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1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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3 NML CAPITAL, LTD.,  
4 Plaintiff,

5 v. 08 Civ. 6978 (TPG)

6 THE REPUBLIC OF ARGENTINA,  
7 Defendant.

8 -----x

June 18, 2014  
2:00 p.m.

10 Before:

11 HON. THOMAS P. GRIESA,  
12 District Judge  
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## APPEARANCES

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THE DEPUTY CLERK: In the case of NML Capital Ltd. v.  
The Republic of Argentina.

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THE COURT: Good afternoon. Thank you all for coming  
on short notice. Mr. Cohen asked for this meeting, so I'll let  
Mr. Cohen start. And since these microphones are awkward,  
you'll all understand that you keep seated so that I can hear  
you.

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1           Go ahead.

2           MR. COHEN: Thank you, your Honor. Robert Cohen from  
3 Dechert for NML Capital.

4           Your Honor, we're here this afternoon to request an  
5 order to deal with what we think are extraordinary developments  
6 in this case over the last two days. Your Honor knows that on  
7 Monday, the Supreme Court denied certiorari. And your orders  
8 and the Second Circuit's affirmance became effective.

9           That night, the president of Argentina went on  
10 national television and announced a plan to directly evade this  
11 Court's orders. Yesterday, the economy minister made an  
12 extended speech in which he confirmed that those plans were  
13 being implemented.

14           Today before Congress in Argentina a proposal is being  
15 discussed to exchange what we've called the exchange bonds, the  
16 performing bonds, for bonds issued under Argentine law and  
17 payable in Argentina, explicitly to avoid the jurisdiction of  
18 this Court and the ability of this Court to enforce the equal  
19 treatment orders.

20           THE COURT: Let me interrupt you. It is my  
21 understanding, and you correct me if I'm wrong, that if the  
22 Republic arranges for another exchange, and if the exchange is  
23 to be carried out in Argentina or Switzerland or wherever, if  
24 there is an exchange, and if payments are made on that  
25 exchange, the pari passu clause is still invoked. Am I right?

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1 MR. COHEN: You are right, your Honor.

2 THE COURT: Okay. Now, that means that if there was a  
3 new exchange, and if a payment on that exchange came due, and  
4 if the Republic paid the exchangers and paid the plaintiffs  
5 here under the pari passu clause, all would be well. Right?

6 MR. COHEN: Provided they didn't change the payment  
7 mechanisms for the new exchange bonds.

8 THE COURT: Take it one step at a time.

9 MR. COHEN: If they paid us, it would be fine.

10 THE COURT: The problem, as I see it, and I will of  
11 course come back to your argument, but I just want to voice  
12 this. The problem as I see it lies in the issue of whether the  
13 Republic intends to make the payment that is due under the pari  
14 passu clause.

15 I want to address the Republic right now and ask what  
16 is the intention of the Republic?

17 MR. BOCCUZZI: Thank you, your Honor. I've been  
18 informed by Argentina that the authorities will be in New York  
19 next week, and that the country wants to have a dialogue and is  
20 willing to negotiate with the holdout creditors, including the  
21 plaintiffs in this case and here before your Honor.

22 Your Honor had said on May 30 when we were before you  
23 that if compliance, meaning payment in full to everyone, was an  
24 impossibility or would create -- I used the word calamity and  
25 you told me don't use such terms -- but an economic calamity

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1 for the Republic, that we should come to your Honor and that  
2 there should be a negotiation. I think your Honor said the way  
3 there are negotiations all time in courts across the land.

4 The Argentine authorities have told me -- I know  
5 they're in Congress today. I don't have specific instructions.  
6 But I've been told that their plan is to be here next week so  
7 they can negotiate with the holdouts and try to resolve this  
8 situation. Because as I said to your Honor and as was  
9 reflected in the speeches of the president and the finance  
10 minister, that payment in full to all the holdouts and to the  
11 restructured debt is something that cannot be done given  
12 capacity constraints.

13 So, when we get to June 30, which is the next payment  
14 date for restructured debt, that would mean nobody got paid.  
15 We're trying to resolve this. Your Honor has said to us you  
16 wanted to hear that there would be a plan or willingness to  
17 negotiate. There is that willingness.

18 I think that by and large should answer the points  
19 raised by Mr. Cohen. An exchange offer is not happening at  
20 this time. The speeches that were made were speeches by  
21 national figures, addressing the final word of the Supreme  
22 Court ending the Republic's attempts to appeal your Honor's  
23 injunctions.

