

1/8

Marc S. Dreier (MD-9713)  
Joel A. Chernov (JC-8789)  
Regina M. Alter (RA-7014)  
DREIER LLP  
499 Park Avenue  
New York, New York 10022  
(212) 328-6100

*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
Allan Applestein TTEE FBO D.C.A. Grantor  
Trust, *et al.*, :

Plaintiff, :

v. :

The Republic of Argentina, :

Defendant. :

No. 02 CV 4124 (TPG)

**ORDER TO SHOW  
CAUSE FOR AN  
EX PARTE ORDER  
OF ATTACHMENT**

-----X  
Etevob, *et al.*, :

Plaintiffs, :

v. :

The Republic of Argentina and  
The Province of Buenos Aires, :

Defendants. :

No. 03 CV 1680 (TPG)

-----X  
Franceschi, *et al.*, :

Plaintiffs, :

v. :

The Republic of Argentina, :

Defendant. :

No. 03 CV 4693 (TPG)

2/8

-----X  
 Mazzini, *et al.*,  
 Plaintiffs,  
 v.  
 The Republic of Argentina,  
 Defendant.  
 -----X

No. 03 CV 8120 (TPG)

-----X  
 Prima, *et al.*,  
 Plaintiffs,  
 v.  
 The Republic of Argentina and  
 The Province of Buenos Aires,  
 Defendants.  
 -----X

No. 04 CV 1077 (TPG)

-----X  
 Mazoral, S.A.,  
 Plaintiff,  
 v.  
 The Republic of Argentina,  
 Defendant.  
 -----X

No. 04 CV. 3313 (TPG)

-----X  
 Morata, *et al.*,  
 Plaintiffs,  
 v.  
 The Republic of Argentina,  
 Defendant.  
 -----X

No. 04 CV. 3314 (TPG)

3/8

Moldès, *et al.*,

Plaintiffs,

v.

The Republic of Argentina and  
The Province of Buenos Aires,

Defendants.

No. 04 CV 6137 (TPG)

Cilli, *et al.*,

Plaintiffs,

v.

The Republic of Argentina,

Defendant.

No. 04 CV 6594 (TPG)

Buczat, *et al.*,

Plaintiffs,

v.

The Republic of Argentina,

Defendant.

No. 04 CV 7056 (TPG)

Rosa, *et al.*,

Plaintiffs,

v.

The Republic of Argentina,

Defendant.

No. 04 CV 7504 (TPG)



5/8

Rigueiro, <i>et al.</i> ,	:	No. 05 CV 3089 (TPG)
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
The Republic of Argentina,	:	
	:	
Defendant.	:	

Upon the accompanying declaration of Joel A. Chernov, dated March 29, 2005, with annexed exhibits, plaintiffs' memorandum of law and the pleadings and all prior proceedings in the above-captioned actions, let defendant, the Republic of Argentina ("Argentina"), show cause before the Honorable Thomas P. Griesa, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York, on the 29<sup>th</sup> day of March 2005 at 4:30, or as soon thereafter as counsel can be heard, why this Court should not authorize the issuance of an *ex parte* Order of Attachment pursuant to Rule 64 of the Federal Rules of Civil Procedure ("FRCP") and Sections 6201, 6211 and 6212 of the New York Civil Practice Law and Rules ("CPLR") against the property of Argentina, and any interest of Argentina in personal property, or any debt due to or to become due to Argentina in the jurisdiction of this Court,

AND, it appearing that plaintiffs have met the criteria for *ex parte* post judgment and prejudgment attachment in that:

- (i) on December 19, 2003, this Court entered judgment on behalf of plaintiff Allan Applestein TTEE FBO Grantor Trust as against Argentina in the amount of \$285,981.30;
- (ii) on May 11, 2004 this Court entered judgment on behalf of Pedro Kalbermann as against Argentina in the amount of \$1,396,976.18;
- (iii) there exists in each of the other actions valid claims for money judgments against Argentina for sums totaling no less than \$133,000,000.00 in aggregate

C/8

- outstanding principle;
- (iv) it is probable that plaintiffs in each of the above-captioned actions will succeed on the merits of their claims to recover at least the sum of \$133,000,000.00 in aggregate outstanding principle;
  - (v) there are sufficient grounds for an order of attachment pursuant to section 6201 of the CPLR in that Argentina is a foreign state and is not qualified to do business in the State of New York and has indicated its intention to continue to place its assets beyond the reach of its creditors or frustrate the enforcement of a judgment that might be rendered in plaintiffs' favor; and
  - (vi) Argentina has no standing counterclaims against plaintiffs for money damages.

