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1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
2 -----x

3 NML CAPITAL, LTD., et al.,  
4 Plaintiffs,

5 v. 08 CV 6978 (TPG)

6 THE REPUBLIC OF ARGENTINA,  
7 Defendant.

8 -----x

New York, N.Y.  
August 21, 2014  
3:05 p.m.

11 Before:

12 HON. THOMAS P. GRIESA,  
13 District Judge

14 A P P E A R A N C E S

15 DECHERT LLP  
16 Attorneys for Plaintiff NML Capital, Ltd.  
17 BY: ROBERT A. COHEN

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19 Attorneys for Plaintiff NML Capital, Ltd.  
20 BY: MATTHEW D. MCGILL

21 FRIEDMAN KAPLAN SEILER & ADELMAN LLP  
22 Attorneys for Interested Parties Aurelius Capital Partners  
and Blue Angel  
23 BY: EDWARD A. FRIEDMAN

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25 Attorneys for Plaintiff Olifant Fund Ltd.  
BY: ROBERT D. CARROLL

1 APPEARANCES (Cont'd)

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7 Attorneys for Defendant  
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8 DAVIS POLK & WARDWELL LLP  
9 Attorneys for Citibank  
BY: KAREN E. WAGNER

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1 (Case called)

2 THE COURT: All right. Let's start with Mr. Cohen.  
3 You asked for the conference. Do you have an application?

4 MR. COHEN: Thank you, your Honor. Robert Cohen from  
5 Dechert on behalf of plaintiff NML Capital.

6 Your Honor, we are here with an application for a  
7 citation of contempt with respect to the Republic of  
8 Argentina's cumulative violations of your Honor's amended  
9 February 23rd order.

10 The most recent of those violations is the  
11 introduction of legislation this week in the Congress of  
12 Argentina that would have the effect of gutting the amended  
13 February 23rd order, in that it would provide for a mechanism  
14 to pay the exchange bondholders interest payments in Argentina  
15 and outside the control and jurisdiction of this court, the  
16 precise risk that the amended February 23rd orders and  
17 subsequent orders were designed to avoid.

18 This threat, the threat to find a way around your  
19 Honor's order, has been percolating since at least August of  
20 2013. Your Honor may remember that following the Second  
21 Circuit's affirmance of the amended February 23rd order,  
22 President Kirchner went on the airwaves in Argentina and said  
23 she was going to find a way to evade that order by allowing  
24 payment in Argentina.

25 We came to your Honor, brought that to your attention,

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1 and that resulted in an order on October 3rd of 2013, which  
2 specifically prohibited the evasion of the amended February  
3 23rd order, including by adopting a mechanism to pay in  
4 Argentina.

5 Cleary Gottlieb said at that time that the speech of  
6 the president was merely politics. She was talking to the  
7 populace. There were no such plans, and there were no such  
8 documents, which we sought as part of that proceeding to  
9 describe what that plan might be. They said there were no such  
10 things.

11 On June 16th of this year, the Supreme Court denied  
12 certiorari and the amended February 23rd order became fully  
13 effective. That very night, June 16th, the president went back  
14 on the airwaves in Argentina and repeated the threat to create  
15 a mechanism to avoid the amended February 23rd order, by  
16 allowing payment to be made on bonds to be issued in Argentina  
17 and paid in Argentina to the exchange bondholders.

18 On the next day, the economy minister, Mr. Axel  
19 Kicillof, also had a nationwide press conference where he  
20 repeated that same threat.

21 We brought those incidents to the Court's attention,  
22 and on June 20, three days later, your Honor entered an order,  
23 a short two-paragraph order, which said, "In his June 17, 2014  
24 speech, Argentina's economy minister, Axel Kicillof, proposed  
25 that Argentina initiate steps to carry out a debt exchange to

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1 pay the exchange bondholders in Argentina under Argentine law.  
2 This Court rules that the above proposal of the economy  
3 minister is in violation of the rulings and procedures now in  
4 place in the Southern District of New York, and the Republic of  
5 Argentina is prohibited from carrying out the proposal of the  
6 economy minister." That was June 20, your Honor.

7 A week later, your Honor, also in defiance of the  
8 amended February 23rd order, Argentina purported to take steps  
9 to make a payment on exchange bonds without simultaneously  
10 paying what we are calling the holdouts. That was contumacious  
11 and in direct violation of the Court's amended February 23rd  
12 order.

