

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

December 5, 2024

Lyle W. Cayce
Clerk

No. 24-10267

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

Debtor.

NEXPOINT ADVISORS, L.P.;
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.,

Appellants,

versus

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:22-CV-2170

Before SMITH, STEWART, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

This appeal arises from the bankruptcy of Highland Capital Management, L.P. (“Highland”), an investment management firm. Before its bank-

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.



No. 24-10267

ruptcy, the Highland complex included myriad sister firms. The appeal concerns a contract dispute between Highland and two of those firms, NexPoint Advisors, L.P., and Highland Capital Management Fund Advisors, L.P. (“the Advisors”). The Advisors, like Highland, are in the business of managing funds and providing investment advisory services.

The Advisors outsourced much of their back, middle, and front-office work to Highland through a series of contracts. The Advisors claimed that they overpaid on those contracts and that Highland breached. Highland, in turn, alleged that the Advisors breached by failing to make payments due under the contracts. The bankruptcy court ruled in favor of Highland, and the district court affirmed. The Advisors appeal.

We have reviewed the briefs, the record, the applicable law, and the oral arguments of counsel. Essentially for the reasons given by the bankruptcy and district courts, there is no reversible error. The judgment of the district court is **AFFIRMED**.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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NEW ORLEANS, LA 70130

December 05, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 24-10267 NexPoint Advisors v. Highland Capital Mgmt
USDC No. 3:22-CV-2170

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

The judgment entered provides that Appellants pay to Appellee the costs on appeal. A bill of cost form is available on the court's website www.ca5.uscourts.gov.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk

Enclosure(s)

Mr. Zachery Z. Annable
Mr. Gregory Vincent Demo
Ms. Melissa Sue Hayward
Mr. John A. Morris
Mr. Jeffrey N. Pomerantz
Mr. Davor Rukavina
Mr. Julian Preston Vasek
Ms. Hayley R. Winograd