24 In light of that, and the fact that Argentina  
25 continues to try to reconcile its commitment to pay the

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1 93 percent who took the deal, to reconcile that with the  
2 orders, which say those payments can only continue if holdouts  
3 are paid in full, that is what they're trying to reconcile.  
4 That's what they are trying to figure out the way forward.

5 So they wanted me to inform your Honor that they are  
6 prepared to be here, they are coming here to negotiate, which  
7 is what I understand from press statements by representatives  
8 of NML, everyone is saying they want a negotiation. So  
9 Argentina is prepared to negotiate with the holdouts.

10 MR. COHEN: Your Honor, we have been prepared to  
11 negotiate with Argentina since this began. We have been  
12 dealing with the equal treatment matter for three years. They  
13 know where we have been, and we would be happy to talk to them.

14 But we are talking about a billion four, not \$15  
15 billion. That's the amount that is at issue now. They have  
16 just agreed to pay \$1 billion to the Paris Club. They just  
17 paid \$5 billion to Repsol, and they say if they honor the  
18 obligations that your Honor has imposed, somehow the world is  
19 going to fall apart.

20 We've heard this now for a long, long time. I didn't  
21 hear an answer to your question to Mr. Boccuzzi if they paid  
22 the exchange bond holders are they going to pay us. He didn't  
23 answer that.

24 We need an order, your Honor, that makes it impossible  
25 for them, or as impossible as we can make it, to evade us to do

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1 the plan they have announced. It is a fairly modest ask. It  
2 asks for some disclosure before what that plan is,  
3 communications about it.

4 But we can't allow negotiations and the possibility  
5 that behind our backs they are in fact implementing this plan,  
6 which they say is now in progress, and then it is too late to  
7 do anything about it.

8 We asked this kind of relief before, and it was  
9 hypothetical, and we understand your Honor's reluctance to give  
10 it to us before the Supreme Court have acted. But our fears  
11 have now come true. The representations that were made about  
12 there being no plan were obviously untrue.

13 THE COURT: What do you mean by that?

14 MR. COHEN: They told us that there was no plan to  
15 evade. And the day, the evening the Supreme Court denied cert,  
16 the very plan that had been announced before and which counsel  
17 for Argentina says did not exist was announced. We simply  
18 don't believe that that plan came into existence between 9:30  
19 in the morning on Monday --

20 THE COURT: That plan being what?

21 MR. COHEN: To exchange the bonds in Argentina and pay  
22 the exchange bonds in Argentina. That was what Cristina  
23 Kirchner announced in August is how she was going to evade us.  
24 We wanted discovery about that. Repeated assurances were given  
25 that there was no such plan. It did not exist. That's why

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1 there were no documents.

2           Mr. Boccuzzi and Mr. Blackman stood up and said that  
3 in this court. And on the night of the denial, the president  
4 goes on national television and announces that plan. Now, that  
5 didn't come into existence after the Supreme Court announced  
6 the denial. That plan had been in the works for some time. It  
7 is fairly developed because it is being presented to Congress  
8 as we speak. The next day the economy minister went through  
9 the same plan.

10           This is not hypothetical, your Honor. It is happening  
11 as we speak and we need to stop it. That's why we need the  
12 information. If they want to talk about settlement, they know  
13 how to find us. They've got not just until June 30, your  
14 Honor. They have a 30-day grace period beyond June 30. They  
15 don't have to pay the exchange bond holders until the end of  
16 July. In six weeks much bigger deals than this have been  
17 resolved.

18           We're prepared to sit with them if they want to talk  
19 about it. But without any concession on their obligation to  
20 pay us the billion four that's before the Court now.

21           THE COURT: The problem that I have is that if the  
22 Republic makes an arrangement with the exchangers to have their  
23 exchange bonds processed outside the United States, which is  
24 what is being talked about, then the very real possibility  
25 exists as follows:

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1           The exchangers will get paid. There will be an  
2 obligation under the existing cases that have been decided  
3 here. There will be an obligation to make a payment under the  
4 pari passu clause of let's say one billion five, or I'm just  
5 using a figure without knowing exactly what -- but that would  
6 be a substantial obligation to the pari passu plaintiffs  
7 represented by Mr. Cohen.