13 Your Honor found that it was illegal for them to do  
14 that, and fortunately, as we know, Bank of New York Mellon  
15 abided by the order and did not forward that money on, although  
16 there have been some other related incidents that we have been  
17 dealing with recently.

18 THE COURT: What was the latter?

19 MR. COHEN: I am referring, your Honor, to the  
20 Citibank issue with respect to certain of the moneys that were  
21 paid at the end of June.

22 Earlier this week, on Tuesday, the president again  
23 went on national television and announced that she had  
24 introduced legislation in the Congress of Argentina that if  
25 adopted would provide a mechanism for exchange bondholders to

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1 be paid in Argentina on bonds to be exchanged for their bonds,  
2 and unabashedly, the president said, This is to avoid the  
3 orders of this court.

4 And yesterday, Minister Kicillof again repeated what  
5 the president said. He said that these steps were necessary  
6 because the courts of the United States -- this Court, the  
7 Supreme Court and others -- have put it in an untenable  
8 position, in violation of international law, and as a sovereign  
9 country they were going to take these steps.

10 Your Honor, we think this accumulation of defiant,  
11 blatantly defiant, actions finally require this Court to find  
12 the Republic in contempt. And it's important, your Honor, not  
13 just because of the impact we hope it will have on Argentina,  
14 but because what they have proposed, in order to be effective,  
15 we believe will require third parties that are within this  
16 Court's jurisdiction to cooperate in some manner or means, and  
17 they need to know that this Court is prepared to act harshly  
18 with respect to anyone who would violate this Court's order.

19 THE COURT: Before we get to contempt, isn't it  
20 necessary to deal with the issue of whether this August 19  
21 proposal of the president is or is not legal, is or is not in  
22 compliance with the current injunctions and orders of the  
23 court? Isn't that the first thing that must be dealt with?

24 MR. COHEN: Yes, your Honor. And I think that the  
25 proposal in the legislation is that exchange bondholders be

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1 given the opportunity to exchange their bonds, which are  
2 payable through Bank of New York Mellon, for bonds that would  
3 be issued in Argentina, under Argentine law, and payable  
4 through an entity that is a government controlled trust  
5 company.

6 If that happened, your Honor, there would be no  
7 obligation on the part of Argentina any longer to pay the  
8 holdout creditors at the same time that the exchange  
9 bondholders were paid. That, we think, your Honor, is a direct  
10 violation of the amended February 23rd order, and it is exactly  
11 the circumstance that your Honor addressed when you entered  
12 your June 20th of this year order saying that if Minister  
13 Kicillof's proposal was adopted, it would be illegal and a  
14 violation of the amended February 23rd order.

15 So I don't think there is any doubt that what has been  
16 proposed is a clear and intended way to evade your Honor's  
17 order.

18 THE COURT: Let me just get back then to the issue of  
19 contempt of court. I guess the answers to my questions are  
20 pretty evident, but I am going to ask them anyway.

21 The Republic has obligations, and I don't want to get  
22 into too much of this in any questioning, but how does a  
23 finding of contempt contribute to the settlement of this case?  
24 Because the settlement is what has got to come somehow, some  
25 day. The Court is finished issuing judgments and so forth so

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1 there has got to be a settlement. So how does it contribute to  
2 a settlement?

3 MR. COHEN: Your Honor, we, too, believe that a  
4 settlement is the way that this matter will ultimately be  
5 resolved, and we welcome and applaud the efforts that Special  
6 Master Pollack has undertaken to try to make that happen, and  
7 he has been in contact with us, and I believe with the other  
8 side, to keep those discussions going.

9 But to answer your question directly, the Republic  
10 needs to feel that it has to settle. Parties to litigation  
11 don't typically settle unless they feel it is necessary or in  
12 their best interest. And we believe that we can propose  
13 sanctions, and we would like to defer discussing what those are  
14 precisely.