AND, it further appearing that Argentina has expressly waived its immunity (if any) from the entry of a prejudgment order of attachment; it is

ORDERED, that plaintiffs' application for an Order of Attachment is granted in its entirety, effective, unless earlier vacated, through the entry of an order pursuant to 28 U.S.C. § 1610(c) following entry of judgment for plaintiffs, or a judgment for Argentina, and that the amount to be secured by this Order of Attachment shall be no less than \$133,000,000.00, comprised of the amount of judgment sought, plus fees and expenses of the United States Marshal, and it is further

ORDERED, that the United States Marshal for the Southern District of New York or any person appointed to act in his place and stead, or plaintiffs' attorneys, levy upon, but refrain from taking into actual custody pending further order of this Court, assets of Argentina within this jurisdiction at any time before final judgment herein, such as will satisfy the above-mentioned sum of at least \$133,000,000.00, and consisting of

- (a) "Eligible Securities," as that term is defined in the December 17, 2004 Exchange Agent Agreement between The Bank of New York ("BNY") and Argentina (the "EAA"), received by BNY pursuant to the Offer (as defined in the EAA) to each Holder (as defined in the EAA) of Eligible Securities to tender those securities in exchange for newly issued debt securities. The levy on BNY shall have effect as

7/8

follows: US Dollar denominated "Eligible Securities." in descending order of interest yield, up to a total of 45 million shall be attached, and

- (b) the assets of Argentina, and any interest of Argentina in personal property, and any debt due or to become due to Argentina within the State of New York, which are used for a commercial activity in the United States, and other property otherwise subject to post judgment or prejudgment attachment as a result of the existence of an express waiver of immunity therefrom, but not of (i) property belonging to any consulate, embassy or permanent U.N. mission of Argentina, (ii) any property that is, or is intended to be, used on connection with a military activity and is of a military character or is under the control of a military authority or defense agency, or will satisfy the sum of at least \$133,000,000.00 comprised of the judgment sought, plus the fees and expenses of the Marshal; and it is further

~~ORDERED, that the attachment bond of plaintiffs be and the same hereby is fixed in the sum of \$10,000, to be posted on or before \_\_\_\_\_, 2005, of which the amount of \$ \_\_\_\_\_, is on condition that plaintiffs pay Argentina all of its costs and damages, including reasonable attorneys' fees, that may be sustained by reason of the attachment if there is a judgment for Argentina herein or if it is finally decided that plaintiffs were not entitled to an attachment of Argentina's property, and the balance in the sum of \$ \_\_\_\_\_ on condition that plaintiffs pay to the United States Marshal all of his allowable fees; and it is further~~

TG

ORDERED, that the garnishee statement required by CPLR § 6219 shall be within 5 days after service upon the garnishee of this Order of Attachment be filed with this Court and served, via hand delivery, upon Joel A. Chernov, Esq., of Dreier LLP, 499 Park Avenue, New York, NY 10022; and it is further

ORDERED, that plaintiffs shall move within 10 days after the levy hereunder, or on such other date as the Court may set, for an order confirming the Order of Attachment, and shall give notice to Argentina by serving its counsel, Jonathan Blackman, Esq., Cleary Gottlieb Steen &

Hamilton, LLP, One Liberty Plaza, New York, NY 10006-1470, via hand-delivery and give notice to the garnishee(s) and the Marshal via hand-delivery and certified mail, return receipt requested; if no such motion is made, this Order and any levy made hereunder shall have no further effect and shall be vacated on motion; and it is further

ORDERED, that Argentina, its agencies, subdivisions, servants, employees, and attorneys, and The Bank of New York, its officers, agents, servants, employees, and attorneys, and all persons in possession of property in which Argentina has interest, and all persons in active concert or participation which any of the foregoing and all persons who receive actual notice of this Order by personal service or otherwise, are hereby ENJOINED AND RESTRAINED until further order of this Court from directly or indirectly transferring, or ordering, requesting or directing the transfer of any such property on deposit with them or held under their control (including, without limitation, the Eligible Securities); and it is further

ORDERED, that this Order of Attachment may be served by the United States Marshal or any person appointed to act in his place and stead, or by the attorneys for plaintiffs; and it is further

Dated: New York, New York  
March 27, 2005

ENTER:

United States District Judge