

CITATION: Emamnazar v. Reid, 2026 ONSC 2062
COURT FILE NO.: CV-16-94935
DATE: 20260408

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Oranus Emamnazar

Plaintiff

– and –

Keiffer Lambert Reid

Respondent

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)
) Joshua Gautreau, Counsel for the Plaintiff
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) Douglas Treilhard and Kayla Sager, Counsel
) for the Defendant
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) **HEARD:** April 2, 2026

WOODLEY J.

RULING ON MOTION

Overview

[1] This motion commenced by the Plaintiff for leave to amend their Statement of Claim to reduce the monetary amount claimed to \$200,000 so that the matter would proceed by way of Rule 76, as a Simplified Procedure matter, and to strike the Jury Notice for the action which is currently scheduled to proceed to trial in September of 2026, was heard by me today.

Determination of Motion

[2] Having read the materials filed and having heard and considered the submissions of counsel, I hereby order as follows:

- (i) The Plaintiff is granted leave to amend the Statement of Claim as requested, except that the monetary limit of the claim shall not be reduced below \$200,001.00;
- (ii) The Plaintiff's request to strike the Jury Notice is denied; and
- (iii) The Plaintiff shall be granted 30 days to serve the Amended Statement of Claim.

Issues and Analysis

- [3] Rule 26.01 provides that on motion at any stage of an action, the court shall grant leave to amend a pleading on such terms as are just, unless prejudice would result - that could not be compensated for by costs or an adjournment.
- [4] The Plaintiff submits that the Defendant has not demonstrated any non-compensable prejudice, and as such, the relief should be granted.
- [5] The Defendant submits that if the relief were granted and the Jury Notice struck, the Defendant would suffer non-compensable prejudice through the loss of the Defendant's right to have the action determined by a jury.
- [6] The first issue that arises under Rule 26.01 is whether prejudice would necessarily be suffered by the Defendant (loss of the jury); and if so, whether such prejudice could be compensated for by costs or an adjournment.
- [7] Turning to the first issue, having carefully reviewed the interplay between Rules 76.02, 76.04, and 76.14, I have concluded that as the Defendant's Jury Notice was served prior to January 1, 2020, it is permissible to allow the Plaintiff's requested amendment reducing the monetary amount of the claim to \$200,000 thus bringing the action within the confines of Rule 76 Simplified Procedure, while maintaining the Jury Notice.
- [8] A simple reading of Rule 76 makes it clear that there is no specific prohibition that would require the Jury Notice to be vacated in circumstances where the Notice was served prior to January 1, 2020.¹
- [9] However, while it may be technically permissible to continue the action as a jury trial within the confines of Rule 76, permitting the action to continue as a simplified procedure jury trial would be impractical, cumbersome, complicated, and contrary to the interests of justice.
- [10] Accordingly, the question arises as to whether the Jury Notice should be struck.
- [11] The test for striking a Jury Notice requires the moving party to prove that "there are features in the legal or factual issues to be resolved, in the evidence, or in the conduct of the trial which merit the discharge of the jury": see *Cowles v. Balac*, 2006 CanLII 34916 at para. 37 (ONCA).
- [12] In the present case, the Plaintiff alleges that if the amendments are granted, the only issue to be adjudicated by the court is the economic loss of the Plaintiff, and "a jury would not

¹ I acknowledge that this finding appears to conflict with Justice Muszynski's decision in *Lightfoot v. Hodgins et al.*, 2021 ONSC 1950. However, I find that it is *permissible* but not practical to retain a jury in the circumstances of this case, that loss of the jury is the loss of a substantive right that is non-compensable, and therefore an analysis of whether the jury notice should be struck is required.

be in the best position to comprehend multiple economic loss reports involving expert opinions on complex financial terms and accounting/forecasting methods and apply those findings on the merits of the claim to assess damages”. I disagree.

