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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL	§	
MANAGEMENT, L.P.	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
	§	
Charitable DAF Fund, L.P.	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Adversary Proceeding No. 24-03073
Alvarez & Marsal CRF Management,	§	
LLC	§	
	§	
Defendant.	§	



**OPPOSED APPLICATION FOR EXPEDITED HEARING ON
MOTION TO STAY PENDING APPEAL**

Plaintiff Charitable DAF Fund, L.P. ("DAF") submits this Application for Expedited Hearing ("Application") on its Motion to Stay Pending Appeal [Doc. 30] ("Motion to Stay").¹ In support of this Application, DAF states the following:

1. The Motion to Stay seeks a stay of this Adversary Proceeding until DAF's Motion for Leave to File Interlocutory Appeal [Doc. 29] ("Motion for Leave") can be ruled on, and until DAF has fully prosecuted its appeal and the district court (or an appellate court) finally determines whether or not this Court has subject matter jurisdiction over this Adversary Proceeding.

2. DAF's Notice of Appeal [Doc. 28] was timely filed on January 28, 2025, along with the Motion for Leave and Motion to Stay, but A&M previously filed a Motion to Dismiss [Docs. 8-9], which is currently set for hearing on February 27, 2025. A&M did not agree to stay the Motion to Dismiss proceedings and, therefore, DAF's response to A&M's Motion to Dismiss is presently due February 11, 2025.

3. This Application is being filed as soon as reasonably practicable given the deadline to file DAF's Notice of Appeal (one week ago), and DAF's counsel's existing workload. DAF contacted the Court on February 3, 2025, and was informed that day that

¹ This Application is filed subject to and without waiving DAF's Motion for Leave to File Interlocutory Appeal [Doc. 29].

February 27, 2025, is the earliest date DAF's Motion to Stay could be heard absent a request for an expedited hearing. Accordingly, DAF files this Application.

4. An expedited hearing is permitted under Fed. R. Bank P. 9006 (c)(1), which authorizes a shortened time for a response and hearing for good cause.

5. Good cause exists here because, as outlined in the Motion to Stay, DAF (and A&M) will be irreparably harmed if the Motion to Stay is not ruled on before DAF's response to A&M's Motion to Dismiss is due on February 11. Specifically, both DAF and A&M will be forced to incur potentially needless and duplicative legal costs by engaging in motion practice only to inevitably prosecute an appeal regarding the same issue (subject matter jurisdiction), with no legal remedy to recover those costs. All parties would be benefitted by an upfront resolution of the jurisdictional issue.

6. Additionally, as outlined in the Motion to Stay and Motion for Leave: (1) DAF has demonstrated a strong likelihood of success on appeal because the Court considered matters outside of the outcome of the claims in DAF's live pleading in determining to exercise jurisdiction over this case; and (2) public interest weighs heavily in favor of courts not exercising authority over proceedings for which the court lacks subject matter jurisdiction.

7. An expedited hearing is necessary to protect DAF from incurring the (potentially needless or duplicative) costs of responding to A&M's Motion to Dismiss, to protect A&M from the (potentially needless or duplicative) costs of replying to DAF's

response, and also to protect both parties from the costs of preparing for and appearing at the hearing on A&M's Motion to Dismiss on February 27.

8. As a result, DAF requests that the Court schedule a hearing on the Emergency Motion on three (3) days' notice—in any event no later than February 10, 2025, and that any responses be filed no later than twenty-four hours before the scheduled hearing.

9. DAF requests that the Motion to Stay be scheduled for an expedited hearing within (3) days of the filing of this Application. Alternatively, if such a setting is not possible, DAF requests that the Motion to Stay be scheduled for an expedited hearing on the Court's earliest available date, and that any responses be filed no later than twenty-four hours before the scheduled hearing.

10. DAF requests an expedited 30-minute hearing on the Motion to Stay.

11. All respondents have received notice of this Application. This Application and the Motion to Stay are opposed.

WHEREFORE, Plaintiff, Charitable DAF Fund, L.P., respectfully requests this Court (i) grant this Application for Expedited Hearing, (ii) set an expedited hearing on the Motion to Stay within three (3) days of the filing of this Application and set a response and objection deadline no later than twenty-four hours before the scheduled hearing or as set by the Court; (iii) in the event such a setting is not possible, and in the alternative, set an expedited hearing on the Motion to Stay on the Court's earliest available date and

time thereafter, and that any responses be filed no later than twenty-four hours before the scheduled hearing, and (iv) grant such other and further relief as is just and proper.

Respectfully Submitted,

**PARSONS MCENTIRE MCCLEARY
PLLC**

By: /s/ Roger L. McCleary

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Charitable DAF Fund, L.P.*

CERTIFICATE OF CONFERENCE

On February 4, 2025, the undersigned counsel for DAF conferred with counsel for A&M, Mr. Marshall King, who confirmed that A&M opposes the relief sought in this Application.

/s/ Roger L. McCleary
ROGER L. MCCLEARY

CERTIFICATE OF SERVICE

I certify that on the 4th day of February 2025, a true and correct copy of the foregoing Application was served on all counsel of record pursuant to the Federal Rules of Civil Procedure and the Federal Rules of Bankruptcy Procedure.

/s/ Roger L. McCleary

ROGER L. MCCLEARY

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FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL	§	
MANAGEMENT, L.P.	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
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Charitable DAF Fund, L.P.	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Adversary Proceeding No. 24-03073
	§	

Alvarez & Marsal CRF Management, §
LLC §
§

Defendant.

**ORDER GRANTING APPLICATION FOR EXPEDITED HEARING
ON MOTION TO STAY PENDING APPEAL**

Upon Plaintiff, Charitable DAF Fund, L.P.'s ("DAF") Application for Expedited Hearing ("Application") on its Motion to Stay Pending Appeal [Doc. 30] ("Motion to Stay") requesting expedited and emergency consideration of the Motion to Stay, and the Court, having reviewed the Application, finds that proper notice was given and that good cause exists for entry of this Order. It is therefore:

ORDERED that the Application for Expedited Hearing is **GRANTED**; and

IT IS FURTHER ORDERED that the hearing on the Motion to Stay shall be held on _____, 2025, at _____ .m. (Central Time) before the Honorable Stacey G. C. Jernigan. Any responses to the Emergency Motion shall be filed by _____, at _____.

End of Order

Submitted by:

PARSONS MCENTIRE MCCLEARY PLLC

/s/ Roger L. McCleary _____

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