

CITATION: Folino v. Shahid, 2026 ONSC 1473
COURT FILE NO.: CV-24-2127-0000
DATE: 2026 03 10

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

Sam Folino and Inet Lending Corp.

(Plaintiffs/Moving Parties)

)
)
) A. Mann, for the Plaintiffs

– and –

Merium Shahid

(Defendant/Respondent)

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)
) G. Jaspal, for the Defendant/ Respondent

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) **HEARD:** March 9, 2026

ENDORSEMENT ON MOTION FOR SUMMARY JUDGMENT

CONLAN J.

I. The Motion

[1] The Plaintiffs, Sam Folino and Inet Lending Corp. (“moving parties”), seek summary judgment against the Defendant, Merium Shahid (“Ms. Shahid”), on a second mortgage (the “Mortgage”).

[2] The Mortgage was in the principal amount of \$425,000.00, was advanced on 15 June 2023, and was secured against four properties owned by Ms. Shahid – one in Milton, one in Niagara Falls, and two in Oshawa. Default, undisputed by Ms. Shahid, occurred on 16 January 2024.

II. Short Conclusion

[3] For the reasons that follow, the motion is granted. This Court orders that judgment against Ms. Shahid shall issue in favour of the moving parties as per the draft filed by counsel for the moving parties at the hearing on 09 March 2026, subject to the following two amendments:

- (i) at clause 2, the words, “and for this purpose, a Writ of Possession shall be issued forthwith”, shall be deleted; and
- (ii) at clause 3, the amount of costs to be inserted therein shall be \$73,000.00.

[4] The reason for the first amendment is that this Court must receive and review updated occupancy reports for the four properties in question before granting to the moving parties leave to obtain the said Writs. Once those updated occupancy reports are obtained, the moving parties may bring a basket motion, in writing, for leave to have the said Writs issued. That basket motion should be directed to my attention.

[5] The reason for the second amendment is that the said figure represents full indemnity costs in favour of the moving parties, which is the scale of costs that the moving parties are contractually entitled to. This Court has rounded the figure down to the nearest one-thousandth, to the benefit of Ms. Shahid. This Court reviewed the Costs Outline filed by counsel for the moving parties, and I have concluded that the quantum of costs being awarded reflects a fair, just, reasonable, and proportionate sum in all of the circumstances of this case. Those circumstances include tireless efforts by Ms. Shahid and her counsel to unreasonably prolong the litigation (more about that is described below). Counsel for Ms. Shahid’s request today to make written submissions on costs is denied. This hearing date was scheduled for many, many months. Counsel are expected to be ready and able to make costs submissions at the hearing of the motion. The default procedure is that a court will, on the hearing of a contested motion, fix costs and order them to be paid within thirty days: Rule 57.03(1) of the *Rules of Civil Procedure* (“Rules”). The whole objective in fixing costs is to devise and adopt the simplest, least expensive, and most expeditious process for fixing

costs, and, in this case, that was to hear the oral submissions of counsel on the date that the motion was argued: Rule 57.01(7) of the Rules.

III. The History of the Litigation

[6] A detailed chronology of the litigation to date is important because that history will demonstrate the unreasonableness of the conduct on the part of Ms. Shahid and her counsel. Frankly, this Court feels uncomfortable showcasing this, however, it is necessary because I have no doubt that the decision herein will be appealed.

[7] The Statement of Claim was issued on 31 May 2024, and the Statement of Defence was delivered on 02 July 2024. No counterclaim was advanced at that time.

[8] On 06 June 2025, my colleague, Kurz J., in a clearly worded and typed Endorsement, ruled that the moving parties were entitled to claim against Ms. Shahid for the amount of money that they paid to discharge a first mortgage in favour of Vault Capital Inc. with regard to the property in Niagara Falls.

[9] On 13 June 2025, nearly nine months ago, the within motion for summary judgment was served on Ms. Shahid.

[10] On 03 July 2025, more than eight months ago, my colleague, Mills J., made a timetable Order in this case. That Order included the opportunity for out-of-court cross-examinations on both sides. No cross-examinations were ever conducted.