- [13] Juries almost always adjudicate these types of claims and in fact, if the amendments were granted, the jury would be required to determine less issues - not more issues. I find no merit to this submission.
- [14] The Plaintiff also argues that if the Jury Notice were struck, the Defendant would not suffer any non-compensable prejudice by proceeding without a jury and that a judge alone trial would result in an expeditious, affordable, and proportionate resolution of the within action that is fair and just to the parties. Again, I disagree.
- [15] Firstly, while the test to strike a Jury Notice does not require consideration of “non-compensable prejudice”, Rule 26.01 does. As such, I will consider this submission in the context of the request to amend the pleadings under Rule 26.01.
- [16] The “non-compensable prejudice” claimed by the Defendant is the loss of the substantive right to have the action determined by a jury.
- [17] In my view, “non-compensable prejudice” is proven on the facts of this case as it is the Defendant’s “substantive right” to have the action determined by a jury. Loss of this “substantive right” cannot be “compensated” by either an adjournment or an order for costs.
- [18] The Plaintiff further submits that striking the Jury Notice would result in an “expeditious, affordable, and proportionate resolution of the within action that is fair and just to the parties”. Again, I disagree.
- [19] If the amendments were granted as requested such that the action fell within the jurisdiction of Rule 76, and the Jury Notice was not struck, the trial would be impractical, cumbersome, complicated, and contrary to the interests of justice.
- [20] If the amendments were granted as requested such that the action fell within the jurisdiction of Rule 76, and the Jury Notice was struck, the matter would be unnecessarily delayed and complicated due to the procedural requirements found within Rule 76 that are mandatory and would require, inter alia:
- (a) the preparation and exchange of affidavits by all parties prior to trial (scheduled for September 2026);
 - (b) a further pre-trial to be scheduled and conducted in accordance with the provisions of Rule 76.10; and
 - (c) determination of the costs consequences that arise due to Rule 76.13.

- [21] Alternatively, if the amendments were granted as requested, except that the monetary amount of the claim shall not be reduced below \$200,001, there would be no pre-trial delay, no requirement to prepare and exchange affidavits prior to trial, no requirement to attend a further pre-trial, and no requirement to determine the cost consequences that flow from the application of Rule 76.13.
- [22] Further, the Plaintiff would be entitled to present their claim as they wish, limit their damages to economic loss, limit their evidence to that required to prove the economic loss claimed - all of which would result in a substantial saving of both trial preparation time and trial time.
- [23] The only difference between the relief sought and the relief granted by this court is the retention of the jury.
- [24] Having considered that:
- (a) it has been ten years since the action was commenced in the ordinary procedure (March 2, 2016); and
 - (b) it has been six and a half years since the limit of the simplified procedure has increased from \$100,000 to \$200,000 (January 1, 2020); and
 - (c) it has been five and a half years since the Plaintiff set the action down for trial; and
 - (d) non-compensable prejudice would necessarily be suffered by the Defendant if the amendments were granted to allow the claim to be limited to \$200,000 thus placing the claim within the confines of Rule 76; and
 - (e) there is no merit to the Plaintiff's request to strike the Jury Notice; and
 - (f) delay and expense would be occasioned to both parties if the Plaintiff's relief was granted, as the action is scheduled to proceed to trial in September of 2026:

I find that:

- (i) It is just that the Plaintiff be permitted to amend the Statement of Claim as requested, except that the monetary limit of the claim shall not be reduced below \$200,001.00;
- (ii) The Plaintiff's request to strike the Jury Notice is denied;
- (iii) The Plaintiff shall be granted 30 days to serve the Amended Statement of Claim; and

- (iv) As the results were mixed, there shall be no costs to either party on the motion.

The Honourable Justice S. J. Woodley

Released: April 8, 2026

Emamnazar v Reid, 2026 ONSC 2062

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Oranus Emamnazar

– and –

Keiffer Lambert Rerid

RULING ON MOTION

The Honourable Justice S. J. Woodley

Released: April 8, 2026