

Alexander B. Lees
Michael T. Frieda
MILBANK LLP
55 Hudson Yards
New York, NY 10001
Telephone: (212) 530-5000
Facsimile: (212) 530-5219

Erin E. Dexter (admitted *pro hac vice*)
Chase J. Hanson (admitted *pro hac vice*)
MILBANK LLP
1101 New York Avenue NW
Washington, DC 20005
Telephone: (202) 835-7500
Facsimile: (202) 263-7586

Counsel to the Objecting Noteholders

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

GRUPO ANTOLÍN-IRAUSA, S.A.U.,
et al.,

Debtors in a Foreign Proceeding.¹

Chapter 15

Case No. 26-11679 (SAB)

Jointly Administered

**THE OBJECTING NOTEHOLDERS'
OBJECTION TO THE DEBTORS' MOTION FOR ENTRY
OF AN ORDER ENFORCING THE PROVISIONAL RELIEF ORDER**

¹ A complete list of each of the Debtors in these chapter 15 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/Antolin>. The location of Debtor Grupo Antolin-Irausa, S.A.U.'s corporate headquarters and the Debtors' service address in these chapter 15 cases is C/Vitoria número 307 / Burgos / 09007 / Spain.

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PRELIMINARY STATEMENT

1. The Debtors’ motion misreads the Court’s provisional relief order, wrongly portrays the facts, cites inapposite cases, and depends on an interpretation of the Bankruptcy Code that makes no sense and cannot be squared with the background state law it incorporates. More fundamentally, though, the motion is a symptom of a broader problem that plagues the Debtors’ entire approach to chapter 15: when it is convenient for the Debtors, they act as though these are plenary cases that entitle them to the benefits of chapter 11, like the imposition of an automatic worldwide stay or the right to file all affiliated debtors in the same venue regardless of their principal places of business or assets in the United States. But when the burdens of chapter 11 are inconvenient for the Debtors—like the strictures of the absolute priority rule, or the Supreme Court’s prohibition on nonconsensual third-party releases—they insist that these cases are merely ancillary and that the Court must defer to the restructuring in Spain, where those burdens are lighter.

2. This a la carte approach to the Bankruptcy Code does not work. If the Debtors want the benefits of plenary cases, they should file chapter 11 petitions and tolerate the attendant burdens. Until then, they must live with the fact that these are ancillary cases, where the relief they seek in the motion is beyond the power of the Court.

* * *

3. The motion fails for multiple reasons. The Debtors begin by arguing that the filing by some noteholders of winding-up petitions against three English entities in English court violated the provisional relief order. These filings, however, all occurred the day before the order was even entered. Unlike in chapter 11, the filing of a chapter 15 petition does not trigger an automatic stay. No limitations could have existed until the Court’s order issued, which was after the filings in England had been made.

4. In any event, the Court’s provisional relief order expressly states—in language the Debtors themselves proposed—that it does not apply to foreign litigation against a Debtor. The Debtors mischaracterize the order as carving out only litigation with respect to “property” located abroad. They disregard language separately carving out the right to bring proceedings in foreign countries “with respect to the chapter 15 Debtors.” The winding-up petitions fall within this clause, and so are exempted from the injunction in the provisional relief order.

5. This interpretation is consistent not only with the plain text of the order, but also with the motion that led to its entry. When the Debtors sought provisional relief, they knew they had been sued in England already concerning breaches of the intercreditor agreement governing their notes and bank debt. They told the Court that provisional relief in the United States was necessary because they were worried creditors might try to commence actions against them here, in light of the New York forum-selection clauses in their debt documents. The *entire premise* of their motion, therefore, was that they needed a stay of proceedings in the United States. They never asked the Court to stay proceedings in England, even though they knew proceedings were pending there. The Debtors now want to rewrite history and pretend that they asked for an injunction governing foreign conduct all along. This is disingenuous.

6. Since the provisional relief order does not help them, the Debtors show their true colors and just ask the Court—on no notice at all—to issue a brand-new injunction that bars foreign litigation. This is not something the Court has the power to do. These are ancillary cases, meant to be in support of an alleged foreign proceeding in Spain. It defies common sense that a court in an ancillary case would be able to reach outside its territorial jurisdiction and interfere with a foreign court’s proceedings. It also defies well-established legal doctrines, like the presumption against the extraterritorial reach of U.S. statutes and the doctrine of adjudicative comity, which instructs a U.S. court to avoid interfering with a foreign court’s proceedings.

7. There is no reason to scuttle those principles here. The Debtors had straightforward means of staying the English litigation without asking this Court to stretch its injunction beyond the territorial limits of the United States. For one thing, they could have filed a petition for recognition of the Spanish proceeding *in England* and sought a provisional stay *in England*. They never did this, for reasons that remain unexplained.

8. Or, the Debtors could have filed a chapter 11 case in this country. That would have created a worldwide estate and imposed an automatic stay with extraterritorial reach. They did not do this, however, because it would have defeated their restructuring strategy. The Debtors want to have Spain as their principal forum for restructuring because they are trying to cram down on the noteholders a plan that flouts the absolute priority rule, the prohibition on third-party releases, and other creditor protections that apply in chapter 11. They think Spain will let them do this, and that they can bring their confirmed plan to this Court and ask for it to be enforced in the name of “comity.” The Debtors cannot have it both ways: if they want the benefits of chapter 15 because they find the burdens of chapter 11 inconvenient, they have to live with the consequences of being in an ancillary case, which include a territorial limitation on the Court’s power to stay litigation.