15 THE COURT: What are you saying now?

16 MR. COHEN: I am saying that we believe that we can  
17 propose sanctions that will have the effect or contribute to  
18 the effect of the Republic feeling a need to resolve its  
19 dispute with the holdouts. Until that happens, your Honor,  
20 until there is a change in circumstance, we are concerned that  
21 the Republic will continue to behave as it has, which is  
22 feeling no compulsion to deal with this problem. But we think  
23 we can suggest to your Honor, and we would propose to do that  
24 leading up to perhaps a hearing in early September on what the  
25 appropriate sanctions should be, but there are monetary and



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1 non-monetary sanctions that we think will bite the Republic in  
2 a way that it will feel more inclined to engage in those  
3 settlement discussions.

4 THE COURT: All right. You will want to defer that  
5 till September.

6 MR. COHEN: Yes, your Honor.

7 MR. FRIEDMAN: May I add a couple of things?

8 THE COURT: You go ahead.

9 MR. FRIEDMAN: Thank you.

10 THE COURT: Mr. Friedman.

11 MR. FRIEDMAN: Yes, your Honor.

12 Edward Friedman, Friedman Kaplan Seiler & Adelman, on  
13 behalf of the Aurelius and Blue Angel plaintiffs.

14 Just two things, your Honor. First, in answer to your  
15 Honor's question, how does a finding of contempt contribute to  
16 settlement, I would submit that a finding of contempt directly  
17 contributes to the prospects for settlement because a finding  
18 of contempt would send a clear message that in this court the  
19 rule of law must be respected, and that if it is not, the Court  
20 will continue to apply and enforce the rule of law. And,  
21 furthermore, a finding of contempt, which we believe is clearly  
22 warranted, will send a clear message not only to Argentina, but  
23 also to third parties who might be otherwise inclined to assist  
24 Argentina.

25 So we believe that a finding of contempt is directly

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1 relevant to and supportive of the prospects for settlement.

2 THE COURT: Maybe Mr. Cohen answered this, but if  
3 there is a finding of contempt, are you seeking sanctions now  
4 or would you propose sanctions later?

5 MR. FRIEDMAN: That's an excellent question, your  
6 Honor. What Mr. Cohen and I and the plaintiffs would suggest  
7 is that the first step should be a finding by the Court that  
8 the Republic's continued violations warrant a finding of  
9 contempt, and as a first step there should be an order holding  
10 the Republic in contempt. Subsequently, we would suggest the  
11 Court should consider what sanctions are warranted as a result  
12 of the contempt.

13 So, in answer to your Honor's question, we do believe  
14 there should be a two-step process, with the first step simply  
15 being a finding that because Argentina has repeatedly violated  
16 the orders of this Court, Argentina is in contempt of court.

17 THE COURT: Look, I am going to ask the same question  
18 to you that I asked of Mr. Cohen.

19 Obviously, I assume you take the position that the  
20 proposal of August 19 is contrary to the orders of the Court  
21 and must be stricken, right?

22 MR. FRIEDMAN: Yes, your Honor.

23 THE COURT: Now, regardless of how that issue comes  
24 out, I have said it today, we all know it, and that is, the  
25 thing that is of paramount necessity is to have a settlement.

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1 Without that, there will be people who should be paid interest,  
2 they won't be getting their interest. There must be a  
3 settlement.

4 Obviously, if you have got a judgment debtor who  
5 simply pays the judgment 100 percent, there is no need for a  
6 settlement, but that's really not going to come about here in  
7 anything like a simple form. So my question is: Recognizing  
8 that ultimately, with the benefit of everybody, including some  
9 very innocent parties, there must be a settlement, how does a  
10 finding of contempt contribute to a settlement?

11 MR. FRIEDMAN: The answer to that question, your  
12 Honor, is that what we see in Argentina's conduct is a pattern  
13 of repeated efforts to evade the orders of your Honor and to  
14 evade the jurisdiction of this Court. I firmly believe that  
15 there will not be a settlement until it becomes crystal clear  
16 to the Republic of Argentina that its evasion efforts will not  
17 be countenanced and will not succeed.

18 That is why we are here today asking your Honor to  
19 rule and declare firmly, and again, that violations of this  
20 Court's order will not be countenanced. And we believe that  
21 the way to send that message in very clear terms is to rule  
22 that, on the basis of repeated, blatant violations of express  
23 orders of this Court, Argentina is in contempt of court. And  
24 we believe, as I was saying, your Honor, that such a clear  
25 ruling by this Court that the rule of law will be respected in

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1 this court is necessary as a condition for settlement  
2 negotiations and ultimately settlement.