8           Now, in my view, the danger exists that the exchangers  
9 will be paid and the pari passu plaintiffs will not get paid.  
10 And let's say there is a judgment in favor -- I'm not sure a  
11 literal judgment has been entered, but of course there will be  
12 a judgment in favor of the pari passu plaintiffs. If there  
13 isn't already one, there will be one.

14           What has the Republic done to judgments for the last  
15 dozen years? It has ignored those judgments. And that is what  
16 is of concern to me. We will have another judgment, and the  
17 Republic will do what it has done to all judgments thus far,  
18 ignore.

19           You can talk about negotiation, but I believe that  
20 there has to be a legal mechanism to prevent what I am talking  
21 about, because we do not want another charade. The advantage  
22 of the pari passu process is that it is finally, after all  
23 these years, yielded a mechanism to compel the Republic to pay  
24 the plaintiffs who are supposed to be paid. And after years of  
25 frustrating attempts, when the Republic wouldn't pay those

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1 judgments, and the plaintiffs were trying to find assets here  
2 and there and none of it was really yielded anything. And the  
3 Republic was standing there not paying their judgments.

4 We do not want to get back to that. You can talk  
5 about negotiating. Negotiation is fine. But, as a judge, what  
6 I want is a legal mechanism to prevent another situation where  
7 the Republic can simply laugh off a judgment.

8 What do you propose, Mr. Cohen?

9 MR. COHEN: Your Honor, may I hand up a proposed order  
10 and take you through it?

11 THE COURT: Okay.

12 MR. COHEN: Your Honor, this proposed order recites in  
13 the first several pages the history of the case and the orders  
14 you have entered to date. The ordering paragraphs begin on  
15 page eight, and it starts by ordering that the announced plan  
16 to exchange the exchange bonds for Argentine bonds payable in  
17 Argentina to avoid --

18 THE COURT: Can we back up a bit.

19 MR. COHEN: Yes.

20 THE COURT: I know that I have this, but I would just  
21 like to have in open court a review of what mechanisms are now  
22 in place.

23 MR. COHEN: Your Honor, there is something called the  
24 amended February 23 order. That was the order that your Honor  
25 entered after the Second Circuit remanded to you two issues to

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1 resolve, and you entered an order describing how the pari passu  
2 ratable payment formula ought to work and who was bound by that  
3 order. It also included what we have come to call the  
4 anti-evasion paragraph, which says Argentina may not take any  
5 steps to avoid this Court and the ability to enforce the equal  
6 treatment order. And that meant they couldn't exchange the  
7 bonds for other bonds payable outside of Argentina, if the  
8 intent was to avoid paying us.

9 THE COURT: That last thing, did that go up to the  
10 court of appeals?

11 MR. COHEN: Yes. That order was stayed pending all  
12 these appeals. This morning --

13 THE COURT: What is the order with the mechanism?

14 (Pause)

15 THE COURT: What is the essence of this November 21,  
16 2012, order?

17 MR. COHEN: Your Honor, this is what we call the  
18 amended February 23 order. But it is the order that you  
19 entered after the Second Circuit remanded to you the two  
20 issues. How did the ratable payment formula work, and who was  
21 caught by the injunction. And it includes in paragraph four,  
22 and that's what I'd like your Honor to direct your attention  
23 to.

24 THE COURT: Wait a minute. I'm a little mixed up  
25 about that dating system, frankly.

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1 MR. COHEN: Yes.

2 MR. BOCCUZZI: Your Honor, if I might. So on  
3 February 23, 2012, your Honor entered the first pari passu  
4 injunctions.

5 THE COURT: Say it again, Mr. Boccuzzi?

6 MR. BOCCUZZI: On February 23, 2012, your Honor  
7 entered what was then the first set of pari passu injunctions.

8 THE COURT: Okay.

9 MR. BOCCUZZI: These were the subject of an appeal  
10 which the court of appeals decided on October 26, 2012. When  
11 the court of appeals affirmed you, they said they need to  
12 remand it back to you for two points for you to consider. And  
13 that was what exactly did your Honor mean when you said  
14 Argentina make a ratable payment to plaintiffs when you pay the  
15 exchange bond holders; and two, who exactly would be bound by  
16 the injunction.

17 Following that remand, what Mr. Cohen is calling  
18 what's titled the amended February 23, 2012 order was issued by  
19 you in November of 2012, essentially answering those two  
20 questions. Saying essentially that Argentina needs to pay full  
21 principal plus interest to those with pari passu rights, and  
22 also listing out folks bound by the injunction. Basically the  
23 payment system.

