

Conflicts of Debt Payment: Citigroup, Argentina, and Judge Griesa

By Bo Griffith, J.D. Candidate 2016 | October 7, 2014

Citigroup recently became engulfed in an ongoing battle between Argentina and New York hedge funds led by Paul E. Singer's Elliott Management. [In 2001, Argentina defaulted on a record \\$95 billion in debt.](#) The majority (92%) of the debt holders agreed to exchange their bonds for new discounted bonds under a 2005 and 2010 restructuring, while others like Elliot's NML Capital unit held out to seek full payment.

In the 1990s, Argentina had [borrowed from foreign investors](#), agreeing that any dispute would be litigated in U.S. courts. In 2012, Judge Griesa of the U.S. District Court for the Southern District of New York [ruled that Argentina cannot make payments](#) on its restructured debt as long as it refuses to pay holdouts of the approximately \$1.6 billion in prior defaulted debt. [This decision](#) was upheld by the U.S. Court of Appeals for the Second Circuit, blocking Argentina from dispersing a \$539 million payment on July 30 to other bondholders until the country reached a settlement agreement with the holdouts, triggering a default on Argentina's performing debt. This prevented Citigroup's Citibank Argentina from transferring \$5 million in interest payments to holders of the \$8.4 billion in bonds issued under Argentine law by the September 30 deadline.

The ruling caught Citigroup between a rock and a hard place. Citigroup essentially was forced to choose between defying this court order or a sovereign government. Argentina threatened severe [criminal and civil sanctions](#) including the nationalization of Citigroup's century-old local branch if it did not forward the September 30 payment to bondholders. Luckily for Citigroup, the group of hedge funds suing Argentina over the country's defaulted bonds [agreed last week](#) to Citibank's request to make the \$5 million interest payment to holders of the nation's restructured debt by the September 30 deadline, approved by Judge Griesa. This gives the parties time to present evidence for whether Citibank may make [future payments](#). The hedge fund's change in position may have saved Citigroup from what [Karen Wagner](#), a lawyer representing Citigroup, called "a gun to our head (that) will probably go off."

[This conflict once again escalated](#) when, at a September 29 hearing, Judge Griesa held Argentina in contempt of court for "taking steps in an attempt to evade critical parts of" the U.S. court order. Argentina continuously attempted to circumvent the ruling. First the nation passed legislation to switch jurisdiction of its bonds governed by U.S. law to Argentina, then it attempted to replace Bank of New York Mellon Corp., the trustee bank processing payments, with a local Argentine bank. Argentina argues that it cannot pay holdouts because of a clause in its bond contract, which requires any deal offered to the holdouts to also be offered to bondholders who accepted the 2005 and 2010 restructurings. The clause expires this year, but settling with holdouts could trigger the clause forcing the country to pay \$120 billion to other creditors.