



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

**COURT FILE NO.:** CV-19-00630908-00CL

**HEARING DATE:** March 12, 2025

CV-19-00615560-00CL

CV-19-00613382-00CL  
BK-25-00208753-OT31

**NO. ON LIST: 1**

**TITLE OF PROCEEDING:** ERNST & YOUNG INC., IN ITS CAPACITY AS COURT APPOINTED  
MONITOR OF BONDFIELD CONSTRUCTION COMPANY LIMITED

VS.

JOHN AQUINO et al.

**BEFORE: JUSTICE KIMMEL**

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
Alan Merskey	Csl for Applicant, Ernst & Young Inc, in the Capacity as Court Appointed Monitor of Bondfield Construction Company Ltd	amerskey@cassels.com
Evan Cobb		evan.cobb@nortonrosefulbright.com
Stephen Taylor		stephen.taylor@nortonrosefulbright.com
Alex Bogach	Csl for Trustee in Bankruptcy of 1033803 Ontario Inc., KSV Restructuring (the Formacon Trustee)	Abogach@torys.com

**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
Tanya Pagliaroli	Csl for Ralph Aquino	tanya@taplaw.ca
Vinayak Mishra	Csl for Ralph Aquino	vin@taplaw.ca
Caitlin Fell	Csl for Ralph Aquino	cfell@reconllp.com
David Ullman	Csl for John Aquino	dullmann@blaney.com
George Corsianos	Csl for John Aquino	gcorsianos@clvlaw.ca

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Hanz Rizarri	Court Appointed Receiver (Receiver)	Hans.Rizarri@CroweSoberman.com
Domenico Magisano	Csl for Crowe Soberman Inc., Court Appointed Receiver	Dmagisano@lernal.com

**ENDORSEMENT OF JUSTICE KIMMEL:**

- [1] By the court’s endorsement of February 18, 2024, a half-day hearing was scheduled on May 23, 2025 and timetabled for two related motions (the “*Mareva* motions”):
- a. the Monitor’s motion (supported by the Formacon Trustee) for the post-judgment continuation of a *Mareva* Order previously granted in proceedings that have led to judgments against Mr. John Aquino (and others) for transfers at under value (“TUV Judgments”); and
  - b. John Aquino’s cross-motion for certain declaratory relief related to the *Mareva* Order, which he will argue has merged in the TUV Judgments, or in the alternative, seeking that limitations to be placed on the *Mareva* Order, if it is to be continued.

[2] The Monitor (supported by the Formacon Trustee) has now served an application seeking an order for the assignment of John Aquino into bankruptcy. They would like that application to be heard on May 23, 2025. John Aquino opposed the scheduling of the bankruptcy application for various grounds set out in his Aide Memoire filed for today’s case conference. The issues raised in opposition of scheduling the bankruptcy application include arguments of redundancy, inherent inconsistencies in the relief sought, bad faith on the part of the Monitor in terms of prior representations to the court concerning the pursuit of ongoing recovery efforts in respect of the TUV Judgments and concerns about interference with John Aquino’s ongoing

litigation with his father Ralph Aquino in respect of properties currently under the supervision of a court appointed receiver (Crowe Soberman Inc., the “Receiver”).

[3] The court is not in a position to properly consider and determine the points of opposition that John Aquino raised against the scheduling of the bankruptcy application without the full context and a proper evidentiary record. The high level submissions provided in the Aide Memoire’s for this case conference framed the issues. Having considered the written and oral submissions of the parties, the court determined that these arguments/issues are more properly raised in opposition to the bankruptcy application itself, rather than as a basis for not scheduling the application to be heard at all.

[4] It is acknowledged that there will be some factually contentious issues (at the very least, regarding the extent of John Aquino’s assets) that are relevant to the both the *Mareva* motions (and cross-motion) and the bankruptcy application, although the full extent of the overlap will only be known once the evidentiary records have been developed.