24 If I might, relevant for today's purposes, paragraph  
25 four of this injunction that you issued on November 2012 which

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1 is now in effect, is the paragraph that says the Republic is  
2 permanently prohibited from taking actions to evade the  
3 directives of this order render ineffective or take any steps  
4 to diminish the Court's ability to supervise compliance with  
5 the order, including but not limited to, altering or amending  
6 the processes or specific transfer mechanisms by which it makes  
7 payments on the exchange bonds without obtaining prior approval  
8 of the Court.

9 THE COURT: That's a good summary. Thank you.

10 Here is the point I want to make. And this is really  
11 at the heart of carrying out the pari passu provision. Under  
12 paragraph two, whenever the Republic makes a payment on the  
13 exchange bonds, it cannot do so, it cannot do so, unless  
14 concurrently or in advance it makes what is called the ratable  
15 payment to NML.

16 And I think everybody concerned, including banks and  
17 all, must recognize that there can be no payment to the  
18 exchangers unless there is a payment to NML. And if anyone  
19 undertakes to make a payment to the exchangers without making  
20 sure that there is a payment to the NML, they are in violation  
21 of this court order.

22 That, it seems to me, is something that everybody who  
23 has an interest in carrying out any of these provisions, this  
24 is the essential provision. That should be noted very  
25 carefully.

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1           Mr. Cohen, what is it that you need in addition to  
2 what is already in place?

3           MR. COHEN: Your Honor, in addition to an enhanced  
4 version of paragraph four which was read to you, to make sure  
5 that no one could mistake what is permitted, which includes  
6 planning, discussing evasion, we think it is essential to have  
7 some disclosure of what the plan is.

8           We are at risk, your Honor, that people who are  
9 entities that are not under your jurisdiction may somehow think  
10 that they can cooperate with Argentina. And we need to be able  
11 to take steps, perhaps in other jurisdictions, to make that not  
12 happen.

13           I'm confident that the institutions in New York who  
14 are familiar with this proceeding are most unlikely to do  
15 anything to assist Argentina. But there may be entities  
16 elsewhere that might, and we don't know who Argentina is  
17 working with to try to make this happen.

18           So we have asked in the proposed order that Argentina  
19 disclose to us promptly what the plan is, how they expect it to  
20 work, and with whom they have communicated about it so we can  
21 consider what prudent steps we might take to try to be sure  
22 that plan never happens.

23           That really is the reason primarily for the proposed  
24 order. The rest I think is really just a little bit more belts  
25 and suspenders about the scope of the injunction and a finding

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1 that the plan that has been announced and is being implemented  
2 does in fact violate the existing what we call the anti-evasion  
3 order.

4 THE COURT: Why does it violate?

5 MR. COHEN: Because we have in place an order that  
6 says they may not take any steps to try to avoid this Court's  
7 jurisdiction. And President Kirchner and Economy Minister  
8 Kicillof have said that they have taken steps to implement a  
9 plan to pay the exchange bond holders in Argentina and not pay  
10 us. That's why the plan and the implementation of the plan is  
11 a violation of your order.

12 THE COURT: "And not pay us." Have they said that?

13 MR. COHEN: Yes.

14 MR. BOCCUZZI: Your Honor, they have not said that.  
15 Importantly, they have the protections of paragraph four, what  
16 Mr. Cohen called the anti-evasion provision, which stops any  
17 evasion of the injunction without prior approval of the Court.

18 These orders are very broad that your Honor issued and  
19 that were upheld. Nothing would happen without coming to your  
20 Honor. They basically, this order that they sent over an hour  
21 ago, the first two paragraphs just lie out broad statements  
22 that statements made by a president and a minister are in  
23 violation of an injunction.

24 And then as Mr. Cohen said, any, quote unquote,  
25 discussions or plans, obviously options are considered. But

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1 again, no steps are taken. And if they were, they would fall  
2 under the broad paragraph four of the injunction that's in  
3 place.

4 So I don't know if this is just an attempt again to  
5 get discovery. I don't think there is any. I think they are  
6 in Congress today discussing what is facing the Republic, what  
7 we were discussing earlier, by the injunctions. The obligation  
8 to pay in full when an interest payment is made and the risk  
9 that presents to the Republic.