3 THE COURT: All right. Let me hear from Mr. Boccuzzi.

4 MR. FRIEDMAN: May I just add very briefly before I  
5 sit down one other thing that I wanted to say so the record  
6 will be clear?

7 THE COURT: Of course.

8 MR. FRIEDMAN: Under the proposed legislation that we  
9 have described to your Honor in the letter this week, under  
10 that legislation, the exchange bonds would be swapped for new  
11 bonds issued in Argentina and payable in Argentina. I think  
12 it's important to note that, as a technical matter, under your  
13 Honor's rulings, Argentina would still have an obligation to  
14 make rateable payments to the plaintiffs when it pays those new  
15 bonds.

16 However, and this is the key point about the  
17 violation, if the legislation is enacted and the new bonds are  
18 issued, then the Court's ability to enforce the amended  
19 February 23 orders will be destroyed, because Argentina will  
20 have succeeded in creating a new payment mechanism away from  
21 the parties such as Bank of New York Mellon that have been  
22 complying with your Honor's orders. And that is why we view  
23 this as an incredibly dangerous violation of your Honor's order  
24 and a violation that threatens to destroy the ability of your  
25 Honor to enforce the order in the future.

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1 THE COURT: Thank you.

2 Mr. Boccuzzi.

3 MR. BOCCUZZI: Thank you, your Honor. Good afternoon.  
4 Carmine Boccuzzi from Cleary Gottlieb on behalf of the Republic  
5 of Argentina.

6 Just to answer your Honor's question that you posed to  
7 both plaintiffs' counsel about how would a finding of contempt  
8 contribute to a possible settlement, it would not, your Honor,  
9 and I think it would not for two reasons, in response to both  
10 of their answers.

11 When Mr. Blackman was here last time, he talked about  
12 the rather heated rhetoric that's out there directed towards  
13 Argentina, directed towards Cleary Gottlieb. A finding of  
14 contempt would only be pouring gasoline on that fire. It  
15 wouldn't be conducive to a healthy dialogue among anybody. So  
16 that would be harmful and deleterious to possible settlement  
17 talks.

18 In terms of third parties, your Honor has in place the  
19 anti-evasion injunctions. Everybody knows about them. Those  
20 are very broadly worded and they are very clear. We have seen  
21 it in action with Bank of New York not moving the money, with  
22 other institutions coming to your Honor and saying, I don't  
23 want to violate the injunction or the anti-evasion provisions,  
24 your Honor please tell me what to do. So a finding of contempt  
25 adds nothing by way of helping bring about settlement.

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1           In terms of their entitlement to a finding of  
2 contempt, they are just not entitled to that as a matter of  
3 law. As a procedural matter, your Honor, local rule 83.6  
4 requires that a finding of contempt be made on by notice of  
5 motion, by order to show cause, and that there is an affidavit  
6 that sets forth with particularity the misconduct that's being  
7 complained of. None of that is in the plaintiffs' application,  
8 and even if it was, I have had no opportunity to respond to it.

9           Putting that procedural problem aside, as a matter of  
10 substance, and we haven't been able to fully research it yet  
11 given the time we have had in terms of the hearing being  
12 called, we are not aware of any case in which the proposing of  
13 a bill for consideration by a legislator of a foreign  
14 sovereign, or any sovereign, within the United States or  
15 outside, has been deemed to be a contempt.

16           What we are dealing with, in terms of Argentina, is a  
17 foreign state dealing at the highest political levels with the  
18 fallout created by the court orders that have been entered  
19 against it. These orders, as we all know, have enormous  
20 effects on third parties, whom your Honor has characterized as  
21 by and large innocent, third parties who are not even in this  
22 room, third parties who are not subject to this Court's  
23 jurisdiction. Obviously, it has effects on the larger  
24 restructuring by the Republic and on Argentina's economy, and  
25 those are issues that are broader and outside of this Court,

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1 beyond the Court's jurisdiction.

2 THE COURT: Let me interrupt you. Did Cleary Gottlieb  
3 know about this proposed legislation in advance?

4 MR. BOCCUZZI: We did not, your Honor. Cleary  
5 Gottlieb learned about this on Tuesday night when it was  
6 released as part of the president's public statement.

