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Post-Judgment Interest Rate Applies When Judgment is "Meaningfully Ascertained"

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In *NML Capital Ltd v. The Republic of Argentina*, the U.S. Court of Appeals for the Second Circuit held that Argentina was liable for prejudgment contract interest only through the date on which the District Court first determined liability in a final judgment, and not through to a later date on which that judgment was partially modified as a result of the appeals process.

In 1998, Argentina issued a series of Floating Rate Accrual Notes scheduled to mature in April 2005. The Notes provided for a semiannual interest payment to the bond holder "until the principal hereof is paid or made available for payment." In December 2001, Argentina declared a debt moratorium and refused to make the interest payments, and in April 2005 it refused to pay the principal on the Notes. Plaintiff bondholders sued, and while Argentina conceded that some amount was due to the bondholders, it contested the inclusion of interest payments scheduled after April 2005 (or, where the bondholders validly exercised the right to accelerate the Notes, scheduled after the date of acceleration). In June 2009, the District Court held that only those bonds which were not accelerated had continued to accumulate interest at the high rate set forth in the bond – the remaining bonds accumulated interest at the lower statutory rate. The New York Court of Appeals, on questions certified to it by the Second Circuit, disagreed and answered that all of the bonds accumulated interest at the note-prescribed rate.

Before the Second Circuit, the bondholders argued that the answers provided by the Court of Appeals required that the District Court's judgment be vacated, that the case be remanded, and that a completely new judgment be entered. In practical terms, this would have caused the notes to continue to accumulate interest at the significantly higher pre-judgment contract rate during the period from the initial judgment in 2009 until a new post-appeal judgment was entered. The Republic of Argentina argued that the original judgment should simply be modified, not vacated, and replaced by a new judgment. The difference in the parties' position amounted to $119 million

The Second Circuit agreed with Argentina, holding the bondholder's right to pre-judgment contract interest ended when the judgment was first "meaningfully ascertained." The District Court's 2009 judgment, which correctly determined liability and (largely) allocated interest was sufficient for the judgment to be meaningfully ascertained. As a result, only post-judgment interest applied from June 2009 onwards. *NML Capital v. Republic of Argentina, No. 09-2707-cv (L) (2d. Cir Aug. 17, 2011).*

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