10 There is no basis for these orders. They've got the  
11 paragraph four language. Your Honor entered an order back in  
12 October related to the speech that the president gave in  
13 August. And otherwise these orders reference other orders that  
14 are not in effect. They are all over the place.

15 At the very least, if your Honor was going to consider  
16 them, I would like to make some submission to oppose it. I  
17 think these folks are protected, and the larger picture is I  
18 hope we can reach some resolution.

19 MR. FRIEDMAN: Your Honor, may I respond to Boccuzzi?  
20 I'm Mr. Friedman of the Friedman Kaplan firm on behalf of the  
21 Aurelius and Blue Angel plaintiffs who are part of the pari  
22 passu injunctions that are now in effect.

23 And what I would like to address is the contrast  
24 between what Mr. Boccuzzi is saying today and the facts that  
25 are in the record before your Honor, and in the public record,

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1 by virtue of statements by the most senior governmental  
2 officials in Argentina.

3 I would start, your Honor, with what is in the record  
4 before you already. Back in October of 2013, your Honor gave  
5 consideration to an announced plan by President Cristina  
6 Kirchner to effectuate an exchange of the exchange bonds to  
7 change the place of payment to Argentina. When your Honor  
8 considered that plan, your Honor issued an order. Nobody has  
9 mentioned that order. I believe it is important in considering  
10 what is before the Court today.

11 In that order, dated October 3, 2013, your Honor  
12 declared that for the avoidance of doubt, the implementation of  
13 the plan to allow exchange bonds to be exchanged for securities  
14 or similar instruments payable in Argentina, which was  
15 announced by President Fernández de Kirchner in her speech of  
16 August 26, 2013. Implementation of any functionally equivalent  
17 or reasonably similar plan; or three, any step towards  
18 implementing, including without limitation, the formulation or  
19 design of such a plan or a functionally equivalent or  
20 reasonably similar plan, each would violate the anti-evasion  
21 injunction of the March 5 order, and paragraph two of this  
22 order.

23 I should say the March 5 order, your Honor, is  
24 substantially the same as the paragraph four of the amended  
25 February 23 order. The March 5 order was put into place

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1 because the February 23 order as a whole was stayed. But there  
2 were anti-evasion provisions that remained in effect, even  
3 while the equal treatment obligation was stayed.

4 We now, obviously, are at a point where your Honor's  
5 equal treatment order has been affirmed, the Supreme Court has  
6 denied review, it is no longer subject to appeal. The  
7 situation we are in is that on June 30, 12 days from now,  
8 Argentina is scheduled to pay \$900 million to the exchange bond  
9 holders. In accordance with your Honor's orders that have been  
10 affirmed, that are now in full force and effect, as to which  
11 there is no stay, in accordance with those orders, when the  
12 Republic of Argentina pays 900 million to the exchange bond  
13 holders, the Republic of Argentina at that time, or in advance,  
14 must pay \$1.5 billion to the pari passu plaintiffs in this  
15 case. That is the legal obligation that is now upon the  
16 Republic.

17 Your Honor has been very explicit in the orders that  
18 have been affirmed that the very plans and proposals that have  
19 been announced, that are being formulated by the Republic of  
20 Argentina, are themselves violations of the order.

21 Your Honor heard Mr. Boccuzzi say there is no plan.  
22 However, the president of Argentina announced that the exchange  
23 bond holders would be paid. And she said in substance the pari  
24 passu plaintiffs would not. The entire purpose of the plan  
25 announced by the economy minister yesterday, the entire purpose

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1 was to have exchange bonds, new exchange bonds, issued to the  
2 exchangers with Argentina as the place of payment. The purpose  
3 is to defeat and evade your Honor's jurisdiction.

4 So, I respectfully agree completely with your Honor  
5 that we need a mechanism in place to ensure that at long last  
6 the orders of this Court, as affirmed by the Second Circuit,  
7 can be complied with. And the purpose of the order being  
8 submitted by NML and Aurelius and the other pari passu  
9 plaintiffs is to make crystal clear that with the equal  
10 treatment obligation now finally becoming effective, Argentina  
11 may not in the final days before the Court's orders are in  
12 force, Argentina may not implement a scheme to defeat the  
13 jurisdiction of this Court.

14 And your Honor has said that, the order being  
15 submitted today confirms that, and as Mr. Cohen was saying, it  
16 provides for limited and important discovery so that we will  
17 have a record of what is going on in an attempt to evade your  
18 Honor's orders, which should not be countenanced.

