pages for reply briefs. That request was denied as part of the Clerk's Order [DKT 65].

25. On October 10, 2023, Counsel for Appellants contacted the court clerk's office and was advised that the Appellants' sought page length limits for briefs in excess of what the Court typically allows. Therefore, Appellants file this motion to extend the length limits for briefs upon the advice of the court clerk, for the reasons set forth below.

26. The Bankruptcy Court's July 19, 2022 Report and Recommendation recommended that the District Court grant summary judgments in five different adversary cases against five different defendants, the five Appellants in Case No. 23-10911. That Report and Recommendation, adopted by the District Court, is 45-pages long and made numerous findings of fact and law.

27. The Bankruptcy Court's October 11, 2022 Report and Recommendation recommended that the District Court grant summary against NAM, Appellant in Case No. 23-10921. That Report and Recommendation, adopted by the District Court, is 50-pages long and made numerous findings of fact and law.

28. Each Appellant has a right to and seeks to present its argument on the issues on appeal related to the District Court's adoption of the Bankruptcy Court's Reports and Recommendations and overruling Appellants' Objections.

29. In this consolidated appeal, involving complex defenses with over \$63 million at stake, Appellants seek to address the issues on appeal in up to two principal briefs with an aggregate of 19,000 words (to be allocated among the Appellants) – substantially shorter than the 100 pages originally requested, and still shorter than the aggregate word limits that Appellants could submit under Federal Rule of Appellate Procedure 32(a)(7) if each submitted its own brief. Additionally, Appellants seek leave to file reply briefs with an aggregate of 9,500 words (to be allocated among the Appellants) – again, substantially shorter than the 30 pages originally requested, and shorter than the aggregate word limits that Appellants could submit under Federal Rule of Appellate Procedure 32(a)(7) if each submitted its own reply.

30. This motion is filed well in advance of the 10-day deadline under 5th Cir. Rule 32.4 to file motions for extra-length briefs, particularly if the above motion to supplement the record and suspend briefing schedule is granted.

31. Counsel for Appellants conferred with counsel for Appellee specifically addressing this motion to extend the length limits for briefs to 19,000 words for principal briefs and 9,500 words for reply briefs. Appellee’s counsel confirmed that Appellee does NOT oppose this motion.

WHEREFORE, Appellants respectfully request that the Court grant the following relief, which is unopposed by Appellee:

- (1) Leave to supplement the record with the record designations currently being compiled by the Bankruptcy Court of the Northern District of Texas;
- (2) A suspension of the briefing schedule pending the compilation and submission of the complete record on appeal by the Bankruptcy Court of the Northern District of Texas; and
- (3) An extension of the length limits for briefs under Federal Rule of Appellate procedure 32(a)(7) and 5th Cir. Rule 32 to 19,000 words for principal briefs and 9,500 words pages for reply briefs.

Respectfully submitted this 13th day of October, 2023,

By: /s/Deborah Deitsch-Perez
Deborah Deitsch-Perez, Esq.
Michael Aigen, Esq.
STINSON LLP
2200 Ross Avenue, Suite 2900
Dallas, TX 75201
Telephone: (214) 560-2201
Facsimile: (214) 560-2203

Davor Rukavina
Julian P. Vasek
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75202-2790
(214) 855-7500 telephone
(214) 978-4375 facsimile

ATTORNEYS FOR APPELLANTS

CERTIFICATE OF COMPLIANCE

1. This Motion complies with the word limit of FED. R. APP. P. 27(d)(2) because, including footnotes and excluding the parts of the document exempted by FED. R. APP. P. 32(f), this Motion contains 2,332 words.
2. This Motion complies with the typeface requirements of FED. R. APP. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this Motion has been prepared in a proportionally spaced typeface using Microsoft Word, typeface Times New Roman, 14-point type (12-point for footnotes).

By: /s/ Deborah Deitsch-Perez
Deborah Deitsch-Perez

CERTIFICATE OF CONFERENCE

I hereby certify that counsel for Appellants has conferred with counsel for Appellee and the foregoing Motion is unopposed.

By: /s/ Deborah Deitsch-Perez
Deborah Deitsch-Perez

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2023, 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.

