

COURT OF APPEAL FOR ONTARIO

CITATION: Stride v. Syra Group Holdings, 2025 ONCA 265

DATE: 20250407

DOCKET: M55844 (COA-24-CV-0530)

Paciocco J.A. (Motions Judge)

BETWEEN

Jennifer Stride

Plaintiff
(Respondent/Moving Party)

and

Syra Group Holdings*, Mona Singh, Jane Seale, Dwayne Jetty and Jamie Jetty

Defendants
(Appellant*/Responding Party*)

Tara Vasdani, for the moving party

Amir Khan, for the responding party, Syra Group Holdings

Heard: March 21, 2025

ENDORSEMENT

OVERVIEW

[1] The moving party, Jennifer Stride, seeks an order for security for costs against the appellant, Syra Group Holdings (“Syra”) in the amount of \$100,000, relating to Syra’s appeal of a wrongful dismissal finding against it that resulted in a damage award of \$175,000.

[2] After receiving due notice of the motion, Syra appeared before me at the scheduled hearing and immediately asked that it be adjourned without formal notice, on the ground that Ms. Stride had not sought to confirm a date for the motion in advance, and senior counsel was not available. I denied the adjournment request because it was not in the interest of justice to delay the motion. I made this determination, notwithstanding Ms. Stride's counsel's failure to consult with Syra's counsel to establish a mutually convenient date, and notwithstanding that Syra wanted senior counsel to argue the motion. I do not fault Ms. Stride's counsel for not confirming a mutually convenient date with Syra's counsel given that they have not been responding to her emails.

[3] Moreover, Syra has a history of delaying proceedings in Ms. Stride's action. In the court below, the trial judge imposed substantial indemnity costs against Syra because of its "outrageous" conduct resulting in this matter going on for five years, including four changes of counsel that required trial adjournments. One of the lawyers was fired by Syra by email during the trial after opening statements had been made, resulting in a direction from the trial judge that "[t]here will ... be no further adjournments."

[4] It now appears that Syra has not been pursuing its appeal with diligence, resulting in the need for case management by this court. Although Syra ultimately met the perfection date agreed to during a status hearing, they had not provided transcripts after a long delay, without explanation. Transcripts remain outstanding

jeopardizing Ms. Stride’s ability to meet the filing deadline imposed for her material, necessitating scheduling a further status hearing.

[5] Finally, I was satisfied that junior counsel was prepared and able to argue the motion. He prepared the motion materials and candidly acknowledged that he was ready to do so if the adjournment request was denied. He did a commendable job in both his written and oral submissions.

[6] Ms. Stride pursued two bases for the security for costs motion. She submits that: (1) pursuant to r. 61.06(1)(b) and r. 56.01(1)(d) there is “good reason to believe” that Syra Group Holdings has insufficient assets in Ontario to pay the costs of the appeal; and (2) pursuant to r. 61.06(1)(c) there is “other good reason” to order security for costs.

[7] For the reasons that follow, I am dismissing the motion, despite the concerns I do have about Syra’s litigation conduct.

THE GENERAL LEGAL PRINCIPLES

[8] There is a two-step process required before a discretionary order is made to order security for costs against an appellant pursuant to r. 61.06(1). “The first question is whether the requirements of r. 61.06(1)(a), (b), or (c) are met. If so, the second question is whether it would be just to order security, considering the circumstances and the interests of justice”: *Thrive Capital Management Ltd. v. Noble 1324 Queen Inc.*, 2021 ONCA 474, 156 O.R. (3d) 551, at para. 17. The

relevant factors in deciding whether it would be just to order security are not closed: *Yaiguaje v. Chevron Corporation*, 2017 ONCA 827, 138 O.R. (3d) 1, at paras. 24-25.

ANALYSIS

A. RULE 61.06(1)(B)

[9] Rule 61.06(1)(b) permits an order for security for costs to be made only when such an order “could be made against the appellant under rule 56.01”. A r. 56.01 security for costs order can be made only on motion by “the defendant or respondent in a proceeding”. Since Ms. Stride was not a defendant or respondent in the action that led to the order now under appeal, she could not have obtained a security for costs order against Syra Group under r. 56.01. Therefore, I cannot make a security for costs order against Syra Group pursuant to r. 61.06(1)(b): *Donaldson International Livestock Ltd. v. Znamensky Selekcionno-Gibridny Center LLC*, 2010 ONCA 137, 101 O.R. (3d) 314, at para. 13; *Rathod v. Chijindu*, 2024 ONCA 317, at para. 4, motion to review dismissed, 2024 ONCA 420.

B. RULE 61.06(1)(C)

[10] A security for costs order can be granted under r. 61.06(1)(c) if there is a “fairly compelling reason” that is distinct from rr. 61.06(1)(a) and (b) and that is related to the purpose for ordering security for costs, which is to address an unacceptable risk that any costs ordered on the appeal will not be obeyed:

Combined Air Mechanical Services Inc. v. Flesch, 2010 ONCA 633, 268 O.A.C. 172, at para. 8; *Thrive Capital Management Ltd.*, at paras. 18, 23.