9. Finally, evidently aware that chapter 15 limits the Court to issuing domestic injunctions, the Debtors insist that that is all they are seeking. They claim that because their notes are governed by New York law and subject to New York forum-selection clauses, it constitutes “property” in New York, such that any foreign proceeding regarding that debt is an action interfering with property “within the territorial jurisdiction of the United States.” This is not credible. The notes are funded debt; they are not executory contracts. They represent pure obligations from the Debtors’ standpoint. For the Debtors to equate “obligations” with “property” is like saying “liabilities” are “assets.” Congress does not draft statutes this way.

10. The Debtors then rely on cases holding that New York law-governed debt that must be paid in New York constitutes property in New York for purposes of section 109 of the Bankruptcy Code. Those cases, in addition to being unpersuasive, are distinguishable. The notes here are euro-denominated, held by depository institutions in Europe, and are paid through a paying agent that is a London bank branch and is required to maintain an office for payment of the notes in London.

11. In addition, the Debtors’ cases all rely on section 109 of the Bankruptcy Code, which is simply about who may be a debtor. This case, by contrast, is about the power of an ancillary court to issue injunctions that interfere with foreign court proceedings. No case has ever made this extraordinary leap before. This Court should not be the first. The Bankruptcy Code is clear that in considering whether intangible property is “within the territorial jurisdiction of the United States,” a court must consult where applicable nonbankruptcy law would deem that property to be. The Debtors believe that the notes are intangible “property” because they are “contract rights,” but New York law holds that “contract rights” are deemed to be located where the *counterparty* is located. The current counterparties on the notes are the registered “Holders”—the depository institutions in Europe. To the extent the notes can be considered “property” at all, New York law

deems them to be located abroad. The Debtors' contention that they are seeking only a domestic application of the stay thus fails.

BACKGROUND

I. The prepetition capital structure

12. Lead Debtor Grupo Antolín-Irausa, S.A.U. is a holding company of a corporate group that carries on business as a designer, developer, and manufacturer of interior components for the automotive industry. The Lead Debtor is registered in Spain as a *sociedad anónima unipersonal*, with its registered office in Burgos, Spain. The Lead Debtor is indirectly owned and controlled by the Antolín family. The company operates through numerous subsidiaries across multiple jurisdictions, including Spain, Germany, the Czech Republic, Slovakia, Portugal, Mexico, the United Kingdom, and the United States.

13. As of the commencement of these chapter 15 cases, the company's debt included bank debt and senior secured notes. The bank debt consists of approximately €405.6 million of loans outstanding under a Syndicated Facilities Agreement, approximately €150 million of loans outstanding under an ICO Facilities Agreement, and approximately €45 million of loans under EIB Financing Agreements.

14. The notes consist of two issuances: the €390 million 3.50% notes due 2028 (governed by an indenture dated June 29, 2021, of which €380.3 million is outstanding) and the €250 million 10.375% notes due 2030 (governed by an indenture dated July 31, 2024, of which €250 million is outstanding). Both issuances are global, uncertificated notes held by depositories in Europe (Euroclear and Clearstream).² The notes are to be paid through the Paying Agent, which maintains

² 2028 Indenture §2.01(b); 2030 Indenture §2.01(b).

an office in the City of London.³

15. The bank debt and notes are guaranteed by subsidiaries and secured by share pledges over the company's share capital granted by Grupo Antolín Holdco, S.A., but not by the assets of any Debtor. The bank debt and the notes are subject to an English-law intercreditor agreement under which they rank "pari passu and without any preference between them." That agreement contains an exclusive English jurisdiction clause in favor of the secured parties, and it may be amended only with the consent of, among others, the trustee for the notes. The indentures separately authorize the company to cause the notes trustee to enter into an additional intercreditor agreement, but only on substantially the same terms as the existing Intercreditor Agreement, or terms not materially less favorable to the holders.

II. Prepetition restructuring efforts

16. Despite the Debtors' characterization of the ad hoc group as "a classic holdout" (Motion ¶ 2), in the months leading up to these cases, the ad hoc group to which the Objecting Noteholders belong has repeatedly expressed its willingness to work collaboratively with the Debtors on a consensual solution. The Debtors consistently refused to engage.

17. On April 28, 2026, the ad hoc group wrote to the Debtors' counsel, noting ratings downgrades and warning that any selective transaction with shareholders or other lenders prejudicing the notes would be credit-negative and carry significant implementation risk. The ad hoc group offered to engage constructively. The Debtors' counsel did not respond until May 22, and that response was devoid of any substantive content. The Debtors provided a similarly perfunctory response on June 16 to a further letter from the ad hoc group, dated June 4, seeking

³ 2028 Indenture §§ 2.03, 4.01 ("Principal of, interest, premium and Additional Amounts, if any, on the Notes will be payable at the corporate office or agency of the Paying Agent maintained in the City of London for such purposes."); 2030 Indenture §§ 2.03, 4.01 (same).

constructive engagement.

18. On June 23, 2026, the Debtors announced that they had entered into a recapitalization support agreement with certain of their prepetition bank debt lenders to implement a restructuring by way of a Spanish restructuring plan. This announcement was a total surprise to the ad hoc group. Despite repeated requests for engagement, the terms of the transaction were negotiated between the Debtors and the bank lenders without any consultation with the noteholder class.

III. The Debtors' secret Spanish restructuring

19. The Debtors commenced a restructuring proceeding in Spain seeking confirmation of a plan of reorganization that confers advantages on the equity owners and the bank lenders at the expense of the noteholders. The Debtors initiated that restructuring in secret on July 10, 2026, without informing the noteholders or making any public announcement. In fact, the Debtors misled the ad hoc group as to the status of the Debtors' Spanish restructuring, writing a letter to the ad hoc group on July 17 that gave no indication restructuring proceedings had begun in Spain and feigning willingness to reach a commercial resolution. In reality, the Debtors had filed their homologation petition in Spain a week earlier.