19 THE COURT: That is quite helpful.

20 I want to go back to Mr. Cohen. I want to look at  
21 your motion. Because there is a motion. I guess you call it a  
22 proposed order supplementing, etc. Is that it?

23 MR. COHEN: Yes, your Honor.

24 THE COURT: Let us go through that. I don't want to  
25 go through history. I'll assume I don't have to go through the

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1 history. But, I've not had a chance to study this. And I want  
2 to start with page five. Can you summarize the material  
3 beginning at page five.

4 MR. COHEN: Yes, your Honor. At the top it talks  
5 about the affirmance by the Second Circuit. You are talking  
6 about the whereas clause at the top of page five?

7 THE COURT: Yes.

8 MR. COHEN: That was when the Second Circuit affirmed  
9 what we're calling the amended February 23 orders. Your Honor,  
10 that was your Honor's order where you clarified how the ratable  
11 payment formula would work and who was bound by the injunction.  
12 That was stayed in order to allow Argentina to petition for  
13 certiorari.

14 We note in the second whereas clause on that page what  
15 the Second Circuit's August 23 opinion said about Argentina's  
16 officials publicly and repeatedly announcing their intention to  
17 deny any rulings of this Court with which they disagree.

18 Then we refer to the speech that President Kirchner  
19 made on August 26 in which she described the proposed exchange  
20 of the exchange bonds for bonds payable in Argentina to evade  
21 the directives of the amended February 23 order.

22 We then talk about the October 3 order which your  
23 Honor entered which clarified and amplified exactly what steps  
24 were prohibited in terms of evading the equal treatment order.  
25 And that language is set out at the bottom of page five and at

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1 the top of page six.

2 Then it goes on further to set out what paragraph four  
3 of that order does, which again requires disclosure within five  
4 business days of any communications with anybody about a plan  
5 to evade the equal treatment order.

6 Then at the top of page seven, it refers to a letter  
7 that was written by Argentina's counsel, that represented that  
8 the Republic had informed Argentina's counsel that it has no  
9 plans to violate the anti-evasion injunction, and accordingly  
10 does not have any documents responsive to the discovery  
11 provisions of the October 3 order, which require them to  
12 disclose those if they existed within five days. They were  
13 saying there were no plans, so there were no documents.

14 Then at a hearing on November 15, again, counsel for  
15 Argentina said there is no plan of any kind -- it is set forth  
16 in an affidavit -- to do anything with respect to exchange  
17 bonds, the bonds that were issued in the two exchange offers  
18 that this Court blessed that are held by 93 percent of the  
19 original debt. No such plans, no evidence of such a plan.

20 Then it recites that on February 18, the Supreme Court  
21 denied -- that the Republic filed a petition for certiorari.  
22 In their reply brief, this was just on May 27, in order to  
23 induce the Supreme Court to accept that petition, they  
24 represented to the Court "To be clear, absent relief, Argentina  
25 will comply with the orders under review." So they represented

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1 to the Court that they would comply both with the equal  
2 treatment orders and the anti-evasion orders in order to induce  
3 the Supreme Court to accept that petition. The Supreme Court  
4 nevertheless denied the petition which is the next whereas  
5 clause.

6 That night, on June 16, President Kirchner made a  
7 speech to the nation where she said, "I have instructed the  
8 economy ministry and all the technical agencies of the national  
9 state to make available all the instruments and all the  
10 strategies necessary for all those who have trusted in  
11 Argentina to receive their money, to receive the dollars which  
12 we have committed to pay." And that's a reference to paying  
13 the exchange bond holders.

14 Yesterday, the economy minister said according --

15 THE COURT: Let me interrupt you. Just a minute. I  
16 have to say that the speech of the president was unfortunate in  
17 this respect. I'm not attempting to criticize political  
18 speeches, and that is not my job. But it was more than a  
19 political speech. It made a very strong commitment to pay the  
20 exchanges. As for the people who are to be paid under the  
21 equal treatment, it refers to them or their situation as  
22 extortion.

23 That really does not give me confidence in a good  
24 faith commitment to pay all the obligations of the Republic.

25 There is a paragraph that says as follows: "The fact

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1 is that Argentina has shown and has a willingness to negotiate.  
2 What it doesn't have, well, shall we say, let us say with all  
3 the letters spelled out, is a reason to be subjected to such  
4 extortion."