By: /s/ Deborah Deitsch-Perez
Deborah Deitsch-Perez

EXHIBIT 1

From: [Juan Blanco](#)
To: [Vasek, Julian](#)
Subject: Re: Activity in Case 3:21-cv-00881-X Highland Capital Management LP et al v. NexPoint Asset Management LP Designation of Record on Appeal
Date: Tuesday, September 19, 2023 10:36:35 AM

External Email: Use caution with links and attachments.

Hello all,

Okay, we will look at the designation to make a game plan. Highland documents are a bit hard to work with (color within a document, emails attachments, etc) , with that said, I'm estimating perhaps, late December before we can get the record finalized. However, things can cross our path and that timeframe may change especially since this designation is 66 pages. We will let you know if we need something from you and will keep you posted when we start on the record.

thanks,



Juan Blanco
Operations Support Specialist
U.S. Bankruptcy Court
Northern District of Texas
214-753-2063

From: Vasek, Julian <jvasek@munsch.com>
Sent: Tuesday, September 19, 2023 10:16 AM
To: Sheniqua Whitaker <sheniqua_whitaker@txnb.uscourts.gov>
Cc: Aigen, Michael P. <michael.aigen@stinson.com>; Juan Blanco <Juan_Blanco@txnb.uscourts.gov>
Subject: RE: Activity in Case 3:21-cv-00881-X Highland Capital Management LP et al v. NexPoint Asset Management LP Designation of Record on Appeal

CAUTION - EXTERNAL:

Sheniqua and Juan:

I believe all the transcripts have already been ordered and are on the docket. With respect to the items without a PDF, I think including a copy of the docket sheet itself is sufficient to cover those items. Finally, I am not aware of any deadline from the Fifth Circuit. Please let me know if you need anything else.

Thanks,
Julian

Julian P. Vasek

Munsch Hardt Kopf & Harr, P.C.
500 N. Akard Street, Suite 4000 / Dallas, Texas 75201-6605

Direct: +1.214.855.7528 / jvasek@munsch.com / munsch.com

From: Sheniqua Whitaker <sheniqua_whitaker@txnb.uscourts.gov>
Sent: Monday, September 18, 2023 11:50 AM
To: Vasek, Julian <jvasek@munsch.com>
Cc: Aigen, Michael P. <michael.aigen@stinson.com>; Juan Blanco <Juan_Blanco@txnb.uscourts.gov>
Subject: Re: Activity in Case 3:21-cv-00881-X Highland Capital Management LP et al v. NexPoint Asset Management LP Designation of Record on Appeal

External Email: Use caution with links and attachments.

Hello Julian,

The designations have been received. I have copied Juan who handles the record on appeal. Except for the electronic orders, we are unable to assemble items designated without a PDF, such as hearing held entries. Are you wanting the transcript for these hearings? Also, has the circuit court provided you with a deadline for the record?



Sheniqua Whitaker
Operations Support Specialist
U.S. Bankruptcy Court
Northern District of Texas
214-753-2123

From: Vasek, Julian <jvasek@munsch.com>
Sent: Monday, September 18, 2023 10:52 AM
To: Sheniqua Whitaker <sheniqua_whitaker@txnb.uscourts.gov>
Cc: Aigen, Michael P. <michael.aigen@stinson.com>
Subject: FW: Activity in Case 3:21-cv-00881-X Highland Capital Management LP et al v. NexPoint Asset Management LP Designation of Record on Appeal

CAUTION - EXTERNAL:

Sheniqua:

The record designation we discussed last week is attached. Please let us know if you need anything else.

Thanks,
Julian

Julian P. Vasek

Munsch Hardt Kopf & Harr, P.C.
500 N. Akard Street, Suite 4000 / Dallas, Texas 75201-6605

Direct: +1.214.855.7528 / jvasek@munsch.com / munsch.com

From: ecf_txnd@txnd.uscourts.gov <ecf_txnd@txnd.uscourts.gov>

Sent: Friday, September 15, 2023 12:28 PM

To: Courtmail@txnd.uscourts.gov

Subject: Activity in Case 3:21-cv-00881-X Highland Capital Management LP et al v. NexPoint Asset Management LP Designation of Record on Appeal

External Email: Use caution with links and attachments.