[11] On 20 November 2025, nearly four months ago, the hearing of the within motion for summary judgment was scheduled for March 9, 2026.

[12] On 11 February 2026, Ms. Shahid brought a motion to amend her pleading and to issue a third-party claim against the mortgage broker. Succinctly put, the allegation was that the mortgage broker and the individual lender are brothers and, thus, that spoils the validity of the Mortgage. My colleague, Associate Justice Glick, heard that motion and dismissed most of the relief being sought: *Folino v. Shahid*, 2026 ONSC 841. The third-party claim was permitted to proceed. In that decision, Glick A.J. observed that Justice Bhangu, in another jurisdiction in Ontario, had, on

11 December 2025, dismissed another proceeding brought by Ms. Shahid that, in essence, sought the very same relief that had already been requested in front of and dismissed by Justice Kurz back in June 2025. The “legal principles of inconsistent verdicts and abuse of process are lost on [Ms. Shahid’s counsel]”, Justice Bhangu wrote, ordering that Ms. Shahid was not to bring any similar motions without leave of the court.

[13] On 02 March 2026, my colleague, Mills J., dismissed an urgent motion that was brought, in writing, by Ms. Shahid. That motion sought a stay of the within summary judgment motion. Essentially, Justice Mills held that the issues raised in the motion before her were largely the same as those that had already been heard and dismissed by Associate Justice Glick.

[14] Ms. Shahid appealed the decision of Associate Justice Glick. That fact was known to Justice Mills and observed in her Endorsement. The appeal was brought in the wrong court, a panel of the Divisional Court. As decisions in pleadings motions are typically considered to be interlocutory matters, that appeal should have been made to a single judge of the Superior Court of Justice; in fact, section 19(1)(c) of the *Courts of Justice Act* makes it abundantly clear that the Divisional Court has jurisdiction to hear an appeal from the order of an associate judge only where that order is a final one.

[15] Apparently, that procedural irregularity has been cured by Ms. Shahid, although no evidence of that was filed with this Court on the within motion for summary judgment.

[16] On 08 March 2026, the day before the hearing of the within motion for summary judgment, a Sunday, Ms. Shahid’s counsel uploaded to Case Center another urgent motion dated 08 March. That motion sought the exact same relief that was dismissed by Mills J., that is, a stay of the summary judgment motion.

[17] On 09 March 2026, at the opening of the hearing of the within motion for summary judgment, counsel for Ms. Shahid made brief oral submissions in support of a stay or an adjournment. This Court refused to stay or to adjourn the motion, a decision that should not have come as any surprise to Ms. Shahid or her counsel in light of the prior decisions of both Glick A.J. and Justice Mills. The matter was akin to *res judicata* (I say “akin” because that term is normally used in relation to a final decision). It was the same parties; same issue; same request. It was an abuse of

process. Counsel for Ms. Shahid then continued to press for the adjournment, and this Court indicated that it had already made its decision. Counsel pressed yet again, and this Court was compelled to indicate that it would have to order the transcript and contemplate sending it elsewhere. The transcript will speak for itself. It was very awkward for everyone involved. Reluctantly, this Court had to direct counsel to be seated. It is not something that I wanted to do. It is not something that I am pleased was done.

[18] Finally, it should be noted that (i) there are multiple outstanding costs orders against Ms. Shahid; and (ii) the court-ordered timetable set out by Glick A.J. was not adhered to by Ms. Shahid; and (iii) the third-party claim has not even been commenced; and (iv) counsel for Ms. Shahid acknowledged, on the 9th of March, that he deliberately did not upload anything on Case Center regarding his client's position on the merits of the motion for summary judgment because he intended to seek an adjournment of the said motion. That acknowledgement will also be clear from a review of the transcript.

