

Whither Burford?

The Future of Burford After the YPF Appeals Verdict April 27, 2026

Out of all of Burford's many litigation investments, the YPF cases have always drawn intense market interest, and deservedly so, given their immense size and potential return to Burford. Having initially won an unprecedented \$16.1 billion in the Southern District of NY, Burford's own share of this award amounted to \$7 billion+, including accrued interest to date. Naturally, Argentina was avoiding payment in every which way possible, including by appealing the underlying verdict.

In recent months, the market has been very nervous that Argentina would win its appeal, a fear that materialized on March 27th when the Second Circuit reversed the lower court's ruling against Argentina. The market's reaction was swift and harsh, cutting Burford's market cap in half.

We believe the market has grossly overreacted and that Burford's stock is enormously undervalued at these levels — a virtual steal. In this Position Paper, we will walk through our thinking on Burford and why we view it as so undervalued. First, we'll discuss what the YPF appeals ruling actually said and its effects on the YPF litigation. Then, we'll discuss Burford's overall valuation and prospects going forward.

What the Appeals Court Actually Said

In last quarter's Portfolio Update, we explained at length why we were not concerned that the appeals court would overturn the verdict on the grounds of *forum non conveniens*. Indeed, the Second Circuit did not end up reversing the district court's verdict over forum concerns, but that was of little solace, as they still reversed the district court's verdict on the underlying merits.

To be clear, the Second Circuit did not find that Argentina honored its obligations. On the contrary, the court explicitly acknowledged that Argentina knowingly and flagrantly violated the promises it made to foreign investors to protect them in situations of expropriation. The Second Circuit instead made a much narrower ruling — that under Argentine law, the governing law of the YPF bylaws, these violations did not create the specific cause of action which the plaintiffs brought nor did they allow for the specific remedy which they sought.

Specifically, the Second Circuit ruled that the Judge Preska erred in two distinct matters of Argentinian law. First, it sided with Argentina that corporate bylaws cannot create a breach of contract action between shareholders under Argentinian law, because they do not constitute "mutual promises" or "specific bilateral obligations between shareholders", and are simply "a set of rules governing a company's internal operations". Second, even if grounds existed for a breach of contract action, the court sided with Argentina that Argentina's General Expropriation Law, which bars third-party actions that "impede the expropriation or its effects", precludes the YPF shareholders from suing Argentina for a breach of contract resulting from the expropriation.

Honestly, I find the court's reasoning strained. Although corporate bylaws are generally just rules for internal organization, even Argentina's own legal expert admitted that it is theoretically possible for corporate bylaws to contain provisions that constitute a contract. And this particular set of bylaws included clauses that were not simply rules for internal organization, but mutual promises, that *any* investor to cross the control threshold would need to make a tender offer. If that is not a specific bilateral obligation from every shareholder to every other, it is hard to understand what it is. As for the expropriation law, the claim that suing Argentina for its failure to tender amounts to "impeding" an expropriation that concluded over a decade ago seems like a stretch. The plaintiffs are not and were not seeking to unwind the expropriation. Rather, their position is simply that the expropriation triggered an obligation on Argentina that in no way contradicted or impeded



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the expropriation, namely, the obligation to tender for the rest of the shares that were not expropriated. All of this was cogently explained in Judge Preska's original ruling, which to us appeared to be the more tightly reasoned and well-argued opinion.

This analysis doesn't help us all that much, because rightly or wrongly, the appeals court did indeed reverse the district court's decision, and that is the reality we have to deal with. Although multiple avenues of appeal remain, we do have to recognize that the odds are stacked against them.

Next Steps in the YPF Litigation

Although the reversal is obviously a major setback, it is not necessarily the end of the road for the YPF litigation. The immediate next step is to appeal the reversal, for which there are multiple options. The first avenue of appeal would be to request an en banc appeal, which means to request the entire Second Circuit, rather than the original three-judge panel, rehear the case. Although anyone can request such an appeal, it is not an appeal by right, and most such requests are denied. The timeline generally calls for such an appeal to be filed within 14 days of the decision, and Burford has indicated that they expect to appeal, but so far, they have not. Instead, they have requested and were granted extra time until May 8th to file.

The next level of appeal would be to petition the Supreme Court for a writ of certiorari. This appeal is again discretionary in nature and is denied in the vast majority of cases.

Neither of these is a high-probability outcome, but they are legitimate paths and represent the quickest path if successful. Normally, these two levels of appeal would mean the end of the road, which would leave Burford with two unlikely-to-be-successful shots on goal. But in this case, there is actually a whole other pathway to sue Argentina to recover damages. As a reminder, the Second Circuit did not deny that Argentina promised certain protections to investors to induce their investment. And the Second Circuit did not deny that that Argentina knowingly and flagrantly breached its promises. The Second Circuit simply said that this behavior does not create a case under Argentine law, the governing law for the corporate bylaws.