20. The proposed plan would extend the maturities of the bank debt and give the bank lenders the option to participate in a so-called "new-money" financing, in which case they will receive first-ranking security from group subsidiaries that today are unencumbered; if the bank lenders choose not to participate in the financing, they will receive second-ranking liens. The noteholders, by contrast, are offered a far worse choice, and in no event are they allowed to participate in the new financing. They must choose between a whopping 32.5% reduction in principal, in which case they will receive first-ranking security from the subsidiaries, or they can elect to suffer a six-to-eight-year extension of their maturities, in which case they will receive only second-ranking security from the subsidiaries.

21. The proposed plan treats the noteholders and the bank lenders as unsecured creditors, since they are secured only by the share pledge. But the plan places the noteholders in their own voting class, separate from the bank lenders. This has enabled the Debtors to create an impaired class of bank lenders that has consented to the plan, fulfilling a confirmation requirement in Spain. Had the notes and the bank debt been placed in the same class, the Debtors would not have been able to meet this prerequisite. Nor would they have been able to discriminate so blatantly between two groups of equally ranking unsecured creditors.

22. The noteholders have formed an ad hoc group that is part of a broader group of cooperating noteholders that collectively hold more than 70% of the principal amount of both issuances, and they have informed the Debtors that they will not vote in favor of the proposed plan. This means the plan must be crammed down on the noteholders as an unsecured class. But the plan leaves the interests of the Antolín family, the existing shareholder, completely untouched. It expressly states that it does not affect the rights of shareholders, and it lists among its objectives ensuring the maintenance of the current capital structure. So, while the noteholders are impaired—and forced to choose between a massive maturity extension or a massive principal reduction—the equity is left completely unimpaired. That treatment is a flagrant violation of the absolute priority rule and would never be permitted if the Debtors were reorganizing under the U.S. Bankruptcy Code.

23. Beyond this, the proposed plan would force the noteholders to accept a modification of their Intercreditor Agreement with the bank lenders—a nonconsensual modification of non-debtor rights that would be totally unrecognizable in this country. The Intercreditor Agreement specifies that any new liens granted to any holder of senior liabilities (bank debt or notes) must be granted equally and ratably to all other holders. And if any holder realizes value on account of any

collateral, it must turn the proceeds over to the security agent for ratable sharing among all holders of senior liabilities. This prohibits the Debtors from granting to the bank lenders new first-ranking liens on the subsidiaries' assets while granting only second-ranking liens to the noteholders that refuse to take a 32.5% haircut to principal. The Debtors' proposed plan thus involves an amendment of the Intercreditor Agreement to facilitate the non-*pari passu* issuances of liens to the bank lenders.

24. Specifically, the Debtors propose to exchange the notes for new notes issued under New York-law indentures which mandate that the indenture trustees "consent" to an amendment of the Intercreditor Agreement. The Debtors require this roundabout strategy because the indenture trustees would not consent to an amendment of the Intercreditor Agreement without instructions from their noteholders, none of which could reasonably be expected to give such instructions while facing a cram-down under the Debtors' restructuring plan. Plus, the Intercreditor Agreement is governed by English law, and the English courts will not enforce modifications of English-law contracts that are effectuated in foreign proceedings without consent, like the Spanish restructuring proceeding here. Since a straight-up consensual amendment of the Intercreditor Agreement will not be available and a nonconsensual amendment will not be enforceable in England, the Debtors must manufacture the "coerced consent" of new indenture trustees to adopt the changes to the Intercreditor Agreement's waterfall and related provisions.

IV. The ad hoc group's litigation in England to enforce the Intercreditor Agreement

25. The crux of the proposed plan is to give the bank lenders new liens that are senior to the liens offered to noteholders that refuse to take a major haircut to principal. If the bank lenders ever were to try to recover on account of those new liens, however, the Intercreditor Agreement would force them to share the proceeds ratably and on a *pari passu* basis with the noteholders. The Debtors therefore need a way around the Intercreditor Agreement; otherwise, they cannot give the

bank lenders their favored treatment. The proposed plan contemplates an amendment of the Intercreditor Agreement that would adjust the waterfall and related provisions.

26. Yet this presents a problem for the Debtors under English law. English courts follow the so-called *Gibbs* rule, which derives from the case *Antony Gibbs & Sons v. La Société Industrielle et Commerciale des Métaux* (1890) 25 QBD 399 (Eng) and provides that an English-law contract cannot be modified by a non-English court unless the parties submit to the jurisdiction of that court. The *Gibbs* rule means that if a court overseeing an insolvency proceeding outside England purports to approve a plan modifying an English-law contract without the parties' consent to jurisdiction, the modification will be unenforceable in England.

27. English law governs the Intercreditor Agreement here, and the parties selected the courts of England as the exclusive jurisdiction for enforcement of that contract. If the court in Spain were to approve the proposed plan and purport to order a change to the Intercreditor Agreement, there would be no way for the bank lenders or the Debtors to have that modification recognized in England, where litigation over the Intercreditor Agreement would take place.

28. Before the Debtors filed the chapter 15 petitions, several noteholders commenced litigation on this point in England. Specifically, those noteholders commenced proceedings in the Financial List (Chancery Division) of the Business and Property Courts of England and Wales, under the caption *BSP European Special Situations III (Holdco) Limited and others v. Grupo Antolin-Irausa, S.A.U. and others*. The proceedings were issued against the Lead Debtor, the Senior Facility Agent (Deutsche Bank AG, London Branch), the Senior Secured Notes Trustee (Deutsche Trustee Company Limited), and the Security Agent (Deutsche Bank AG, London Branch), each of which is a party to the Intercreditor Agreement. In that action, the claimant noteholders seek declarations that the new security interests, the new guarantees, and the purported

amendments to the Intercreditor Agreement effected by the proposed plan constitute breaches of the Intercreditor Agreement and are invalid and of no effect under English law, given the *Gibbs* rule. If the English court so declares, the economic and legal foundation of the proposed plan falls away.

