CITATION: Garrick v Halton Police Board, 2026 ONSC 802
COURT FILE NO.: CV-21-3000
DATE: 2026 02 10

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Walter Garrick, Wilfred Garrick, and Jordan Faulkovsky, Plaintiffs

AND:

Halton Police Board, Sergeant Boyce, Detective Constable Lindsay Murray, Detective Constable Jessica Osgood, Constable Amanda Allsop, Constable Walsh, Constable Jaworski, Officer Daniel Pinkney, Officer Bowes, Michael Krog, and Jael Nielsen Skomager aka Sara Nielsen, Defendants

BEFORE: Justice Ranjan K. Agarwal

COUNSEL: Douglas Smith and Alicia Krausewitz, for the defendants (moving parties) Halton Police Board, Detective Constable Lindsay Murray, Detective Constable Jessica Osgood, Constable Amanda Allsop, Constable Walsh, Constable Jaworski, Officer Daniel Pinkney, and Officer Bowes (together, the **Police defendants**)

Walter Garrick (responding party), acting in person
Wilfred Garrick (responding party, acting in person
Jordan Faulkovsky (responding party), acting in person

Sara Nielsen (defendant), acting in person

Michael Krog (defendant), acting in person

No one appearing for the defendant Sergeant Boyce

HEARD: February 9, 2026, in writing

ENDORSEMENT

I. INTRODUCTION

[1] The plaintiffs sue the defendants for tort damages from an alleged trespass and police assault in Fall 2021. After the pleadings were re-opened in October 2025, the plaintiff

served a jury notice. The Police defendants move for an order striking the plaintiffs' jury notice on two grounds: (a) it was served after pleadings closed; and (b) justice will be better served if this case is tried without a jury.

[2] For the reasons discussed below, the Police defendants' motion is granted, along with $7000 in costs. I find that the pleadings were re-opened for all purposes, and the jury notice was not out of time. But I agree that this case is too complex for a jury.

II. BACKGROUND

[3] The plaintiffs started this action in November 2021. They were represented by a lawyer. The pleadings closed on January 11, 2022 (though the plaintiff served their reply and defence to counterclaim in March 2022). At the time, the plaintiffs didn't know the identity of the defendant Sara Nielsen.

[4] The plaintiffs' claim sounds in assault and battery, wrongful arrest, false imprisonment, negligent investigation, malicious prosecution, defamation, intrusion upon seclusion, conspiracy, abuse of power, misfeasance in public office, trespass, and breach of the *Canadian Charter of Rights and Freedoms*, ss 7, 8, 9, 10(b), and 12

[5] Examinations for discovery were completed between April 2023 and September 2023. There were continued examinations in May 2025, and then in January and February 2026.

[6] I was designated in May 2025 to hear all the motions in this proceeding.

[7] In October 2025, I granted the plaintiffs leave to amend their statement of claim, including substituting Sara Nielsen as a defendant. See *Garrick v Halton Police Board*, 2025 ONSC 5593. The Police defendants delivered their amended statement of defence and crossclaim on October 27, 2025. That same day, the plaintiffs served a jury notice. Nielsen and the defendant Michael Krog delivered their defences in December 2025.

[8] The plaintiffs have been self-represented since January 2025. Krog has been self-represented since July 2025. Nielsen is also self-represented. The defendant Sergeant Boyce has not been served yet.

III. ANALYSIS AND DISPOSITION

[9] The Police defendants raise two objections to the jury notice: (a) it was served long after the pleadings closed; and (b) a jury trial would be impractical and unjust in the circumstances of this case. The plaintiffs respond that the pleadings were re-opened in October 2025, and their right to a jury trial shouldn't be fettered.

A. Issue #1: whether pleadings were re-opened for all purposes, including service of a jury notice?

[10] A party to an action may require that the issues of fact be tried or the damages be assessed, or both, by a jury, by delivering a jury notice at any time before the close of pleadings. See *Rules of Civil Procedure*, r 47.01. Pleadings are closed when the time for delivery of a reply has expired. See *Rules of Civil Procedure*, r 25.05(a).

[11] The pleadings closed, at least at first, in January 2022. The plaintiffs didn't serve a jury notice then.

[12] The granting of leave to amend pleadings reopens the pleadings for all purposes, including the delivery of a jury notice, unless the order granting leave expressly limits its scope. See *Iano Corporation v Rooney* (1987), 62 OR (2d) 179 (HCJ) at 188; *Dow v Ottawa Hospital-Civic Campus*, 2005 CanLII 6375 (Ont Sup Ct), at paras 6-7; *Smith v Saraf-Dhar*, 2016 ONSC 4556, at paras 13-15.

[13] If there's no express agreement, the court may infer a limitation of purpose from the circumstances:

- are the amendments necessary?
- do the amendments contain new allegations?
- do the amendments change the nature of the action?
- will further discoveries be necessary?
- when was the intention to deliver a jury notice made known?
- is the party seeking to amend the pleadings the same party who intends to deliver a jury notice?

See *Dow*, at paras. 9-13; *Smith*, at paras 14-15.

[14] The amendments here were, in part, necessary. The plaintiffs sought to substitute Nielsen and the defendants Officer Bowes and Officer Dan Pinkney for misnamed parties. That was a necessary amendment. In other places, they sought leave to add particulars to their claim. Though the defendants consented to the plaintiffs making most of these amendments, they weren't strictly necessary.

[15] The amendments contain some new allegations. Again, the plaintiffs have provided particulars, some of which came from the discoveries. And they have changed their narrative about Faulkovsky's passenger during the incident. They didn't plead any new causes of action.

[16] The amendments don't change the nature of the action. The core claim—that Krog and Nielsen lied to the police about Faulkovsky's passenger having a gun, and that the police then assaulted the plaintiffs during the search and arrest—remains the same.