[19] Notwithstanding that, this Court insisted that the arguments being made by Ms. Shahid be reviewed by this Court. Counsel for the moving parties agreed to email to the Registrar the factum that had been served on her on behalf of Ms. Shahid. The Registrar printed the same for this Court's review. I reviewed that factum, dated November 6, 2025, in its entirety. I also reviewed all of the other materials uploaded to Case Center on behalf of Ms. Shahid, most but not all of which was irrelevant to the merits of the summary judgment motion. I then called on counsel for the moving parties for submissions, and, during the course of those submissions, I put to Ms. Mann the significant arguments contained in the said factum that had been prepared on behalf of Ms. Shahid. Afterwards, despite the deliberate and tactical choice of counsel for Ms. Shahid to not put the written argument before the Court in the hopes of extracting an adjournment or a stay of the motion for summary judgment, this Court permitted counsel for Ms. Shahid to make lengthy oral submissions on the matter.

IV. Why Summary Judgment Must be Granted in this Case

[20] The burden of proof is on the moving parties to demonstrate, on a balance of probabilities, that there is no genuine issue requiring a trial – Rule 20.04(2)(a) of the Rules.

[21] The fundamental principles applicable on this motion for summary judgment are set out below, taken from paragraphs 12 and 13 of the decision of Harper J. in *Oliver et al v. Herold et al*, 2021 ONSC 376:

[12] In *Zaky v. 2285771 Ontario Inc.*, 2020 ONSC 4380 (CanLII), Conlan, J. reviewed the principles to guide the court when considering summary judgments. I agree with his review that commences at para.13:

[13] The following principles may be gleaned from a careful review of the leading decision of the Supreme Court of Canada in *Hryniak v. Mauldin*, 2014 SCC 7.

[14] First, it is the principle of proportionality that ought to drive the Court's decision on a request for summary judgment. There will be no genuine issue requiring a trial when the judge hearing the motion is able to reach a fair and just determination on the merits.

[15] Second, what does that mean – a fair and just determination on the merits? It means (i) that the judge hearing the motion is able to make the necessary findings of fact, (ii) is able to apply the law to the facts, and (iii) the process employed to do those things is a proportionate, more expeditious and less expensive means to achieve a just result (as compared to a trial).

[16] The judge must be able to have confidence in the conclusions reached on the motion, otherwise, the case ought to proceed to trial.

[17] Third, the judge hearing the motion should follow a two-stage procedure. Initially, consider only the evidence filed without regard to the expanded powers. Then, afterwards, if there appears to be a genuine issue requiring a trial, the judge may (but does not have to) weigh the evidence, evaluate credibility and draw reasonable inferences.

[18] Fourth, there is certainly a culture shift that was signalled by the decision of the Supreme Court of Canada referred to above. The Courts have been encouraged to, wherever possible, deal with matters expeditiously. Cases should proceed to trial only if they really have to. The summary judgment process can, where employed properly, increase access to affordable and timely justice. A trial should no longer be viewed as the default procedure.

[13] *Hryniak v. Mauldin* does not alter the principle that the court will assume that the parties have placed before it, in some form, all the evidence that will be available for trial. The court is entitled to assume that the parties have advanced their best case and that the record contains all the evidence that the parties will present at trial.

[22] In our case, there is no need to resort to the expanded fact-finding powers that are available to this Court. On the evidence filed, there is clearly no genuine issue requiring a trial.

[23] In oral submissions before this Court, counsel for Ms. Shahid, though acknowledging that he was repeating himself “like a broken record” (counsel’s words) and making very bold allegations that the moving parties had committed “fraud”, and had acted in “bad faith”, and had discriminated against Ms. Shahid as a single woman, all totally unsubstantiated I might add, did make a valid point: justice must be done but also must be seen to be done. I agree.

[24] Here, the principal amount was undisputed; the default was undisputed; the interest calculation was disputed (see, for example, paragraph 9 of Ms. Shahid’s factum) but is precisely in accordance with the contract – the terms of the Mortgage; other fees were disputed (see, for example, paragraph 12 of the said factum) but are either (i) not being claimed at all by the moving parties (like the \$42,500.00 figure), or (ii) have already been decided by a court of competent jurisdiction as being recoverable by the moving parties (like the \$567,978.31), or (iii) are precisely in accordance with the contract – the terms of the Mortgage; and the remaining arguments advanced on behalf of Ms. Shahid, with respect, are meritless.

[25] As such, justice can be seen to be done by granting the motion for summary judgment without any further delay.