V. The Winding-Up Petitions

29. On July 21, 2026, a subset of the noteholder ad hoc group filed winding-up petitions in England against three Debtors formed under English law and located in England: Grupo Antolin UK Limited, Grupo Antolin Leamington Limited, and Antolin Interiors UK Limited. The next day, July 22, after the English court accepted them, two of the three winding-up petitions were served at the relevant entities' registered offices in England at 3:14 p.m. and 3:55 p.m. (eastern time), respectively. The final winding-up petition was accepted by the court on July 23 and was served on the third Debtor, Antolin Interiors UK Limited, at the entity's registered office in England later that day.

VI. These chapter 15 cases

30. On July 20, 2026, the Debtors initiated these chapter 15 cases in this Court. Chapter 15 Petition for Lead Debtor, Dkt. No. 1; Verified Petition of the Foreign Representative, Dkt. No. 2. On July 22, the Court held a hearing and granted the Debtors' motion for provisional relief. Provisional Relief Motion, Dkt. No. 5; Order Granting Provisional Relief, Dkt. No. 23. That order was entered at 4:10 p.m. (eastern time). As described above, this was after two of the three winding-up petitions were served.

31. The premise of the provisional relief motion was to obtain a stay of litigation in the United States against the Debtors. In seeking relief, the Debtors informed the Court about the litigation that noteholders have brought against them in England to enforce the Intercreditor Agreement. Provisional Relief Motion ¶ 2. The Debtors argued that this evidenced a likelihood

that more litigation would follow, including in New York, where the notes and indentures can be enforced. *Id.* ¶¶ 1–2. They repeatedly told the Court that the purpose of the provisional relief order was to protect them from litigation in the United States. *E.g., id.* ¶¶ 3, 5, 27, 28, 34, 43. They did not ask the Court to stay litigation in England or any foreign country. To the contrary they requested—and obtained—an order expressly stating that “any actions or proceedings outside of the territorial jurisdiction of the United States . . . with respect to . . . the chapter 15 Debtors” are not prohibited. Provisional Relief Order ¶ 6. The Objecting Noteholders were thus led to believe that their litigation conduct in England was not barred by this Court’s order. As a result, they did not object to the requested relief or the proposed order.

32. The stated end-goal of the chapter 15 cases is to obtain an order enforcing the Spanish plan in the United States. *See* Verified Petition ¶ 68 (“Recognition of the Spanish Restructuring Plan under chapter 15 of the Bankruptcy Code is a condition precedent to the effectiveness of the Spanish Restructuring Plan.”). The Debtors believe an order of a U.S. court is necessary to ensure that forcible modifications of the notes under the plan will be honored by all other courts in this country, especially since the notes and indentures have a New York forum-selection clause. Likewise, the Debtors want to ensure that their “coerced consent” to a modification of the Intercreditor Agreement on behalf of noteholders will have effect in the United States. This, in turn, they believe will allow them to circumvent the *Gibbs* rule so they can enforce the modified Intercreditor Agreement in English courts.

VII. The Debtors’ belated motion

33. Despite receiving service of the winding-up petitions as early as the afternoon of July 22, and despite press reporting that same day covering the winding-up petitions after they were

accepted by the English court and made publicly known,⁴ the Debtors waited over a week to file their motion seeking clarification or extension of the provisional relief order. What is more, they have noticed their motion for a hearing at 9:30 a.m. on July 31—less than twenty-four hours after filing their motion. In waiting to file their motion and then noticing a hearing on putative shortened notice, the Debtors have tactically sought to impede the Objecting Noteholders’ ability to object meaningfully to the relief sought.

ARGUMENT

I. The filing of the Winding-Up Petitions did not violate the Provisional Relief Order.

34. The Debtors wrongly argue that the mere act of filing the Winding-Up Petitions violated the provisional relief order. But timing matters. The stay under section 362 of the Bankruptcy Code does not apply automatically in chapter 15 cases before a petition for recognition of a foreign main proceeding has been granted. 11 U.S.C. § 1521. Unless and until that occurs, section 362 takes effect only when the bankruptcy judge enters an order saying so. All the Winding-Up Petitions were filed on July 21. The Court did not enter the provisional relief order until 4:10 p.m. on July 22, the following day. Given this chronology, there is no credible argument that the filing of the Winding-Up Petitions violated the order.

35. Once filed, as a matter of procedure, the Winding-Up Petition for Grupo Antolin UK Limited was served at that entity’s registered office in England at 3:14 p.m. (eastern time) on July 22, and the Winding-Up Petition for Grupo Antolin Leamington Limited was served at that entity’s registered address in England at 3:55 p.m. (eastern time) the same day—all before the Court’s order was entered.

36. All that occurred with respect to the Winding-Up Petitions after the Court entered the

⁴ Katie McMahon, Connor Lovell, Farooq Baloch, *Antolin Bondholders File Winding-Up Petitions Against Two UK Subsidiaries, Weigh Further Insolvency Filings in Germany*, Octus (July 22, 2026, 11:14 AM EDT).

provisional relief order was service of the petition for Antolin Interiors UK Limited, which occurred at that entity's registered office in England on July 23. But this is irrelevant under the plain language of the order. Paragraph 6 states: "[f]or the avoidance of doubt, nothing in this Order . . . shall limit or restrict any actions or proceedings outside of the territorial jurisdiction of the United States by any creditor or party in interest with respect to any or all of the chapter 15 Debtors or their property located outside of the territorial jurisdiction of the United States." Effectuating service in England of a petition for winding up an English entity in English court undoubtedly falls within this clause because it is an action or proceeding by a creditor, it is "outside the territorial jurisdiction of the United States," and it is "with respect to" a Debtor.