5 Go ahead, Mr. Cohen.

6 MR. COHEN: Thank you, your Honor.

7 THE COURT: But the president's speech is a problem.

8 MR. COHEN: Just with respect to the president's  
9 speech, your Honor. And in response to Mr. Boccuzzi's -- your  
10 question, your Honor, whether she said she's going to pay the  
11 1.5 billion if she paid the exchanges. On page four of the  
12 translation she says "Now, there are some who say why not pay  
13 this 1.5 billion and finish everything already." Then she goes  
14 on to explain why she's not going to pay it.

15 So there is no question, your Honor, that the scheme  
16 that she announced to pay the exchange bond holders --

17 THE COURT: I don't see where you're reading.

18 MR. COHEN: I'm sorry, your Honor.

19 THE COURT: What is the paragraph?

20 MR. COHEN: Declaration of Dennis Hranitzky. It is  
21 not in the proposed order.

22 THE COURT: You mean the finance minister?

23 MR. COHEN: No, I was referring to President  
24 Kirchner's speech.

25 THE COURT: Anyway. I'll assume you're reading it

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1 correctly. You go ahead.

2 MR. BOCCUZZI: But your Honor, just to speak to that,  
3 your Honor, she makes the statement that in answering the  
4 question why not just pay the 1.5. She makes clear that the  
5 1.5 is not just 1.5, because of the other bond holders with  
6 pari passu rights, including the plaintiffs in this room who  
7 have another \$2.3 billion in claims that they will say are  
8 subject to pari passu.

9 So what she's trying to explain is that payment in  
10 full to the holdouts, along with payment to the restructured,  
11 can't happened given the resource constraints. Therefore the  
12 result will be no payment to all. That's why they talk about  
13 the threat of default in both speeches. And that is why they  
14 say if there is a default, we need to negotiate, we need to  
15 negotiate with all. She talks about 100 percent in such a  
16 situation. Including these holdouts.

17 The speech has to be taken in context. Obviously  
18 there is some strong language because she's dealing with quite  
19 a large problem and situation and trying to deal with it in a  
20 way that takes into account all the aspects here.

21 But she's not saying on June 30, we're going to open  
22 up a cash window someplace away from the Court's jurisdiction  
23 and pay out those folks. She's not saying that. And so we  
24 don't have a, quote unquote, plan.

25 We have statements that are made of what would happen,

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1 how could we deal with the situation if we are in a default  
2 situation and we can't negotiate our way to a solution. And  
3 that would include coming back to your Honor with a proposal  
4 for restructuring the debt in accordance with the injunctions  
5 that have been issued.

6 So they have their anti-evasion language. It was read  
7 to your Honor by me and by Mr. Cohen. They have the October  
8 order which I referenced. This just seems to be an attempt to  
9 create another crisis, where frankly, there isn't one, given  
10 the orders your Honor has entered.

11 THE COURT: You make a good statement as always. It  
12 would have been better if she had not referred to the *pari*  
13 *passu* people as extortion. That would have helped.

14 But anyway, let's go back to Mr. Cohen. Go ahead.

15 MR. COHEN: Last night the economy minister told us  
16 all exactly what the plan is. He said in the press release  
17 issued by the ministry of the economy, the minister announced  
18 in a press conference today the new methodology for honoring  
19 the debt to the bond holders that entered the restructuring  
20 programs -- that's the exchangers. He said that a new debt  
21 exchange will be open to those that entered the earlier  
22 restructuring in order to pay in Argentina under Argentine law,  
23 and to avoid attachments.

24 Who could he be talking about attaching? If he is  
25 going to pay us, there would be no risk of attachment. So he

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1 is clearly --

2 THE COURT: I could not figure out what he meant by  
3 attachment at all.

4 MR. COHEN: Yes.

5 THE COURT: I assume that he has reference to some  
6 legal obligation to pay the pari passu people. It was not a  
7 very carefully articulated statement.

8 MR. COHEN: I think it is to avoid the injunctions  
9 that are in effect.

10 THE COURT: I think that's right.

11 MR. BOCCUZZI: Your Honor, he twice says in the  
12 statement he is going to send his lawyers to speak to you. And  
13 to the extent there is ever a restructuring, it is referred to  
14 in accordance with paragraph four which talks about approval of  
15 the Court. He twice says sending the lawyers to speak to Judge  
16 Griesa. So again, the idea that something is happening between  
17 now and the 30th that requires further injunctive relief, there  
18 is no basis for it.