[11] The requirement that the basis for a r. 61.06(1)(c) order must be “distinct” ensures that “a party seeking an order for security for costs under rule 61.06(1)(c) may not resort to what are in effect the same grounds that would support a rule 56.01 order when it is barred ... from relying on subrule 1(b)”: *Donaldson International*, at para. 17. It follows that a r. 61.06(1)(c) order cannot rest solely on two of the grounds advanced by Ms. Stride, namely, the alleged failure of Syra Group to pay an order for costs in the same proceeding (see r. 56.01(1)(c)),¹ and her claim that there is “good reason to believe that [Syra Group, a corporation] has insufficient assets in Ontario to pay the costs” (see r. 56.01(1)(d)).

[12] The remaining basis that Ms. Stride pursued as providing “other good reason” for a security for costs order is her claim that there is good reason to believe that Syra Group is “liquidating [its] assets to avoid payment of the Judgment and/or Costs Awards.” Conduct by an appellant showing that they are taking steps to put assets out of reach of creditors is a material consideration in a r. 61.06(1)(c) application: *Thrive Capital Management Ltd.*, at para. 23. Ms. Stride

¹ To be clear, proof of a failure to pay a costs award in the same proceeding may be considered as evidence supporting a broader finding that it will be nearly impossible to collect appeal costs without a security for costs order, but a r. 61.06(1)(c) order cannot be based solely on the failure of the appellant to pay a trial costs award made below: *Rathod v. Chijindu*, 2024 ONCA 317, at para. 11, motion to review dismissed, 2024 ONCA 420; *Aegis Biomedical Technologies Ltd. v. Jackowski* (1996), 28 O.R. (3d) 558 (C.A.), at p. 561; *Donaldson International*, at para. 17.

has raised concern in this regard. Websites formerly linked to Syra and its associate, Equity Builders, included buildings in numerous cities in Syra's portfolio but those websites were taken down after the trial. Photographic images from May 14, 2024, were also put into evidence before me of Mona Singh, the CFO of Syra, gathering documents and removing boxes from the Etobicoke office of the apartment building where Ms. Stride resides.

[13] Notwithstanding this evidence, and related unsupported or less relevant allegations by Ms. Stride that Syra has made other efforts to prevent recovery, I have two concerns about making a r. 61.06(1)(c) order on this basis. First, judges of this court who have made or refused to set aside security for costs orders because of a concern that a costs award may be evaded or disobeyed have tended to do so after finding that the appeal is weak, without merit, or unlikely to succeed: see, for example, *York University v. Markicevic*, 2017 ONCA 651, at paras. 52, 58; *Gardiner Miller Arnold LLP v. Kymbo International Inc.*, 2006 CarswellOnt 9436 (C.A.), at paras. 9-12; *Lavallee v. Isak*, 2022 ONCA 290, at paras. 34-38; *Henderson v. Wright*, 2016 ONCA 89, 345 O.A.C. 231, at para. 27; *Perron v. Perron*, 2011 ONCA 776, 345 D.L.R. (4th) 513, at paras. 21-23; *Gauthier Estate v. White*, 2022 ONCA 846, at paras. 20-21; *798839 Ontario Ltd. v. Platt*, [2014] O.J. No. 6077 (C.A.), at para. 53. This is sensible since the strength of the appeal bears directly on the risk that an adverse costs award will be made against the appellant but then left unpaid. Ms. Stride has not suggested that Syra's appeal is weak. I

have examined the grounds of appeal, and they are not clearly without apparent merit. This is not a case where there is a demonstrated, substantial likelihood that a costs award will be made against Syra, a consideration that certainly would have enhanced the case for a security for costs order.

[14] Second, although there is reason to apprehend that Syra may be taking steps to avoid payment of the trial judgment and costs, the circumstantial case that it is in fact doing so is not strong. Although Ms. Stride alleges dishonest conduct by Syra in the conduct of its litigation as well as breaches of court orders, there have been no firm findings of fraud, contempt, or breach of court orders made against Syra, which would strengthen the application. In the absence of indications that its appeal is weak, I would require more compelling proof of evasion by Syra before I would find there to be “other good cause” for making a security for costs order.

[15] I am mindful that the decision to make a security for costs order is discretionary, and that each case turns on its own facts, but in the circumstances, I am not persuaded that the justice of this case requires such an order to be made.

CONCLUSION

[16] Ms. Stride’s motion for security for costs is dismissed.

[17] Although it is presumed that costs will be awarded to the successful party, given Syra’s history of delaying the appeal including its attempt to adjourn this

hearing, I find it not in the interests of justice to award them costs. The parties will each bear their costs on this motion.

“David M. Paciocco J.A.”