

MOTION INFORMATION STATEMENT

Docket Number(s): 16-628 (L) Caption [use short title]

Motion for: Motion of Amici Curiae Euro Bondholders to Participate in Oral Argument Aurelius Capital Master, Ltd. v. Republic of Argentina

Set forth below precise, complete statement of relief sought:
Amici Curiae Euro Bondholders seek leave to participate in oral argument, and request an allotment of time of five minutes

MOVING PARTY: Euro Bondholders
 Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

OPPOSING PARTY: Aurelius Capital Master, Ltd. et al.

MOVING ATTORNEY: Christopher J. Clark
[name of attorney, with firm, address, phone number and e-mail]

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Court-Judge/Agency appealed from: Southern District of New York, District Judge Thomas P. Griesa

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):
 Yes No (explain): _____

Opposing counsel's position on motion:
 Unopposed Opposed Don't Know

Does opposing counsel intend to file a response:
 Yes No Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? Yes No

Has this relief been previously sought in this Court? Yes No

Requested return date and explanation of emergency: _____

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date: April 13, 2016

Signature of Moving Attorney: /s/ Christopher J. Clark Date: April 5, 2016

Service by: CM/ECF Other [Attach proof of service]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Aurelius Capital Master, Ltd., *et al.*,
Plaintiffs-Appellants,
v.
Republic of Argentina,
Defendant-Appellee.

Docket No. 16-628(L), 16-639(con),
16-640 (con), 16-641(con), 16-42(con),
16-643(con), 16-644(con), 16-649(con),
16-650(con), 16-651(con), 16-653(con),
16-657(con), 16-658(con), 16-659(con),
16-660(con), 16-661(con), 16-664(con),
16-665(con), 16-666(con). 16-667(con),
16-668(con), 16-669(con), 16-671(con),
16-672(con), 16-673(con), 16-674(con),
16-677(con), 16-678(con), 16-681(con),
16-682(con), 16-683(con), 16-684(con),
16-685(con), 16-686(con), 16-687(con),
16-688(con), 16-689(con), 16-690(con),
16-691(con), 16-694(con), 16-695(con),
16-696(con), 16-697(con), 16-698(con)

**MOTION OF AMICI CURIAE EURO BONDHOLDERS
TO PARTICIPATE IN ORAL ARGUMENT**

Pursuant to Rule 27 of the Federal Rules of Appellate Procedure and Local Rule 27.1, *amici curiae* Euro Bondholders¹ move for leave to participate in oral argument in support of appellee the Republic of Argentina (the “Republic”). *Amici*

¹ The Euro Bondholders are a group of holders of a substantial amount of English law governed euro-denominated bonds (“Euro Bonds”) issued by the Republic pursuant to 2005 and 2010 exchange offers (the “Exchange Offers”).

respectfully request five minutes of argument during the hearing scheduled for 10 a.m. on April 13, 2016, or any other allotment the Court deems appropriate.

1. On March 18, 2016, the Court granted the Euro Bondholders leave to file a brief of *amicus curiae* in support of affirmance of the injunction subject to these appeals (the “Injunction”). Dkt. No. 372. The Euro Bondholders’ brief was duly filed on March 21, 2016. Dkt. No. 417.

2. The Court has discretion to permit the Euro Bondholders to “participate in oral argument.” *Kuhne v. Cohen & Slamowitz, LLP*, 579 F.3d 189, 193 (2d Cir. 2009); Fed. R. App. P. 29(g). In its exercise of that discretion, the Court has granted other *amici curiae* in these appeals leave to participate during the April 13, 2016 hearing and to present eight minutes of argument. Dkt. No. 501. A request from another set of *amici* seeking leave to present oral argument is currently pending before the Court. Dkt. No. 507. For the reasons stated below, the Court should likewise grant the Euro Bondholders’ request.

3. *First*, an integral part of the District Court’s ruling was that the public interest and balance of equities favor vacatur of the Injunction because, among other things, the Injunction has harmed innocent third parties, including the Euro Bondholders. Indicative Ruling at 18-19, *NML Capital, Ltd. v. Republic of Arg.*, No. 14-cv-8947 (Feb. 19, 2016), Dkt. No. 47 (SPA-64-65). Not a single party or *amicus curiae* before the Court, *with the exception of the Euro Bondholders*, is

adequately situated to address the District Court's finding that the unintended harm suffered by such innocent third parties mandates vacatur of the Injunction. Thus, the Euro Bondholders represent an essential constituency whose interests formed an essential part of the District Court's holding and must likewise be considered on appeal. Because they are uniquely situated to provide that important perspective, affording the Euro Bondholders a full and fair opportunity to be heard is essential to evaluating the District Court's rationale for vacating the Injunction.

4. *Second*, this Court has repeatedly emphasized the importance of ensuring that interested parties receive an opportunity to be heard with respect to the issuance—and now the vacatur—of the Injunction. For example, during the initial appeals over the issuance of the Injunction, this Court granted a request by certain Exchange Bondholders participating as *amici curiae* to provide oral argument. *See* Third Revised Not. of Hr'g Date, *NML Capital, Ltd. v. Republic of Arg.*, No. 12-105 (2d Cir. Feb. 11, 2013), Dkt. No. 880; Boies Schiller Ltr. at 1, *NML Capital, Ltd. v. Republic of Arg.*, No. 12-105 (2d Cir. Feb. 7, 2013), Dkt. No. 864.

5. Similarly, this Court recently emphasized the importance of affording all interested parties an opportunity to be heard upon the District Court's consideration of whether to issue a conditional order vacating the Injunction. *Aurelius Opportunities Fund II, LLC v. Republic of Arg.*, No 15-1060, (2d Cir. Feb. 24, 2016), Dkt. No. 236 (A-1715-1721). Pursuant to that directive, the District Court

expressly granted the Euro Bondholders leave to submit briefing and participate in oral argument below. Mem. Endorsement, *NML Capital, Ltd. v. Republic of Arg.*, No. 08-cv-6978 (S.D.N.Y. Mar. 1, 2016), Dkt. No. 908 (A-2248).

6. Finally, this Court already has granted requests by other *amici curiae* for an allotment of time at the oral argument scheduled for April 13, 2016. Dkt. No. 501. Granting the Euro Bondholders leave to participate in oral argument is therefore consistent with this Court's rulings with respect to these appeals and the District Court's inclusion of the Euro Bondholders in oral argument below. It is also critical to ensuring that all interested parties have an opportunity to be heard before the Court.

7. For the foregoing reasons, *amici curiae* respectfully request that this Court grant them leave to present five minutes of oral argument at the April 13 hearing, or any other allotment the Court deems appropriate.

Dated: April 5, 2016
New York, New York

Respectfully submitted,

By: LATHAM AND WATKINS LLP

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