

# COURT OF APPEAL FOR ONTARIO

CITATION: Grillone (Re), 2024 ONCA 322

DATE: 20240426

DOCKET: M55034 (COA-23-CV-1202)

Benotto J.A. (Motions Judge)

In the Matter of the Bankruptcy of Sergio Grillone

Bankruptcy Application under the *Bankruptcy and Insolvency Act*,  
R.S.C. 1985, c. B-3, as amended

Sergio Grillone, acting in person

Kenneth D. Kraft, Meredith Bacal and Mark Freake, for the respondent Bluecore Capital Inc.

Heard: In writing

## ENDORSEMENT

[1] There have been numerous motions brought by Mr. Grillone in the bankruptcy proceeding and in this court. The trial judge described his litigation strategy as follows:

Mr. Grillone is an experienced litigation lawyer. While he claims not to have had experience in bankruptcy and insolvency matters, he has utilized his skill set as a litigation lawyer to research and become familiar with this area of the law and has made use of his skill set and the tools available to him to raise a multitude of objections to this bankruptcy application, both procedural and substantive. Mr. Grillone's resources included the use of the court's process to raise objections, bring motions, launch attacks personally and professionally against Bluecore and its counsel, and challenge the many creditors who have pursued him through the court.

Mr. Grillone has put forth a valiant effort to avoid the bankruptcy order, and he has demanded that Bluecore be required to strictly comply with the requirements of the BIA.

[2] These tactics appear to have continued when he appealed to this court. The respondent brought a motion to lift the stay of the Bankruptcy Order. In granting the order on December 18, 2023, Brown J.A. said:

While in his December 5 Letter Mr. Grillone wrote that “[t]he perfection of the appeal will follow the normal course”, the court’s records show that Mr. Grillone has not taken any steps to perfect his appeal in accordance with the *Rules* since filing his notice of appeal. That raises serious doubts as to whether Mr. Grillone’s appeal constitutes a serious request to review the reasons of the trial judge or merely a device to stall the enforcement of the Bankruptcy Order.

[3] During the last motion before me, on March 26, 2024, Mr. Grillone undertook to perfect his appeal within 10 days. I ordered that he perfect the appeal within ten days of March 28, 2024 which provided him almost two weeks. He was warned at the time that the Registrar’s dismissal would follow if he did not comply.

[4] The appeal has not yet been perfected. Mr. Grillone tried, albeit after the court office had closed, to file his factum. It did not comply with the rules. It was too long, not double spaced and not signed. His appeal was dismissed by the Registrar on April 12, 2024. He now seeks leave to set aside the dismissal.

[5] Although Mr. Grillone claims that he wishes to proceed with the appeal, his conduct says otherwise. He has not filed the corrected factum, nor has he served an Exhibit Book.

[6] I also ordered pursuant to r. 37 that any further motion sought by Mr. Grillone would require leave. He therefore requires leave to bring a motion to set aside the Registrar's dismissal. His proposed motion to set aside the Registrar's dismissal has little chance of success. Although an experienced litigator, he has repeatedly caused delay, made collateral attacks on the trial decision, and not paid costs orders. The merits of the appeal itself are weak. He seeks to relitigate the trial. All of these factors confirm Brown J.A.'s concern that this appeal is but an attempt to stall the enforcement of the bankruptcy order. They also confirm my view that he is stalling.

[7] The motion for leave is dismissed with costs to the Respondent of \$750. Had I granted leave, I would have dismissed the motion to set aside the Registrar's dismissal of the appeal.

"M.L. Benotto J.A."