[5] Mr. Ullman, counsel for John Aquino in the ongoing litigation with Ralph Aquino suggested that the bankruptcy application should be deferred until after the trial of that action, which he is seeking to schedule for sometime later in 2025 (or early 2026, depending on the court’s schedule). Ralph Aquino opposes the scheduling of that trial, the subject matter of which involves properties that John Aquino claims to have a 50% interest in that he estimates are valued at more than \$100 million. Justice Conway has been dealing with the receivership over the subject properties and other procedural issues in that ongoing litigation. That litigation is not stayed by the receivership over the subject properties but the Receiver is in place to stabilize the assets while the litigation continues.

[6] The court directed that the bankruptcy application be scheduled to be heard on May 23, 2025 together with, or immediately following or immediately prior to, the *Mareva* motions and John Aquino’s cross-motion (as the presiding judge may direct). John Aquino’s trial scheduling request was also directed to be considered that day as it ties into his response to the bankruptcy motion.

[7] The time for the May 23, 2025 hearing was expanded to a full day (presumptively in person) hearing. It has now been scheduled to be heard by Justice Conway (as long as she remains available to hear it that day).

[8] John Aquino asked for some additional time to respond to the bankruptcy application and it was agreed he would do so by March 31, 2025, although he will still respond to the *Mareva* extension motion and deliver his cross-motion materials as originally timetabled, on March 17, 2025.

[9] The parties were asked to agree upon a revised timetable for the remaining pre-hearing steps for the now expanded May 23, 2025 hearing. Counsel for the Monitor provided the court

(by email dated March 13, 2025) with the following updated consent timetable which is approved (with the addition of an additional 5 pages to item (g) and the addition of item (i) by the court):

- a. Aquino's Responding/Cross-Motion Record for the *Mareva* motions: March 17, 2025
- b. Aquino's Responding Application Record for the bankruptcy application (this will include any separate materials from Mr. Ullman's office and any appraisals relied upon in connection with either or both of the *Mareva* motions or the bankruptcy application): March 31, 2025
- c. Case conference (per below Receiver's request for directions regarding appraisals etc.): April 9, 2025
- d. Monitor's Reply Record (for both the *Mareva* and bankruptcy matters): April 18, 2025
- e. Cross-examination of John Aquino by Monitor and Trustee, including in aid of execution: April 28, in person, at Network North (Yonge and Sheppard); Cross examination of appraiser(s) – April 29, if needed
- f. Monitor's Factum: May 5, 2025; Trustee factum (5 page limit) May 5, 2025
- g. Aquino's Factum (maximum additional 5 pages for trial scheduling issues): May 14, 2025
- h. Monitor's Reply Factum (if appropriate with regard to the Commercial List Practice Direction): May 19, 2025
- i. Ralph Aquino factum on trial scheduling issues (5 page limit): May 19, 2025
- j. Hearing: May 23, 2025, for a full day in person

[10] The outside date for the delivery of all material and for it to be uploaded into the appropriate hearing bundle(s) in Case Center is 4:30 p.m. on May 19, 2025. The factums shall address all issues (except as otherwise specified) and page limits are in accordance with the Rules unless otherwise specified. All limits based on double spacing.

[11] The Receiver takes no position regarding the timing of the trial but may have some other issues it needs addressed that will require consensus among the interested parties and/or further directions from the court with respect to, for example, a protocol or framework for sharing of appraisals for the subject properties and restrictions on their public disclosure. A one hour case

conference has been scheduled on April 9, 2025 at 11:00 a.m. to address any remaining issues identified by the Receiver. The Receiver may also need to seek urgent directions concerning one of the development properties subject to the receivership order. If that is more urgent than April 9, 2025, a case conference or motion date may be sought in the normal course through the Commercial List Office.

[12] This endorsement and the directions contained in it shall have the immediate effect of a court order without the necessity of a formal order being taken out.

A handwritten signature in cursive script, appearing to read "Kimmel J.", written in black ink.

KIMMEL J.

March 13, 2025