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# Hughes Hubbard & Reed

## Argentina Files Petition to the U.S. Supreme Court

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**February 26, 2014** - On February 18, 2014, Argentina filed a [petition](#) asking the United States Supreme Court to review the Second Circuit's decision affirming the District Court's decision requiring Argentina to pay a group of holdout bondholders (called "vulture funds" by Argentina's counsel) 100% of the monies owed to them. As we discussed [here](#), [here](#), and [here](#), the lower courts' decisions are part of the fallout of Argentina's 2001 default on nearly \$100 billion of sovereign debt and subsequent attempt at restructuring that debt.

In its petition, Argentina challenges two aspects of the lower courts' decisions: (1) the courts' treatment of Argentina under the Foreign Sovereign Immunities Act, and (2) the courts' interpretation of the *pari passu* clause in the bonds.

Argentina characterizes the lower courts' decisions as "deeply offensive to Argentina's sovereignty" and argues that the decisions "flout the Foreign Sovereign Immunities Act...and have upended expectations in the sovereign debt markets." Argentina argues that the decisions violate sovereign immunity because they "effectively reach into Argentina's borders, coercing it into violating its sovereign debt policies and commandeering billions of dollars of core sovereign assets." Argentina contends that these rulings "spark international tension."

Argentina also argued that the interpretation of the *pari passu* clause in the bonds should be certified to the New York Court of Appeals because the bonds were issued under New York law. Pointing to purported flaws in the lower courts' interpretation of the clause, Argentina asserted that "[i]f New York courts want New York law to upset settled expectations, impede restructurings, and endanger New York's status as the law of choice for sovereign debt, that is their prerogative. But they should not have those consequences thrust upon them."

As discussed [here](#), the Supreme Court previously agreed to hear an appeal of a related Second Circuit decision allowing holdout bondholders to subpoena banks for information about Argentina's assets. That argument will take place on April 21, 2014. If the Supreme Court agrees to hear this latest appeal, argument would be scheduled during the next term, which begins in October.

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