37. The Debtors argue that the winding-up proceedings are still barred because they affect the notes, which constitute "property" within the territorial jurisdiction of the United States. As discussed below, this conflation of property with debt for purposes of chapter 15 is untenable. But the Court need not reach that issue to conclude that actions to advance the Winding-Up Petitions (service or otherwise) are expressly permitted under paragraph 6. The order carves out extraterritorial actions or proceedings with respect to "any or all of the chapter 15 Debtors or their property located outside of the territorial jurisdiction of the United States." The "or" is crucial. Broken down into its two constituent clauses, and giving the "or" its proper meaning, paragraph 6 says that the order shall not prohibit:

- (a) any actions or proceedings outside of the territorial jurisdiction of the United States . . . with respect to . . . the chapter 15 Debtors; or
- (b) any actions or proceedings outside of the territorial jurisdiction of the United States . . . with respect to . . . their property located outside of the territorial jurisdiction of the United States.

38. The analysis cannot myopically focus only on part (b) while ignoring part (a). When the full structure of paragraph 6 is understood, there is no room for doubt that the Winding-Up

Petitions are allowed to move forward, regardless of whether they affect “property” in the United States. The order carves out *all* foreign proceedings “with respect to” any of the Debtors.

39. The discussion can end with this plain-language analysis. The context of the Debtors’ request for provisional relief, however, reinforces that the order never was intended to cover litigation conduct in England, whether or not that litigation might relate in some way to the notes. The Debtors told the Court that before the petition date, some noteholders had commenced litigation challenging the restructuring in English court and that the Debtors needed provisional relief to prevent similar litigation from being commenced in U.S. courts, since the Debtors are subject to personal jurisdiction in New York under the forum-selection clauses governing the indentures and notes. In the opening paragraphs of their motion for provisional relief, the Debtors stated that “[i]n the absence of provisional relief, the Ad Hoc Group and other creditors opposed to the restructuring might *similarly attempt to initiate litigation in the United States*, foreclose, assert liens, or otherwise exercise remedies against the Debtors’ and their non-Debtor subsidiaries’ assets located within the United States.” Provisional Relief Motion ¶ 3 (emphasis added). They went on to repeat multiple times that the relief requested in the chapter 15 cases was to prevent litigation in the United States, of the kind that already was pending in England. For example, the Debtors told the court (emphasis added):

- The Debtors “have an immediate need for the stay to apply *in the United States*” (¶ 5);
- There was a “concrete risk that [creditors] will take similar action [to the English litigation] *in the United States*” (¶ 5);
- Because the notes have a New York forum-selection clause, the ad hoc group “may use the commencement of the Spanish Proceeding and these chapter 15 cases as grounds to exercise remedies and/or commence actions *in the United States*,” and this “is precisely what provisional relief under section 1519 of the Bankruptcy Code is intended to address” (¶ 27);

- The risk that creditors will “take actions *in the United States* . . . remains relevant notwithstanding the stay in place in Spain to the extent any creditor seeks to use *United States courts* or *United States-situated assets* to circumvent the Spanish process” (§ 28);
- Creditors should be “enjoined from commencing actions against the Debtors *in the United States* during this precarious interim period” because otherwise, they “may conclude it is in their best interest to similarly assert claims against the Debtors *in a United States forum* prior to recognition of the Spanish Proceeding” (§ 34); and
- The balance of harms favored the Debtor, rather than “stakeholders that might wish to pursue individual remedies *in the United States*—where the Debtors maintain material assets and operations” (§ 43).

40. In each of these instances, the Debtors made clear that they were concerned about litigation being commenced in the United States. They never contended that they needed to stop the litigation that they knew was underway in England. Nor did they make any attempt to argue that the Court is empowered to enjoin litigation in England just because it relates to New York law-governed notes. It is apparent that the Debtors conjured these arguments well after the provisional relief order was entered in an attempt to fix their strategic mistake.

41. That puts the lie to their suggestion that the Objecting Noteholders somehow deceived the Court by “not objecting to the Provisional Relief that the Debtors were seeking, while *simultaneously* serving Winding-Up Petitions.” Motion ¶ 2, Dkt. No. 29. Since the Debtors never sought to enjoin foreign proceedings—even though they knew that one already was pending against them in England—and because the form of order the Debtors submitted contained paragraph 6, the Objecting Noteholders had no need to say anything in opposition. The Debtors’ own words and conduct instilled the legitimate belief that the Objecting Noteholders’ right to pursue litigation in foreign countries was preserved. The Objecting Noteholders had no way of knowing the Debtors would take a contradictory position later.

II. A chapter 15 court is not authorized to enjoin foreign proceedings against a debtor.

A. Chapter 15 does not have extraterritorial reach.

42. Perhaps recognizing that the relief they requested and obtained at the first day was limited to the United States, the Debtors now ask for a redo. On no notice whatsoever, they request that the Court do something completely unprecedented: enter an order in a chapter 15 case that would have the effect of barring litigation against the Debtors anywhere in the world. The Debtors have no support for this. They cite no authority in their brief for the proposition that a chapter 15 court can enjoin foreign insolvency proceedings. And the Objecting Noteholders are aware of none.

43. The dearth of authority should not be surprising. Unlike plenary chapter 11 cases, chapter 15 cases are ancillary only. *See, e.g.*, 11 U.S.C. § 1504 (entitled “Commencement of ancillary case”). A chapter 15 court’s power to stay litigation is therefore limited to proceedings taking place in the territorial jurisdiction of the United States. *See, e.g., In re JSC BTA Bank*, 434 B.R. 334, 337 (Bankr. S.D.N.Y. 2010) (“[T]he automatic stay does not afford broad anti-suit injunctive relief to the debtor entity outside the territorial jurisdiction of the United States upon entry of an order of recognition in a chapter 15 case.”).

