

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NML CAPITAL, LTD., *et al.*,

Plaintiffs-Appellees,

- and -

ROSAS DE COHEN, *et al.*,

Plaintiffs,

- against -

THE REPUBLIC OF ARGENTINA,

Defendant-Appellant.

15-3675-cv(L); 15-3651-cv; 15-3608-cv;
15-3609-cv; 15-3661-cv; 15-3652-cv;
15-3646-cv; 15-3659-cv; 15-3618-cv;
15-3622-cv; 15-3626-cv; 15-3682-cv;
15-3628-cv; 15-3656-cv; 15-3715-cv;
15-3653-cv; 15-3657-cv; 15-3616-cv;
15-3617-cv; 15-3629-cv; 15-3612-cv;
15-3624-cv; 15-3645-cv; 15-3625-cv;
15-3640-cv; 15-3713-cv; 15-3643-cv;
15-3638-cv; 15-3668-cv; 15-3630-cv;
15-3614-cv; 15-3621-cv; 15-3664-cv;
15-3649-cv; 15-3666-cv; 15-3642-cv;
15-3672-cv; 15-3663-cv; 15-3632-cv;
15-3623-cv; 15-3633-cv; 15-3634-cv;
15-3679-cv; 15-3647-cv; 15-3641-cv;
15-3648-cv; 15-3660-cv; 15-3670-cv;
15-3678-cv

**THE REPUBLIC OF ARGENTINA’S REPLY IN SUPPORT OF
ITS EMERGENCY MOTION FOR LIMITED REMAND
PURSUANT TO FED. R. APP. P. 12.1**

The appropriate procedure to have this Court address a district court’s indicative ruling is straightforward. Federal Rule of Appellate Procedure 12.1(a) instructs that “the movant must promptly notify the circuit clerk if the district court states . . . that it would grant the motion”. The Republic did so on the next business day. (Doc. 69.) Rule 12.1(b) then states that “the court of appeals may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal”. Therefore, the Republic combined its notice pursuant to Rule 12.1(a) with a motion for limited remand pursuant to Rule 12.1(b). (*Id.*)

In response to that simple procedural motion, Appellees have filed a 15-page opposition, accusing the Republic of trying to “add fresh layers of procedural

mess to these cases” (Appellees’ Opp’n (Doc. 79) at 12). In addition, they have urged on this Court a series of unnecessary procedural demands:

- Appellees filed a letter, ostensibly pursuant to Rule 28(j), seeking an immediate “discuss[ion]” regarding the Indicative Ruling with a panel of this Court assigned to a separate appeal. (Case No. 15-1060, Doc. 198; Case No. 15-3675, Doc. 74.)
- Appellees have opposed the Republic’s motion to voluntarily abandon and dismiss with prejudice its own appeal in that separate case. (Case No. 15-1060, Doc. 212.)
- Appellees now urge this Court to “wait” to grant a limited remand “until it is first established that the district court’s conditions precedent have been satisfied (or at least nearly so)”. (Appellees’ Opp’n at 13.)

None of this needs to be so complicated. Appellees plainly disagree with the District Court’s Indicative Ruling and seek to express their disagreement to this Court. But the appropriate way to do that is to (1) allow a limited remand of this appeal, (2) seek to have the District Court enter the actual orders that at this point are only anticipated in the Indicative Ruling and (3) take an appeal of those orders if and when they are issued. Without that procedure, the District Court’s Indicative Ruling is not before this Court; there is no case or controversy to be decided, and needless procedures before this Court only serve to delay consideration of the actual issue that Appellees wish to complain about.

Accordingly, the Republic’s motion for limited remand of this appeal pursuant to Rule 12.1 should be granted.

February 23, 2016

Respectfully submitted,

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by

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