But the facts remain: Argentina made promises, Argentina broke them, and foreign investors were harmed. These facts support a different legal path — international arbitration under the bilateral investment treaties between Argentina and the claimants' home countries. Petersen is a Spanish company, and Eton Park is a US fund. The 1991 Spain-Argentina BIT and the 1994 US-Argentina BIT provide relatively direct frameworks for this kind of claim. These investment treaties are not governed by Argentine law and offer Burford a relatively straightforward path going forward.

The drawback is time. Starting fresh with international arbitration would bring us back to step one in a lengthy and drawn-out process. Constituting an arbitral tribunal, establishing jurisdiction, conducting proceedings, and reaching a decision will take years. Realistically, we would expect it to take five or more years from the start of proceedings, and the tribunal may prefer to delay until the US appeals process is exhausted. Although Burford would argue that the arbitration could be accelerated given the factual record developed in the US proceedings, Argentina would undoubtedly resist, and the arbitral tribunal's willingness to accept that evidence is not guaranteed. And if Burford would want to reuse any material uncovered during US discovery, they would need to petition the US court for collateral use (a process they have started and which Argentina is resisting) and petition the arbitral tribunal to consider the evidence thus obtained, neither of which is necessarily straightforward.



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The bottom line is that although the YPF litigation is not zeroed, it is substantially weakened. Some recovery is still possible, but it will take far longer and has become far less certain than it appeared before the reversal.

Does This Change the Thesis?

No.

This doesn't change the thesis, because the thesis was never about YPF. We have consistently stated (see our original Position Paper from April 2021, YPF Litigation Value from July 2021, our Portfolio Updates from 2021, 2022, 2024, and 2025, etc.) that the Burford thesis revolves around their core business being greatly undervalued, with YPF as significant and valuable optionality on top, what we often called a cherry on the top or icing on the cake. The YPF option is indeed significantly reduced and possibly eliminated, but the core of Burford remains the same and remains greatly undervalued. In fact, given the market's reaction, Burford is now even more undervalued than before.

Valuing Core Burford

One way of looking at valuation is to take their balance-sheet portfolio (ignoring for the moment their business investing third-party funds) which amounts to about \$1.75 billion at deployed cost (not counting any fair value adjustments and excluding YPF). Their current portfolio has an average weighted life of 3.3 years, spread across literally hundreds of individual matters. No single case is dispositive to the performance of their portfolio overall (YPF being the exception, not the rule), and they have consistently generated IRRs north of 25% across their overall portfolio for years. Using the average weighted life of 3.3 years and a blended IRR of 25%, we reach a gross portfolio value of \$3.65 billion. Subtracting approximately \$2.2 billion of debt and adding in \$800 million in cash and receivables from settlements yields a net portfolio value of approximately \$2.25 billion. The continued IRR at 25% a year means that the portfolio is increasing in value in excess of \$900 million a year. Against that, we have to deduct the operating expenses from their legal and administrative staff and financing expenses from their bond issues. All in all, they are spending about \$300 million a year, much of that to grow the business even further. Even after accounting for all expenses, their net portfolio is still increasing in value by about \$600 million a year, representing growth of about 16.5% on their gross portfolio and nearly 27% growth on their net worth.

Even if we were to assume that future IRRs decline to only 20% — a meaningful haircut from historical performance — the numbers remain excellent. Portfolio value drops to roughly \$3.2 billion, net worth to approximately \$1.8 billion, and annual value creation (net of expenses) to around \$340 million a year. That's still more than 10.5% growth on their gross portfolio and close to 19% on their net worth. Needless to say, these are excellent business economics.

The downside is that these numbers are masked by lumpy and unpredictable returns in any particular quarter or year. But that doesn't make these numbers less real. And when the market is valuing the entire company at a market cap of \$1 billion, it sure seems like a steal. At a valuation of \$1 billion, you are receiving a net portfolio worth \$1.8–\$2.25 billion and growing, after all expenses, by \$340–\$600 million a year. For just \$1 billion!

The above calculations account zero for YPF, which may or may not end up returning significant value. They account zero for their third-party fund business, which brings in tens of millions a year and is



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likely to bring in substantially more as older funds wind down. The undervaluation is astounding. The market is simply hyperfocused on YPF and ignoring the entire rest of the business.

The Runoff Thought Experiment

Let's look at it from a different lens. Let's imagine the worth of Burford if they stopped investing into further cases and simply wound down their present portfolio. Burford shares their own internal estimate of their current portfolio's ultimate cash realizations, calibrated to their historical track record of hitting their model projections. This is not their optimistic, rosy view of what they *may* make if everything goes well, but their probabilistic, realistic view of what will likely occur given that some matters will do worse than expected and some will do better, etc. They estimate that the current portfolio will yield \$5.2 billion in ultimate realizations plus \$350 million in performance allocations from third-party funds. Subtracting their \$2.2 billion in debt yields a net runoff value of approximately \$3.35 billion, before accounting for operating costs over the wind-down period. (We do not add cash back to this calculation because the above projections assume further deployments to shepherd the present portfolio to conclusion, which happen to just about offset their cash and receivables balances.)