44. This proposition is consistent with the longstanding presumption against the extraterritorial reach of U.S. laws. “It is a basic premise of our legal system that, in general, ‘United States law governs domestically but does not rule the world.’ This principle finds expression in a canon of statutory construction known as the presumption against extraterritoriality: Absent clearly expressed congressional intent to the contrary, federal laws will be construed to have only domestic application.” *RJR Nabisco v. Eur. Cmty.*, 579 U.S. 325, 335 (2016) (citations omitted). There is no indication in chapter 15—let alone a “clear” one—that Congress intended to empower a court to enjoin foreign litigation.

45. Likewise, limiting a chapter 15 court's injunctions so they affect only domestic proceedings is consistent with the doctrine of adjudicatory comity. That principle instructs U.S. courts to be extremely reluctant to enter orders restraining foreign litigation. *PT United Can Co. v. Crown Cork & Seal Co.*, 1997 WL 31194, at *9 (S.D.N.Y. Jan. 28, 1997) ("Principles of comity 'weigh heavily in favor of noninterference with ongoing foreign judicial proceedings.'" (quoting *Blanco v. Banco Indus. de Venezuela, S.A.*, 997 F.2d 974, 983 (2d Cir. 1993))); *H-D Michigan, LLC v. Hellenic Duty Free Shops S.A.*, 694 F.3d 827, 848 (7th Cir. 2012) ("International comity (the mutual respect of sovereigns) requires the courts of one nation to avoid, where possible, interfering with the courts of another."). There is no reason for this Court to stretch its powers and defy international comity.

B. The Debtors are attempting an end-run around English law and the constraints of chapter 11.

46. The Debtors try to manipulate the Court's sensibilities, arguing that an injunction from this Court is necessary to save their business. This is insincere. If the Debtors wanted a stay of the Winding-Up Petitions in England, there was a mechanism for obtaining one that did not involve asking this Court to do something unprecedented. The obvious path would have been to go to the English courts and seek an injunction there. England is an UNCITRAL country: it has adopted the model law that forms the basis of chapter 15. The Debtors believe that they have commenced in Spain a "foreign main proceeding," as defined in the model law. If that is the case (although the Objecting Noteholders do not concede that point), then the Debtors could have petitioned a court in England for recognition of the foreign proceeding under the Cross-Border Insolvency Regulations 2006. And pending a ruling on the recognition petition, the Debtors could have asked for provisional stay of enforcement, which would have applied within the territorial jurisdiction of the English court, although not beyond. *See Bloom v. Harms Offshore AHT "Taurus" GmbH*

[2010] Ch 187 at [16] (“It has long been established that the statutory prohibition against creditors bringing proceedings against a company being wound up by the court is not extraterritorial, i.e., it does not extend to proceedings brought in foreign courts.”).

47. That would have resulted in a stay in England barring the Winding-Up Petitions. Yet for some reason, despite all their overheated rhetoric about a creditor group allegedly trying to destroy value, the Debtors never sought relief in England. Having failed to follow this procedurally proper path, the Debtors now make the extraordinary request to *this Court*, in an ancillary proceeding, to extend its injunctive power across an ocean and interfere with the jurisdiction of a court in a foreign country. The Court should not overreach for the Debtors in this way. Especially when the Debtors had a straightforward means of getting to the same result through English procedure, there is no basis for the Court to disavow the doctrine of adjudicatory comity.

48. Alternatively, the Debtors could have filed plenary cases under chapter 11 in the United States. This would have created an estate under section 541 of the Bankruptcy Code, which would have included property “wherever located,” including property in foreign jurisdictions. 11 U.S.C. § 541(a). And it would have triggered the automatic stay, which likewise would have had global reach, since it would have barred any proceeding against the debtor and any enforcement against property of the estate. *Id.* § 362(a); *see also In re Arcapita Bank B.S.C.(c)*, 648 B.R. 489, 496 (Bankr. S.D.N.Y. 2023) (in a chapter 7 or chapter 11 case, section 362(a) “clearly applies extraterritorially”). The Debtors did not file chapter 11 cases, however. They filed cases under chapter 15, which does not create an estate, and which permits a court to make section 362 applicable only “within the territorial jurisdiction of the United States.” 11 U.S.C. § 1520(a)(1).

49. Although it remains mysterious that the Debtors never sought a stay in England, it is obvious why they chose to use chapter 15 instead of chapter 11 in the United States: the plan they

are seeking to confirm in Spain never would stand a chance of being confirmed in a plenary case under the Bankruptcy Code. This is so for at least three reasons:

50. *First*, the proposed plan violates the absolute priority rule. It “does not affect the rights of shareholders” and is designed to ensure “the maintenance of the current capital structure,” leaving the Antolín family’s ownership intact and its control of the company entrenched. Meanwhile, the noteholders that have entered into a cooperation agreement will not consent to the plan, which compromises their unsecured claims without consent: either the noteholders must take a massive maturity extension and suffer subordination to other previously *pari passu* creditors, or they must accept a massive principal haircut. This outcome for noteholders self-evidently violates 11 U.S.C. § 1129(b)(2)(B), which requires that a non-consenting class of unsecured creditors get paid in full before equity holders receive anything.

