

New York
Menlo Park
Washington DC
São Paulo
London

Paris
Madrid
Tokyo
Beijing
Hong Kong



Karen E. Wagner

Davis Polk & Wardwell LLP 212 450 4404 tel
450 Lexington Avenue 212 701 5404 fax
New York, NY 10017 karen.wagner@davispolk.com

March 13, 2015

Re: *NML Capital, Ltd. v. Republic of Argentina*, Nos. 08 Civ. 6978 (TPG),
09 Civ. 1707 (TPG), 09 Civ. 1708 (TPG);

 Aurelius Capital Master, Ltd. and ACP Master, Ltd. v. Republic of Argentina,
Nos. 09 Civ. 8757 (TPG) and 09 Civ. 10620 (TPG);

 *Aurelius Opportunities Fund II, LLC and Aurelius Capital Master, Ltd. v. Republic
of Argentina*, Nos. 10 Civ. 1602 (TPG), 10 Civ. 3507 (TPG), 10 Civ. 3970 (TPG)
and 10 Civ. 8339 (TPG);

 Blue Angel Capital I LLC v. Republic of Argentina, Nos. 10 Civ. 4101 (TPG) and
10 Civ. 4782 (TPG);

 Olifant Fund, Ltd. v. Republic of Argentina, No. 10 Civ. 9587 (TPG); and

 Pablo Alberto Varela, et al. v. Republic of Argentina, No. 10 Civ. 5338 (TPG).

Hon. Thomas P. Griesa
United States District Judge
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Dear Judge Griesa:

We write on behalf of Citibank in response to Plaintiffs' letter dated March 13, 2015 and in further support of Citibank's request for a stay of the enforcement of this Court's March 12, 2015 Order as to the payment due March 31, 2015 on the Argentine Law Bonds.

Citibank faces catastrophic consequences if it does not process the very small payment (\$3.7 million) it will receive on behalf of its customers on March 31, 2015. Indeed, just today, the Republic issued new threats reaffirming that it will take swift action against Citibank Argentina for complying with this Court's orders. Argentine Minister of Economy Axel Kicillof issued a statement today asserting that the March 12, 2015 Order:

[E]xposes the Argentine branch of the United States bank to violating Argentine law and losing its banking license.¹

¹ See *Griesa le pide al Citibank y sus directivos que violen las leyes argentinas*, Ministerio de Economía y Finanzas Publicas (Mar. 13, 2015), <http://www.mecon.gov.ar/griesa-le-pide-al-citibank-y-sus-directivos-que-violen-las-leyes-argentinas/>. An unofficial translation is attached as Exhibit A.

Mr. Kicillof reiterated that the Republic will be “inflexible” in enforcing its laws on this point.

There is no reason to believe—and indeed, every reason to doubt—that the very limited stay requested by Citibank will cause the Republic not to meet its obligations under the *Pari Passu* Clause. Under these circumstances, the catastrophic and irreversible harm to Citibank that would be occasioned by denying its request for a stay while it seeks expedited review of the underlying issues strongly weighs in favor of granting Citibank’s request for a stay. While Citibank believes it has strong arguments on the merits, the application of the traditional stay factors should be flexible and appropriately take into account the strength of any one factor. See *In re World Trade Ctr. Disaster Site Litig.*, 503 F.3d 167, 170 (2d Cir. 2007) (“the degree to which a factor must be present varies with the strength of the other factors”) (citations omitted).

The very limited stay requested is thus justified by the very real risk facing Citibank Argentina and its employees, which are in Argentina and remain subject to the Republic’s unfettered regulatory and police powers. In addition, as Citibank and The Clearing House have demonstrated, the public interest is not served by subjecting Citibank to conflicting legal obligations and grievous harm before Citibank can obtain expedited review on the important questions of comity, the separate entity doctrine, and the reach of Rule 65(d)(2). The issues addressed in the March 12, 2015 Order had been pending for months and months, without Citibank being forced to face serious and irreparable harm. There is no reason now on the eve of the next small interest payment to put Citibank, an indisputably innocent non-party, in this predicament. Citibank should be permitted to seek expedited review of the March 12, 2015 Order without having to face immediate dire consequences.

Very respectfully yours,

/s/ Karen E. Wagner
Karen E. Wagner

Encl.

By ECF

cc: All counsel of record (via ECF)

Exhibit A

Translation of Minister of Economy Axel Kicillof's March 13, 2015 Statement:

Judge Griesa once again has become an accomplice in the extortion attempt of the vulture funds. And furthermore, this time, pretends through an incredible order that Citibank of Argentina and its directors act in violation of Argentine laws.

According to Griesa, Argentine bonds governed by Argentine law, denominated in dollars, that were issued within the framework of the 2005 and 2010 exchanges must be deemed *pari passu* with the external debt, merely because they were issued to restructure the debt. These bonds are clearly domestic indebtedness and thus this decision is obviously inappropriate. This new confusion is once again a consequence of his unfortunate original decision on *pari passu*, which does not respond to economic or financial logic but only to the interests of the vulture funds.

In a shameful jurisdictional excess, Griesa ordered Citibank Argentina to comply with an order that not only is operatively impossible but that, even more seriously, exposes the Argentine branch of the United States bank to violating Argentine law and losing its banking license in the country.

In that sense, Citibank itself has indicated that its branch in Argentina "if it does not transfer the funds it receives to its clients, as will be done by the rest of the custodians, [it] shall not comply with the banking laws of Argentina. The Republic may revoke the license of Citibank Argentina and even impose criminal sanctions to its employees."

The order of Judge Griesa once again violates basic legal principles and makes it clear that its decisions are not based on the law but on his manifest partiality against Argentina.

The Republic reaffirms that it shall continue paying all its debts normally, in satisfaction of its legal obligations. And it reminds those entities that operate in the Argentine Republic that they are required to comply with the National legislation, and that the local authorities shall be inflexible in ensuring their compliance.