7 I would add, your Honor, in terms of the legislation,  
8 the legislation will be discussed and debated in the Argentine  
9 Congress. So we are many steps away from any act that could be  
10 even adjudged by your Honor to be violative or not violative of  
11 your Honor's injunctions. And I would note that the language  
12 in the bill authorizes certain conduct which plaintiffs say  
13 would run afoul of your Honor's injunctions; it doesn't require  
14 it. So that's another level of remove from any act, any  
15 controversy for your Honor to be able to say this or that  
16 violates the injunction.

17 As an aside, cases like this have been brought in the  
18 United States about a bill that's been proposed, and those have  
19 been deemed not even ripe for adjudication, much less ripe for  
20 a contempt citation.

21 THE COURT: Well, what you say is well taken. The  
22 problem is, we are not here as if we were starting afresh. We  
23 have background. I am going to be frank to say I am absolutely  
24 appalled that the Republic would not consult with Cleary  
25 Gottlieb before it made this proposal. The proposal is a

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1 proposal made by the president of the country, and in light of  
2 all the background, it is not something that springs afresh and  
3 so forth.

4 Why don't you finish up and I will rule.

5 MR. BOCCUZZI: I was almost done. My main point,  
6 since we are here today, as your Honor said, in this conference  
7 to talk about the application for contempt, I think in summary,  
8 contempt, they are not entitled to it as a matter of procedural  
9 and the other underlying factual scenario we are dealing with.  
10 And, also, I don't think at all a citation of contempt will  
11 help the parties reach any sort of negotiated solution or a  
12 settlement. So, really, I will just conclude with that point.

13 The other point I would say is Mr. Cohen talked about  
14 statements made a year ago. We went through the entire period  
15 of the appeal with no violation of the anti-evasion injunction.  
16 As we have learned now, this hearing is the best evidence.  
17 What the Republic is doing it's doing openly. This is a bill,  
18 part of a democratic process. It was public knowledge. Within  
19 36 hours we are before your Honor. So, really, we are in  
20 midstream here, there is no basis for a contempt, and they know  
21 how to respect their rights should anything they deem amiss  
22 occur.

23 THE COURT: Is there any other lawyer that wishes to  
24 speak?

25 I don't hear anybody. Let me go ahead with my ruling.



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1 Under the injunction and court order now in effect,  
2 whenever the Republic makes any payment -- and the relevant  
3 payment here would be payment of interest -- whenever the  
4 Republic would make any payment on the bonds issued by the  
5 Republic in the 2005 and 2010 exchanges, there must also be a  
6 payment on the Republic's obligations to judgment creditors,  
7 that is, people who did not exchange.

8 I have said this before, but it has to be said again:  
9 The Republic has and continues to take what is basically a  
10 lawless position. It has taken this position over the years,  
11 and still takes this position. I have mentioned this before, I  
12 have mentioned it probably more than two or three times, but it  
13 has to be borne in mind every time we consider the issues.

14 The Republic offered exchanges in 2005 and 2010. The  
15 exchanges were not compulsory. People could exchange or not  
16 exchange, and the majority of people did. But there was a  
17 substantial amount of people interested in the bonds who did  
18 not exchange. They maintained their position as having  
19 lawfully obtained judgments in this court. Another way to term  
20 them is judgment creditors.

21 Therefore, the Republic had obligations after the  
22 exchanges, had obligations to the exchangers to service those  
23 new bonds, but they also had obligations to the judgment  
24 creditors. And being a judgment creditor in this court is not  
25 a light matter. It gives one rights. And those rights here

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1 developed in a way that the record shows, and I am not going to  
2 go into detail about it. But the point I want to make is that  
3 the Republic had these two obligations after the exchanges:  
4 One of course was to the people who accepted the exchanges; the  
5 other was to the holders of judgments who did not make the  
6 exchanges. The Republic had those two obligations, both  
7 substantial, both serious, both needing the proper resolution.

8           The Republic spent years taking what was really a  
9 lawless position, a position expressly espoused by the highest  
10 officials, and that was that the people who had judgments would  
11 not get paid. This was the express policy of the Republic of  
12 Argentina, expressed in numerous ways over a long period of  
13 time. This was a lawless position. The Republic had no right  
14 to ignore, to declare that it would not pay. It had,  
15 obviously, no possible right or legal basis to take the  
16 position that it would not service the people who had  
17 judgments. This position has led to the years of litigation  
18 which have occurred.