[26] Those remaining arguments that were advanced on behalf of Ms. Shahid include: (i) an allegation that the Mortgage is invalid because the lenders were not properly licenced, which argument ignores the role of the mortgage broker who was used in this case; and (ii) the Mortgage is invalid because of the alleged familial relationship between the individual lender and the mortgage broker, which argument ignores the facts that (a) the lender owed no fiduciary duty to the borrower, and (b) the borrower probably benefitted from that relationship in that it likely contributed to the advance being made to begin with (these facts may explain why, according to counsel for Ms. Shahid, there is not a single authority anywhere in Canada to support this alleged argument about the invalidity of the Mortgage); and (iii) the moving parties have not accounted for the \$74,000.00 in payments made by Ms. Shahid against the indebtedness since the litigation

commenced, which argument ignores the updated mortgage payout statement filed by the moving parties, clearly giving Ms. Shahid credit for all of those payments that she has made.

[27] In the end, it would appear that Ms. Shahid and her counsel were depending on this Court staying or adjourning the motion for summary judgment. That dependence was misplaced, however. Albeit within the world of motions and interlocutory decisions, the issue was *res judicata*. It was an abuse of process. In addition, even if it was not, there would have been no sound basis for this Court to further delay the matter. Ms. Shahid cannot reasonably argue that a judge should conclude that the third-party claim must be tried together with the main action in circumstances where that claim has neither been commenced nor presented to the judge even in draft form. The same can be said for the anticipated counterclaim, whether to the limited extent permitted by Glick A.J. or otherwise. Ms. Shahid and her counsel cannot reasonably argue that, even if she was entirely successful in her third-party claim, that success would go beyond indemnification for damages owing to the moving parties and extend to an entitlement by Ms. Shahid to retain possession of the properties in question. It could not, in law, extend to that, and I was given no authority otherwise by counsel for Ms. Shahid. Finally, Ms. Shahid and her counsel cannot reasonably argue that the motion for summary judgment ought to have been stayed or adjourned pending an appeal of the decision of Associate Justice Glick in circumstances where (i) nothing regarding the substance of the appeal, or its perfection, or its hearing date, or anything frankly, was put before this Court, and (ii) we all know that the result of the hearing of the motion for summary judgment could not possibly have been immediate possession of the properties in question by the moving parties in any event (there must still be Writs of Possession applied for and granted and then, after that, enforcement of those Writs).

[28] Ms. Shahid's position also ignores the fact that there is fairly recent appellate authority in Ontario in support of granting summary judgment in a main action involving a debt recovery claim by a lender against a borrower prior to the determination of the third-party claim, even where (unlike in our case) the third-party claim has already been commenced. It depends on the overall circumstances, including whether the defendant(s) has/have failed or chosen not to join the third-party claim with the summary judgment motion. *2275518 Ontario Inc. v. The Toronto-Dominion Bank*, 2024 ONCA 343, at paragraphs 54-58.

[29] In our case, not only has Ms. Shahid failed or chosen not to join the third-party claim with the summary judgment motion but, in fact, she has chosen not to even commence the third-party claim.

[30] It was Ms. Shahid's counsel's penultimate submission, during the oral hearing at court on the 9th of March, that summary judgment ought to be granted on the full and complete record and not on an alleged artificial and incomplete record. With respect, however, it is Ms. Shahid and her counsel who are responsible for where we are at today. The motion before Glick J.A. was brought very, very late. Then nothing was done after that motion was decided, except to challenge it and to bring duplicitous motions to stay or adjourn the summary judgment hearing. Ms. Shahid has every right to challenge that decision of Associate Justice Glick, but that could have, and should have, been done in conjunction with putting her best foot forward on the merits of the summary judgment motion, including the proper filing and uploading of materials and the amended pleading and the third-party claim. What this Court did have before it was not a viable defence to the claims for damages and for judgment for possession; on those matters, there was no genuine issue that required a trial.

Conlan J.

Date: March 10, 2026

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SUPERIOR COURT OF JUSTICE

Sam Folino and Inet Lending Corp.

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– and –

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**ENDORSEMENT ON MOTION FOR SUMMARY
JUDGMENT**

Conlan J.

Released: March 10, 2026