We then subtract the cost of managing the portfolio while in runoff. Let's imagine it to take 5 years at full operating expenses. This is definitely excessive; in reality, a runoff portfolio would not need the \$150 million in opex that they spend, most of which is geared to underwrite new cases and further grow the company. And you would presumably be paying off debt as you go, dramatically reducing the finance expenses as well. But for our thought experiment, let's imagine 5 years at \$300 million, for a total of \$1.5 billion. That would still leave the runoff value of the present portfolio, net of debt and expenses, using rather draconian assumptions, at a net value of \$1.85 billion. This is a "the company is dead" scenario. And in this scenario, estimated super-conservatively, their present book of business is worth almost twice the current market cap, without counting a penny for YPF. But Burford is not dead. On the contrary, Burford is alive and growing. The silliness of paying a total of \$1 billion for the current portfolio and the ongoing growing franchise is astounding. Like I said before, the market is hyperfocused on YPF and ignoring the entire rest of the business.

Plenty of Optionality

In addition to their core business, Burford has the potential to win very large sums in specific single cases. This is very much *not* the thesis, but this does remain a real source of possible value that deserves mention. As should be clear from the discussion above, the YPF cases themselves may well end up bringing significant value to the company. But that's not their only large iron in the fire. Other cases have potential to become outsized home runs as well. There's more than one, but I wish to zoom in on the Sysco protein cases.

We've spoken about the Sysco cases before (see our 2023 Portfolio Update and 2024 Portfolio Update). The unusual feature of these cases is that after a protracted and winding litigation between Burford and their client (Sysco), the protein cases have been fully assigned to Burford, so that they get the entirety of any recovery and they control the litigation strategy and settlement. The protein cases are seeking to recover damages owed to Sysco from overcharging by chicken, beef, pork, and turkey cartels that were colluding in violation of antitrust laws. The underlying facts are quite strong, and the defendants have already been found guilty in parallel criminal proceedings. There have been multiple guilty pleas and admissions of guilt from the companies involved, and a number of executives have been indicted. The antitrust violations are not in dispute and the question now is not if, but how much. Given the billions of dollars in underlying purchases by Sysco



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per year and the multi-year period of the collusion (ranging from 7 to 11 years, depending on the specific protein), calculated damages are highly significant. And by statute, antitrust damages proven at trial are automatically trebled.

Earlier in the case, Burford suffered some temporary setbacks, but things appear to be shaping up for them now. Earlier this year, the Seventh Circuit reversed a previous district court finding and ruled that Pilgrim's Pride had not actually executed a settlement with Sysco for a measly \$50 million, one that Burford has long been seeking to void. With that settlement now deemed void, Burford is again in a strong negotiating position with Cargill, Tyson Foods, Pilgrim's Pride, and the many other defendants, all of which are facing pressure to settle or face a good chance of trebled damages and responsibility to pay for the whole conspiracy. (All co-conspirators in antitrust cases are jointly and severally responsible for the entire conspiracy's damages and do not by law have recourse to demand restitution from their co-defendants if they are forced to pay more than their "fair share".)

Trials for the pork and turkey cases are scheduled for later this year. The chicken case is getting close to trial and will probably be a late 2027 or early 2028 event. The beef case is moving the slowest, but will get there. The value to Burford can easily reach \$1–\$2 billion from these cases alone, and is likely to be quite significant even if it doesn't quite reach those rarefied heights. And the defendants here are all well-capitalized, US corporate defendants. Recovery of any damages awarded at trial is all but certain, without the enforcement uncertainty that we saw with the YPF cases against Argentina.

I again wish to stress that these cases are not the essence of the investment thesis at all. The investment thesis is not about this particular case or that particular case that is a make-it-or-break-it outcome for Burford. The investment thesis is about their portfolio as a whole, the vast majority of which are not these major stand-out cases, but which reliably bring in excellent returns to Burford and their shareholders. But if one or two particular cases do bring in off-the-chart returns, I will gladly accept those as well.

Summary

Yes, the Second Circuit ruling is a major setback for the YPF cases. Although it may yet ultimately turn into a major win for Burford, we have to accept that Burford's valuation cannot count on seeing further money from the YPF cases. But this setback doesn't break the thesis, because the thesis was never about YPF. The thesis was and is about the core business of Burford, which is way undervalued any way you calculate it. As we detailed above, for a market cap of \$1 billion, we are now receiving a net portfolio worth \$1.8–\$2.25 billion, compounding at 19%–27% a year.

Given Burford's steady slide over the past months and the rest of the portfolio's outperformance, Burford was already less than 8% of our overall portfolio when the appeals court ruling hammered the stock. As we laid out in our Portfolio Update last quarter, we were already seeking to reinvest more into Burford this year. With the market's overreaction and Burford's stock on sale, we were happy to use this opportunity to load up. In fact, we quintupled our stake. We firmly believe that the future will show us vindicated in our confidence.