51. *Second*, the Debtors seek impermissibly to cram down the plan on the noteholders by gerrymandering classes and giving similarly situated creditors starkly different treatment. Under the proposed plan, the bank lenders are placed in their own class despite the fact that they, too, are unsecured and rank *pari passu* with the noteholders in all respects. Rather than placing these identically situated unsecured creditors in the same class for purposes of voting, the Debtors carved out the bank lenders into their own class, relegating the noteholders to a separate class. The reasoning for doing so under Spanish law is that the company needs an impaired accepting class to impose the plan on dissenting creditors. But the Bankruptcy Code does not tolerate such blatant gamesmanship in creditor classification. *See In re Boston Post Road Ltd. P’ship*, 21 F.3d 477, 483 (2d Cir. 1994) (“[S]eparate classification of unsecured claims solely to create an impaired assenting class will not be permitted.”). Nor does it permit unfair discrimination among similarly situated creditors. *In re Genco Shipping & Trading Ltd.*, 513 B.R. 233, 241 (Bankr. S.D.N.Y.

2014). Yet that is what is happening here, since the bank lenders are not being forced to choose between a huge reduction in principal and a lengthy maturity extension; they are being asked only to choose whether to participate in a so-called “new money” facility, which is not being offered to the noteholders.

52. *Third*, the proposed plan works only if the Debtors engineer an amendment to the waterfall and related provisions of the Intercreditor Agreement. Without them, the Debtors would not be able to give the bank lenders new senior-ranking credit support without also giving it to the noteholders that decline to accept a 32.5% reduction in principal. The plan thus depends on adjusting the relationships among *non-debtors*. That is, by purporting to effectuate an amendment of the Intercreditor Agreement, the plan seeks to adjust rights “held by nondebtors . . . against other nondebtors.” *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 220–21 (2024). In *Purdue*, the Supreme Court held that the Bankruptcy Code does not authorize such an outcome. *Id.* at 227.

53. The Debtors cannot have everything. They cannot rely on chapter 15 to try to avoid the confirmation requirements of chapter 11, but at the same time try to imbue their ancillary case with the extraterritorial reach of a plenary case. The Debtors must choose. And since they have chosen chapter 15—since they think that will provide them a way around the absolute priority rule and other chapter 11 restrictions—they have to abide by its territorial limitations.

C. The notes are not the Debtors’ property “within the territorial jurisdiction of the United States.”

54. Faced with the obvious problem that chapter 15 relief cannot be extraterritorial, the Debtors make the counterintuitive argument that enjoining litigation in England somehow qualifies as domestic relief. This contorted position reduces to a single contention: that the notes constitute “property” of the Debtors located in the United States because they contain New York choice-of-law and forum-selection clauses. This is unavailing.

55. The Bankruptcy Code does not define “property,” so the term must be interpreted according to its ordinary meaning when it was enacted. *See Wisc. Cent. Ltd v. United States*, 585 U.S. 274, 284 (2018) (“[I]t’s a ‘fundamental canon of statutory construction’ that words generally should be ‘interpreted as taking their ordinary, contemporary, common meaning ... at the time Congress enacted the statute.’” (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979))). In 1978, when Congress overhauled the U.S. bankruptcy system and enacted the Bankruptcy Code, the term “property” was understood to “extend to every species of *valuable right and interest*,” “[m]ore specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it,” and “[t]he exclusive right of possessing, enjoying, and disposing of a thing.” Property, *Black’s Law Dictionary* (5th ed. 1979).

56. The definition was similar in 2005, when chapter 15 was added to the Bankruptcy Code: “Any external thing over which the rights of possession, use, and enjoyment are exercised.” Property, *Black’s Law Dictionary* (8th ed. 2004). And it remains similar today. Property, *Black’s Law Dictionary* (12th ed. 2024) (same). The common meaning of “property,” throughout the decades the Bankruptcy Code has been in place, has been something of value that can be owned, used, possessed, or abandoned. Put another way, it is something to which creditors can look to satisfy their claims.

57. To be sure, contracts can create rights that are “valuable” and over which a party can exert “ownership.” From the perspective of the *noteholders*, for example, the notes are “property”: they are receivables, entitlements to payment, assets. A creditor of a noteholder can seek to attach, foreclose on, execute against, or garnish the receivable owed to it by the issuer. CPLR §§ 5202(a), 6214(a). But from the *Debtors’* perspective, the notes are altogether different: they are payables,

obligations, liabilities. The Debtors cannot “use” their obligations any more than they can “dispose of” or “possess” them. And their creditors cannot attach, execute against, or otherwise yield value from selling the Debtors’ obligations to make payments to someone. The fundamental problem with the Debtors’ argument, then, is that they want to read the word “property” to mean “obligation,” which is akin to saying the word “asset” means “liability.” This is not a credible way to read a statute. As the Chief Justice once quipped in another bankruptcy case, “oxymoron is not a typical feature of congressional drafting.” *Stern v. Marshall*, 564 U.S. 462, 477 (2011).

58. The Debtors argue that “courts have held that intangible contract rights established by indentures governed by New York law and subject to New York forum selection clauses constitute property in the United States of a kind sufficient to satisfy the ‘property in the United States’ requirement of section 109(a) of the Bankruptcy Code.” Motion ¶ 25 (citing *Berau, Ocean Rig*, and *PT Bakrie*). Those cases make the same fundamental error of conflating property with obligations. That the parties selected New York as the source of governing law in litigation and as one forum where the issuer could be sued does not mean that any action taken by noteholders against the Debtors can be said to have occurred, or even to have had an effect in, New York. That is especially so when none of the Debtors is formed under New York law, none has any business operations in New York, and the Winding-Up Petitions have no effect on the real assets the Debtors proclaim to have in New York, like a professional retainer account (nor on their assets elsewhere in the United States, like their manufacturing facilities).

