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February 6, 2013

Catherine O'Hagan Wolfe, Clerk of Court  
United States Court of Appeals  
for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *NML Capital, Ltd., et al. v. Republic of Argentina*, No. 12-105(L)

Dear Ms. O'Hagan Wolfe:

We represent Non-Party Appellant The Bank of New York Mellon ("BNY Mellon") in this matter. Oral argument is scheduled for 2 p.m. on Wednesday, February 27, 2013. On February 1, 2013, the Court issued a notice of hearing date allocating 15 minutes of argument time each to Appellees and Appellant Argentina. Dkt. 829-1. The Court's notice did not, however, mention Appellant BNY Mellon. We are advised that the Court did not intend to allocate additional argument time to BNY Mellon specifically and, at the direction of the calendar clerk, we submit this letter respectfully requesting that the Court allocate 10 minutes of argument time to BNY Mellon, or another allotment the Court deems appropriate. BNY Mellon makes this request so that it can address the specific issue related to its unique position in this controversy—whether the injunctions issued by the district court properly and constitutionally can be applied to non-party BNY Mellon's performance of its obligations as indenture trustee.<sup>1</sup>

This Court previously granted BNY Mellon's request for leave to appear as a non-party appellant based on its direct interests in the injunctive orders on appeal. Dkt. 544. Material issues that are before the Court now—and that were not briefed or decided by the Court previously—concern the district court's jurisdiction to enjoin the conduct of non-party indenture trustee BNY Mellon consistent with due process, the relevant rule of civil procedure and applicable case law, settled equitable principles, and affected public interests.

Although Appellant Argentina is interested in how the Court resolves these particular issues, it lacks the direct stake in their outcome that BNY Mellon possesses, as its briefing demonstrates. Dkt. 657, 842.

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<sup>1</sup> BNY Mellon has sought the positions of the other parties to this appeal who have been allocated argument time. Counsel for Argentina does not oppose this request. Counsel for all Appellees except Olifant Fund, Limited oppose this request. BNY Mellon received no response from counsel for Olifant Fund.

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Indeed, the district court's injunctive orders affirmatively prohibit BNY Mellon from discharging its duties to bondholders under the relevant indenture. Allocating specific oral argument time to BNY Mellon, therefore, will assist the Court in resolving the critical issues relating to the lawfulness of extending the disputed injunctions to BNY Mellon.

For these reasons, BNY Mellon respectfully requests that the Court make a specific allowance of oral argument time on February 27 to BNY Mellon. BNY Mellon requests 10 minutes, or whatever other allotment this Court deems proper.

Very truly yours,

REED SMITH LLP

By: /s/ James C. Martin