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*Counsel for Highland Income Fund, NexPoint  
Strategic Opportunities Fund n/k/a NexPoint  
Diversified Real Estate Trust, Highland Global  
Allocation Fund, and NexPoint Capital, Inc.*

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

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HIGHLAND CAPITAL MANAGEMENT, L.P.,	)	)
	)	)
Plaintiff,	)	Case No. 3:21-cv-00881-X
	)	)
vs.	)	)
	)	)
HIGHLAND CAPITAL MANAGEMENT FUND	)	)
ADVISORS, L.P., et al.,	)	(Consolidated with 3:21-cv-00880-
	)	X, 3:21-cv-01010-X, 3:21-cv-01378-
	)	X, 3:21-cv-01379-X)
	)	)
	)	)
Defendants.	)	)
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**FUNDS’ RESPONSE TO ADDITIONAL BRIEFING [DKT. NOS. 210, 215]**

Highland Income Fund, NexPoint Strategic Opportunities Fund n/k/a NexPoint Diversified Real Estate Trust, Highland Global Allocation Fund, and NexPoint Capital, Inc. (collectively, the “Funds”) submit this response (the “Response”) to *Highland Capital Management, L.P.’s Response to Court’s Order* [D.I. 210] (“HCMLP’s Response”), filed in response to the Court’s *Electronic Order*, entered on July 19, 2024 [Dkt. No. 210] (the “Order”), ordering additional



briefing on the jurisdictional scope of the All Writs Act as it pertains to the motion, filed by Highland Capital Management, L.P. (“HCMLP”) on July 14, 2023 [Dkt. No. 136] (the “Motion”), seeking to deem certain entities vexatious litigants.

## **RESPONSE**

1. The Funds have reviewed the filings by other respondents in this matter and do not wish to burden the Court with repetitive briefing. Accordingly, the Funds join and adopt the arguments and analysis set forth in the *Response to Briefing by Mover Concerning the All Writs Act, as Directed by the Court*, filed on August 26, 2024 [Dkt. No. 217] (the “Non-Party Respondents’ Response”) and the *Respondents’ Response to July 19, 2024 Order* [Dkt. No. 218] (the “NexPoint Response”).

2. The Funds are not parties to the above-captioned proceeding in which the Motion was filed, nor are the Funds parties to the various underlying proceedings that were consolidated into the above-captioned proceeding (referred to generally as the “Notes Cases”). The Funds have not been served with process and are not properly before the Court in the Notes Cases.<sup>1</sup>

3. For the reasons set forth in both the Non-Party Respondents’ Response and the NexPoint Response, as well as the Funds’ objection filed in response to the Motion [Dkt. No. 166], the All Writs Act does not provide the requisite authority or support for the extraordinary relief requested by HCMLP against the Funds.

There is no basis under the All Writs Act or otherwise to grant the Motion with respect to the Funds, and the Funds request that the Court deny the Motion.

[Signature page follows]

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<sup>1</sup> By filing this Response, the Funds are neither conceding that the Court has jurisdiction over them nor are they consenting to the Court’s exercise of jurisdiction over them.

Dated: August 26, 2024

**K&L GATES LLP**

/s/ A. Lee Hogewood, III

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Highland Global Allocation Fund, and  
NexPoint Capital, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 26, 2024, I caused the foregoing document to be served via first class United States mail, postage prepaid and/or electronic email through the Court's CM/ECF system to the parties that consented to such service.

Dated: August 26, 2024

/s/ A. Lee Hogewood, III

A. Lee Hogewood, III