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Don't Cry for Me Argentine Bondholders: Plaintiffs Reject Argentina's Proposal

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The plaintiffs have squarely rejected the proposal that Argentina made in its March 29 reply to the Second Circuit's March 1 inquiry as to how Argentina planned to "make current" the "original bonds" held by the plaintiffs. The stage is now set for the Second Circuit to rule.

On March 1, the Second Circuit offered Argentina the opportunity to tell the Court "*how and when it proposes to make current those debt obligations on the original bonds that have gone unpaid over the last 11 years.*" On March 29, Argentina replied, indicating that Argentina was willing to offer the plaintiffs a package of new bonds that it said would allow the plaintiffs to realize the values that the Exchange Bondholders have realized, but not the values inherent in the original bonds upon which the plaintiffs have sued. The Second Circuit then asked for the plaintiffs' views, which they have now provided in a response filed on April 19. (That response, together with the other papers relating to this appeal, are all available on our Argentine Sovereign Debt webpage: www.shearman.com/argentine-sovereign-debt.)

The plaintiffs' rejection was harsh:

*In response, Argentina has now submitted a predictably and characteristically defiant response that fails completely to comply with its equal treatment obligations or to take seriously the specific directions in this Court's March 1 Order. Instead of proposing a formula for "repay[ing] debt obligations on the **original** bonds" . . . Argentina offers to eliminate those obligations in return for new, deeply-discounted, potentially unenforceable, and unmarketable paper, payable decades hence. Indeed, according to Argentina's own math, these new securities would be worth **less than 15%** of what Argentina owes on the FAA Bonds . . . Argentina's response manifests yet again its contempt for its obligations, the laws of the United States, and the orders of U.S. courts.*

Plaintiffs also comment (as have we) that Argentina's position, as articulated in its March 29 letter, is inconsistent with the Second Circuit's October 26 decision: "*Argentina acts as if this court had neither issued the October 26 Decision nor denied its petition for rehearing from that ruling.*" In particular, Argentina's response, premised as it is on the notion that the plaintiffs will give up the original bond contracts they currently hold, clearly disregards the Second Circuit's statement that ". . . *plaintiffs were completely within their rights to reject the 25-cents-on-the-dollar exchange offers. And because the FAA does not contain a collective action clause, Argentina has no right to force them to accept a restructuring, even one approved by a super-majority.*" October 25 decision, at 26 fn. 15.

We expect that the Second Circuit will now decide this case without further ado, probably in the next four to six weeks. It continues to be our view that Argentina has provided the Second Circuit very little to work with, and little reason to want to do so.

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This memorandum is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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