19 MR. COHEN: Your Honor, if I may.

20 THE COURT: I hear you. I hear what you say. Go  
21 ahead.

22 MR. COHEN: We then get to the ordering paragraphs,  
23 your Honor, that follow the acknowledgment that on June 30 the  
24 Republic is scheduled to make a payment on the exchange bond.  
25 And the ordering paragraph order that all steps taken in

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1 furtherance of the plan described by President Kirchner in her  
2 speech and in Minister Kicillof and his speech, and any  
3 reasonably similar plan, and all steps taken in furtherance of  
4 such plans, constitute violations of the February 23 order and  
5 the other orders we've made reference to.

6 And the second ordering paragraph says that steps  
7 taken in furtherance of that plan would also violate the  
8 orders.

9 The third ordering paragraph is an expansion, if you  
10 will, of the acts that are prohibited, and it says that  
11 Argentina is prohibited from taking any action or planning to  
12 take any action, either directly or through any representative,  
13 agent, instrumentality, political subdivision, or other person  
14 or entity acting on behalf of the Republic to evade or attempt  
15 to evade the purposes and directives of the amended February 23  
16 order. To render or attempt to render --

17 THE COURT: Where are you reading from now? Page  
18 what?

19 MR. COHEN: Page nine, your Honor.

20 THE COURT: Paragraph two?

21 MR. COHEN: Paragraph three.

22 THE COURT: Paragraph three.

23 MR. COHEN: Then it has the for the avoidance of  
24 doubt, the anti-evasion prohibition in each of this Court's  
25 aforementioned prior orders extends to taking any step toward

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1 an action or toward planning or devising a means by which to  
2 take an action to evade or attempt to evade the purposes and  
3 directives of the amended February 23 orders, including,  
4 without limitation, the formulation or design of any  
5 alteration, amendment, change or exchange of the processes or  
6 specific transfer mechanisms by which it makes payments on the  
7 exchange bonds, or the formulation or design of any means by  
8 which the Republic might transfer, recreate, refinance,  
9 exchange, or substitute obligations now existing under the  
10 exchange bonds through other debt instruments, contracts, or  
11 securities in the future.

12 Then we have two ordering paragraphs that talk about  
13 disclosure. The first is that the Republic shall within 72  
14 hours produce any documents or records reflecting any plan or  
15 proposal, whatever its stage of development, to evade the  
16 February 23 orders, including, but not limited to, the plan  
17 announced by the economy ministry, and shall produce to  
18 plaintiffs any and all documents or records reflecting any  
19 other plan or proposal, whatever its stage of development, to  
20 evade the February 23 orders created after the date of this  
21 order within 72 hours of their creation.

22 THE COURT: Look, we've got a lot of orders, a lot of  
23 language. I'm not interested in further multiplication of  
24 language and orders.

25 What is your position on a plan to change the exchange

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1 procedures along the lines of the finance minister's proposal.  
2 That is to have the exchange sited, located, I don't know what  
3 that would mean, in Argentina.

4 Do you believe that that violates existing orders of  
5 this Court?

6 MR. COHEN: Yes, your Honor.

7 THE COURT: I agree.

8 What I want to do, I want to do something I hope is  
9 simple. And that is, propose a simple order, without history  
10 and so forth, which simply says that that proposed mechanism,  
11 however you want to call it, violates the orders of this Court.

12 I believe it does violate. Because what we have in  
13 place, and this has been spelled out in orders, it has been  
14 considered and reconsidered, we have the mechanism for  
15 processing the exchanges that is in place and it has a reason  
16 for being in place, is to prevent evasion and so forth.

17 It is the position of the Court that another mechanism  
18 of the kind proposed by the finance minister would be a  
19 violation of the existing procedures and orders established by  
20 the Court.

21 What I would like you to do, Mr. Cohen, on notice to  
22 Mr. Boccuzzi, etc., is to provide a simple order declaring that  
23 to be a violation of the existing court orders. And that's  
24 really all I want to do this afternoon. I don't want to have  
25 another order, another lengthy order repeating history and so

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1     forth.  We have enough of these.  I'm not saying that  
2     disrespectfully of you.  But, we don't need another one.  What  
3     we do need is something directly on point.

4             MR. COHEN:  We will do that, your Honor.

5             THE COURT:  With that, we are in recess.  Thank you  
6     very much.

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