19           At some point the parties who held the judgments  
20 proposed to the Court what is referred to as the *pari passu*  
21 treatment. I held that they were entitled to that. The Court  
22 of Appeals affirmed me on that. Which means, in substance,  
23 without going into detail -- and this is the law of the Second  
24 Circuit Court of Appeals, not only of the District Court, this  
25 is the law laid down by the Second Circuit Court of Appeals --

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1 if the Republic proposes to pay interest, for instance, on the  
2 exchange bonds, it must make a payment at the same time on the  
3 obligation to the judgment creditors. And the amount of that  
4 and the formula for calculating all of that I won't try to get  
5 into. But what I want to stress today, and it is relevant to  
6 the current issue presented by the current proposal, is this:  
7 The Republic has obligations to people who made the exchanges,  
8 and the Republic has its obligations to the people who have  
9 judgments.

10           There is in effect an injunction -- and this is all  
11 approved by the Court of Appeals -- there is in effect an  
12 injunction, which requires the Republic of Argentina as  
13 follows: If the Republic proposes to pay interest, for  
14 instance, to the people who have the exchange bonds, it must  
15 make an appropriate recognition and payment to the people who  
16 have the judgments and who have now, as established by the  
17 District Court and the Court of Appeals, who have this right  
18 which is called the *pari passu* right; in other words,  
19 basically, the right to equal treatment.

20           (Continued on next page)

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1           THE COURT:  What I've said this afternoon I have said  
2 before, in essence.  And what I'm saying now is correct on the  
3 facts, it's correct on the law.  Its correctness is established  
4 not only by the district court, but by the Court of Appeals.  
5 The Republic of Argentina will not recognize this full  
6 obligation.  This is a lawless position.  I really don't know  
7 why the Republic should take such a position.  But whether it's  
8 rational or irrational or whatever, it is a lawless position.

9           Now, I want to come to the proposal made by the  
10 President of the Republic of Argentina on August 19th.  In this  
11 proposal, the President of the Republic states that she is  
12 making this proposal, and that it will be submitted to the  
13 Senate and Chamber of Deputies of Argentina.  I don't believe  
14 that submission has yet been made.

15           Mr. Boccuzzi quite reasonably argued that any action  
16 by this Court is premature, because if there is to be an actual  
17 proposal, it has to be approved by the parliament, and such has  
18 not occurred.  Under normal circumstances, I would agree with  
19 Mr. Book see.

20           But we don't have normal circumstances.  And a  
21 proposal by the president has to be taken seriously by this  
22 Court.  And if it is improper, there must be a remedy.  If  
23 there is not a remedy, the next thing we can find out is that  
24 the payment process has been moved to Argentina, etc., etc.  
25 And that could happen overnight.  Therefore, the proposal of

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1 the president presents the Court with a genuine issue that  
2 needs to be dealt with. I do not believe the president was  
3 making a proposal with the intention of backing down about it  
4 instead of submitting it to parliament.

5 The essence of the proposal is to provide for the  
6 payment of interest on the exchange debt. It would also remove  
7 the Bank of New York Mellon as indenture trustee and replace  
8 and have a new indenture trustee, if that would be what it  
9 would be called, located in Argentina. And one way or another,  
10 the proposal would have the effect of doing away with the  
11 jurisdiction over the exchange securities, jurisdiction in New  
12 York, and having that go to Argentina.

13 I want to be very clear, and I want to state it right  
14 now. This proposal is a violation of the current orders of  
15 this Court and of the Second Circuit. It is illegal, and the  
16 Court directs that it cannot be carried out.

17 Let me repeat.

18 The proposal of August 19, which would involve methods  
19 of payment of interest which would involve procedures and so  
20 forth, it is the ruling of the Court that that is in violation  
21 of the current injunctions and orders of the Court; it is  
22 illegal and cannot be carried out.

23 The current injunctions and orders of this Court as I  
24 have said surely allow payment of interest to exchange  
25 bondholders; but what the injunctions and orders of the Court

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1 recognize is that there is a whole other side to the  
2 obligations of the Republic of Argentina, and that is the  
3 obligation to people who have judgments which have not been  
4 paid.