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**U.S. District Court
Northern District of Texas**

Notice of Electronic Filing

The following transaction was entered by Deitsch-Perez, Deborah on 9/15/2023 at 12:27 PM CDT and filed on 9/15/2023

Case Name: Highland Capital Management LP et al v. NexPoint Asset Management LP

Case Number: 3:21-cv-00881-X

Filer: James Dondero
Highland Capital Management Services Inc
NexPoint Advisors LP
NexPoint Asset Management LP
Nextpoint Real Estate Partners LLC

Document Number: 159

Docket Text:

DESIGNATION of Record on Appeal by James Dondero, Highland Capital Management Services Inc, NexPoint Advisors LP, NexPoint Asset Management LP, Nextpoint Real Estate Partners LLC re [158] Notice of Appeal,,,, [153] Notice of Appeal,,,, [157] Notice of Appeal,,,, [155] Notice of Appeal,,,,, [156] Notice of Appeal,,,,, [154] Notice of Appeal,,,, (Deitsch-Perez, Deborah)

3:21-cv-00881-X Notice has been electronically mailed to:

Case Admin Sup txnb_appeals@txnb.uscourts.gov

Daniel P Elms elmsd@gtlaw.com, guerrak@gtlaw.com

Davor Rukavina drukavina@munsch.com

Deborah Rose Deitsch-Perez deborah.deitsch-perez@stinson.com, patricia.tomasky@stinson.com

Douglas Draper ddraper@hellerdraper.com, dhepting@hellerdraper.com, gbrouphy@hellerdraper.com, vgamble@hellerdraper.com

Gregory V Demo gdemo@pszjlaw.com, hwinograd@pszjlaw.com, jfried@pszjlaw.com, lsc@pszjlaw.com

Jeffrey N Pomerantz jpomerantz@pszjlaw.com

John A Morris jmorris@pszjlaw.com, hwinograd@pszjlaw.com, lsc@pszjlaw.com

Jordan A Kroop jkroop@pszjlaw.com

Julian Preston Vasek jvasek@munsch.com

Lauren Kessler Drawhorn lauren.drawhorn@wickphillips.com, lkdrawinghorn@gmail.com

Leslie A Collins llcollins@hellerdraper.com, dhepting@hellerdraper.com

Melissa S Hayward mhayward@haywardfirm.com, mholmes@haywardfirm.com

Michael P Aigen michael.aigen@stinson.com, patricia.tomasky@stinson.com

Stacey G Jernigan sgj_settings@txnb.uscourts.gov, anna_saucier@txnb.uscourts.gov

Zachery Z Annable zannable@haywardfirm.com, zannable@franklinhayward.com

3:21-cv-00881-X Notice required by federal rule will be delivered by other means (as detailed in the Clerk's records for orders/judgments) to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1004035775 [Date=9/15/2023] [FileNumber=15032079-0] [4772fb57eb6db60041947489b910c6ed296cddca029e9d0a31c471e11f0b423eac d4ed7bfbf5fca38264196ee79c613c25ea0c5f6c53b2da3c29454bf15bd3e3]]

Notice: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. Nothing contained in this message or in any attachment shall constitute a contract or electronic signature under the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act or any other statute governing electronic transactions.

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

October 16, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 23-10911 Highland Capital v. NexPoint Asset
USDC No. 3:21-CV-881
USDC No. 3:21-CV-880
USDC No. 3:21-CV-1010
USDC No. 3:21-CV-1378
USDC No. 3:21-CV-1379
USDC No. 3:21-CV-3160
USDC No. 3:21-CV-3162
USDC No. 3:21-CV-3179
USDC No. 3:21-CV-3207
USDC No. 3:22-CV-789

The court has granted the motion to supplement or correct the record in this case. The originating court is requested to add the attached motion and documents to their court's docket and to provide us with a supplemental electronic record. Counsel is reminded that any citations to these documents must cite to the supplemental electronic record.

The court has granted the motion for leave to file principal briefs and reply briefs in excess of word count not to exceed 19,000 words for principal briefs and 9,500 words for reply briefs in excess of 40 pages, but this decision is subject to reconsideration by the merits panel.

The briefing has been suspended pending the filing of the Bankruptcy Court record.

P.S.: Ms. Deborah Rose Deitsch-Perez: Counsel is advised that once the record has been supplemented to call the office or file a letter on the docket advising, so briefing can resume.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Roeshawn Johnson, Deputy Clerk
504-310-7998

Ms. Deborah Rose Deitsch-Perez