59. In any event, the Debtors’ authorities are distinguishable. They addressed whether a person with New York law-governed debt is eligible to be a “debtor” under section 109, which requires the person to have “a domicile, a place of business, or property in the United States.” 11 U.S.C. § 109(a). Those cases had nothing to do with the issuance of injunctions by an ancillary

court to bar litigation in a foreign court. That is a step no court has taken, and this Court should not be the first. Extending the section 109 cases to the context of chapter 15 injunctions would turn every chapter 15 court into a worldwide policeman of litigation against a debtor whenever the debtor has signed a contract with a U.S. forum-selection clause. That cannot be how chapter 15 works. *JSC BTA Bank*, 434 B.R. at 337 (chapter 15 court is not “a global clearing house for resolving the right to proceed in an appropriate foreign tribunal against a foreign business enterprise that may have only insignificant contacts with the United States”).

60. The Debtor’s authorities are distinguishable for other reasons. The seminal case was *In re Berau Capital Resources Pte Ltd*, in which the court concluded that being obligated on debt instruments governed by New York choice-of-law and forum-selection clauses sufficed for “debtor” status under section 109, where the “notes issued under the indenture are to be discharged in New York City.” 540 B.R. 80, 84 (Bankr. S.D.N.Y. 2015). The courts in *Ocean Rig* and *PT Bakrie* followed *Berau*. See *In re PT Bakrie Telecom Tbk*, 601 B.R. 707, 715 (Bankr. S.D.N.Y. 2019) (following *Berau*); *In re Ocean Rig UDW Inc.*, 570 B.R. 687, 700 (Bankr. S.D.N.Y. 2017) (same).

61. Unlike in *Berau*, however, the notes here are not dischargeable in New York. To the contrary, they are held in global form by depositary institutions located in Europe (Euroclear and Clearstream), the paying agent for the notes is a London bank branch (Deutsche Bank AG, London Branch), and the paying agent is required to maintain a “corporate trust office or agency” in London to be the place for paying notes upon presentment. See, e.g., 2030 Indenture § 2.03 (“The Company will make payments on the Global Notes to the Paying Agent for further credit to Euroclear or Clearstream.”); *id.* § 4.01 (“Principal, interest, premium and Additional Amounts, if any, shall be considered paid on the date due if the Paying Agent receives such payment by such

time in the manner provided in the Notes.”); *id.* (“Principal of, interest, premium and Additional Amounts, if any, on the Notes will be payable at the corporate trust office or agency of the Paying Agent maintained in the City of London for such purposes.”).

62. Further, the issue before the Court here is how to interpret the phrase “within the territorial jurisdiction of the United States” when used in reference to property of a Debtor—a defined term that was not before the courts in *Berau*, *Ocean Rig*, or *PT Bakrie*. Section 1502(8) of the Bankruptcy Code says that “[f]or the purposes of” chapter 15:

“within the territorial jurisdiction of the United States”, when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

63. The Debtors’ notes currently are uncertificated because they are in global form. Indentures § 2.01. So, if the Debtors want to take the position that their “property” includes their “contracts” (even non-executory contracts like funded debt instruments), then they must accept what New York law has to say about where intangible rights like “contracts” are located. And that is not helpful to the Debtors’ cause.

64. In *ABKCO Industries, Inc. v. Apple Films, Inc.*, the New York Court of Appeals addressed whether a debtor’s licensing agreement to promote films was property within New York that could be subject to attachment in New York court. It concluded that the licensing agreement was “intangible personal property” that was “composed of the bundle of all [the debtor’s rights] under the Agreement.” 30 N.E.2d 899, 901 (N.Y. 1976). The court held that the location of the intangible property was New York because that is where the debtor’s counterparty was “found.” *Id.* at 901. In other words, when a contract is considered property of a debtor, the location of the debtor’s counterparty is the location of the debtor’s property rights, since that is where the debtor

can enforce performance. *See also Hotel 71 Mezz Lender LLC v. Falor*, 926 N.E.2d 1202 (N.Y. 2010) (intangible property held by garnishee of debtor was located in New York because garnishee was located there).

65. Here, by contrast, the Debtors’ counterparty is not found in New York. As discussed above, the current payees of the notes—the registered “Holders”—are European depositaries or their nominees. And the forum-selection clause on which the Debtors place so much weight is tellingly one-sided: it submits each of the *Debtors* to New York jurisdiction in any proceeding brought by a “Holder”; but the clause does not submit the “Holders” to jurisdiction or apply to suits by a Debtor.⁵

66. Under New York Court of Appeals case law, therefore, the “contracts” that the Debtors believe constitute their property are not located in New York for purposes of section 1502(8) of the Bankruptcy Code. They are located abroad. Even under the Debtors’ own convoluted interpretation of the word “property,” it is clear that their “contract rights” are not “within the territorial jurisdiction of the United States.”

CONCLUSION

67. For the foregoing reasons, the Court should deny the Motion.

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⁵ *E.g.*, 2030 Indenture § 12.05 (“The Company and each Guarantor ... agree that any suit, action or proceeding against the Company or any Guarantor brought by any Holder or the Trustee arising out of or based upon this Indenture, the Note Guarantees or the Notes may be instituted in any state or Federal court in the Borough of Manhattan, New York, New York, and any appellate court from any thereof, and each of them irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.”).

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MILBANK LLP

/s/ Alexander B. Lees

Alexander B. Lees

Michael T. Frieda

MILBANK LLP

55 Hudson Yards

New York, NY 10001

Telephone: (212) 530-5000

Facsimile: (212) 530-5219

Erin E. Dexter (admitted *pro hac vice*)

Chase J. Hanson (admitted *pro hac vice*)

MILBANK LLP

1101 New York Avenue NW

Washington, DC 20005

Telephone: (202) 835-7500

Facsimile: (202) 263-7586

Counsel to the Objecting Noteholders