5           The requirement of the injunctions and orders now in  
6 effect is that in the event the Republic wishes to make  
7 interest payments to the exchangers, it must make an  
8 appropriate payment to the judgment creditors under a formula  
9 which I won't try to repeat.

10           This is not surprising.

11           What the current orders and injunctions require is  
12 that the Republic service all of its obligations.

13           If someone had a contract to buy a house for \$100,000,  
14 and payment was due, and the closing was September 30 of some  
15 year, if the buyer came in and said, Well, I'm ready to close.  
16 I have \$80,000.

17           The seller would say, Where is the other \$20,000?

18           And if the buyer said, Well, \$80,000 is a lot of  
19 money, and my family is ready to move in, and we should get the  
20 house, he would be laughed out of the neighborhood.

21           Getting back to our issue.

22           The proposal of August 19 would provide for payment of  
23 interest to the exchangers, but no payment of the other  
24 obligation; therefore, the proposal of August 19 is not a  
25 lawful carrying out of the obligations of the Republic.

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1           There is an injunction which requires the Republic, if  
2   it is going to make payment to exchangers, it requires  
3   servicing of the other obligation, that is, the obligation to  
4   the judgment creditors. The proposal of August 19 does not  
5   comply with the current injunction and order of the Court; it  
6   does not contain any provision about payment to the judgment  
7   creditors. And as far as the process, it has been established  
8   over years -- and this dates back to the original contractual  
9   documents on the original bonds -- any issues arising from  
10  default will be handled in this Court; not in Argentina, but in  
11  this Court, the federal court in New York. And that's what has  
12  happened over years. And when issues have come up, the  
13  Republic has come up into this Court. The Republic hasn't gone  
14  to Argentina; the Republic has come to this Court to deal with  
15  issues which have come up over the years.

16           So the processing litigation, if any, about the  
17  exchange bonds will continue to reside in the Southern District  
18  of New York, and any payments are to be in compliance with the  
19  injunction that is in effect. The proposal of August 19 is  
20  contrary to all of that. It is a violation of the current  
21  injunction and order of the Court; it is illegal, and the Court  
22  directs that it cannot be carried out.

23           Thank you very much.

24           I think that it is understood, I think the Bank of New  
25  York showed clearly that any entity that assists the Republic

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1 of Argentina in avoiding the basic order of this Court, that  
2 would be a clear violation.

3 I want to now get back to the issue of contempt.

4 I think that if it were clearly proper to find the  
5 Republic in contempt, I don't think that the formalities of  
6 Rule 83 or whatever it is would need to apply; in other words,  
7 if there is contempt, that is something that can happen on the  
8 spot and be dealt with on the spot.

9 I want to return to something that I dwelled upon  
10 earlier, and that is this: There are no more judgments to be  
11 entered. What is going on now is a process of recovering on  
12 settlements or judgments.

13 In this case, it is clear as can be that somehow,  
14 sometime, and, I hope, sooner rather than later, there will be  
15 a settlement. There can be a settlement. There are issues in  
16 the way, but they can be dealt with. There is a highly  
17 competent and experienced special master who has, by court  
18 order, been given the responsibility of assisting to find a  
19 possible settlement.

20 If the Republic can avoid further illegal activities  
21 such as the one that occurred on August 19, and I would hope  
22 that Cleary Gottlieb would be brought in and counsel on this,  
23 that if the Republic can avoid that, and if we can have a  
24 process leading to a settlement, that is the path that should  
25 be taken. Maybe the Republic doesn't want to settle, but if



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1 the Republic doesn't settle, it will have quarter, after  
2 quarter, after quarter of people that it owes interest to who  
3 will not be getting their interest, not because of what a  
4 federal judge says, but because of the format laid down and  
5 approved by the Court of Appeals.

6 In my judgment, it does not add anything to the scales  
7 of settlement to make a finding of contempt. What I have found  
8 is certain facts, and I particularly have found that the  
9 proposal of August 19 is invalid, illegal, and in violation of  
10 current court orders and injunctions. To nullify that August  
11 19 proposal of the president of the country, that's the measure  
12 that is really required this afternoon. And that's as far as  
13 I'm going to go at the present moment.

14 Thank you very much.

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