[17] The plaintiffs have examined Nielsen since the amendment because she was substituted as a party. They haven't sought to examine any of the defendants on the amendments.

[18] Before the jury notice was served, there was no evidence that the plaintiffs evinced an intention to ask for a jury to decide this case. That said, the jury notice was served before the close of the re-opened pleadings.

[19] I conclude that the pleadings were re-opened for all purposes. I find there was no implicit limitation that the plaintiff couldn't serve a jury notice. The right to a jury trial is a statutory and substantial right, and can't be taken away without "substantial reason". See *Dow*, at para 6.

[20] In *Iona Corporation*, Henry J was concerned with a party making a pro forma amendment only to serve a jury notice late. That's not what happened here—the changes to the pleading were substantial, including adding three parties.

[21] Moreover, the delay in adding these parties rests, in part, with the defendants. Krog and the Police defendants knew Nielsen's identity from the time the claim was issued. Similarly, the Police defendants knew that Bowes and Pinkney were two officers involved in the arrest. If that disclosure had been made after the claim was issued, the plaintiffs could've amended their statement of claim then, and the pleadings would've closed without the need for these necessary amendments. By waiting to disclose these defendants' names, the defendants accepted the risk that the pleadings would be re-opened, and a jury notice might be served. Further, the Police defendants, who are represented, could've asked the court to order an express limitation as part of their response to the motion to amend.

[22] As a result, I find that the jury notice was served within the time limits under the rules.

B. Issue #2: nonetheless, whether the jury notice should be struck?

[23] On motion, the court may order that issues of fact be tried or damages assessed, or both, without a jury. See *Courts of Justice Act*, RSO 1990, c C.43, s 108(3). The substantive right to a jury trial is a "qualified right". The court has "rather broad discretion" to decide whether "justice to the parties will be better served" by a trial without a jury. See *Belton v Spencer*, 2020 ONCA 623, at para 26; *Moffitt v TD Canada Trust*, 2023 ONCA 349, at paras 31-33.

[24] The interests of justice won't be served by a jury deciding this case. My experience case-managing this case shows that a jury will be impractical.

[25] First, the plaintiffs and two defendants are self-represented. The presence of a self-represented litigant doesn't invariably lead to the dismissal of a civil jury. See *Girao v Cunningham*, 2020 ONCA 260, at para 171. But here, the self-represented parties have needed a lot of assistance from the court. There have been numerous motions and case conferences, which has unduly lengthened and complicated this matter. This endorsement is my 10th in this case since May 2025.

[26] In particular, the plaintiffs' actions suggest they don't understand the rules of court or the rules of evidence:

- the plaintiffs insist on naming the individual police officers as defendants, even though the Halton Police Services Board is vicariously liable for its members' conduct

- the plaintiffs repeatedly rely on the fact that they were represented by Seth Weinstein, who is now a judge of the Ontario Court of Justice, as evidence that their claims have merit

- the plaintiffs keep raising the possibility that Nielsen is not who she says she is, even though she's filed a defence stating her version of the events at issue

- the plaintiffs accused the Police defendants' lawyers of "hiding" Boyce, even though the Police defendants have always pleaded that Boyce isn't a member of the Halton Police

[27] The plaintiffs have also made a litany of complaints against the Police defendants' lawyer, many of which appear ungrounded in evidence and are not sanctionable at law. For example, the plaintiffs repeatedly assert that the Police defendants' lawyer said this case "will never go to trial", and that this comment was an implicit threat to hurt them or their family. Even if the Police defendants' lawyer said such a thing, there are a myriad of other things he could've meant, including that the case is likely to settle.

[28] The plaintiffs have also been assisted by Paula Garrick, a U.S. lawyer, as a McKenzie Friend. Her presence at every motion and conference, and the fact that she's copied on all the emails, shows that the plaintiffs are seeking out legal assistance. But Ms. Garrick won't be able to provide the same passive assistance during a trial.

[29] I'm also concerned that the self-represented defendants require the court's assistance. Nielsen's materials on her motion to strike contained inaccurate citations. She insists that she isn't fluent in English but she's filed near-perfect materials. I infer that she's using generative AI to prepare her written materials. She won't have that assistance in court. Krog has also needed the court's assistance. He moved for leave to discontinue his counterclaim against the plaintiffs but, at the hearing, seemed surprised that he'd brought the motion or that it was returnable that day.

[30] In sum, the presence of a jury may prevent the trial judge from helping the self-represented litigants.

[31] Second, the plaintiffs' allegations are highly charged. They allege that Krog falsely accused Faulkovsky and his passenger of having a gun, and relied on racist tropes about Black people. They allege that Nielsen supported Krog's version of events even though she knew it wasn't true. They allege that the Police defendants entered a conspiracy with Krog and Nielsen to punish the plaintiffs for prior incidents. And they allege that the police enacted this conspiracy by "brutally assaulting" the plaintiffs, and laying false charges. The plaintiffs' claims have expanded to include the defence lawyers, and judges in Milton.

[32] The claims drip with allegations of animus and bad faith. The plaintiffs' filings on various motions repeat these allegations, even where it's not relevant. If the plaintiffs

repeat these allegations in front of the jury, there's a serious risk of a mistrial. See *Desjardins v Arcadian Restaurants Ltd.*, 2005 CanLII 27388 (Ont Sup Ct), at para 11.

[33] I understand that this case raises many emotions for the plaintiffs. But they have chosen to self-represent rather than have a lawyer, who could bring some objectivity to the case.

[34] Third, the claims in this case are complex. The plaintiffs allege complex causes of action, including conspiracy and negligence. The court will require the parties' assistance in drafting jury instructions, which will either put an undue burden on the Police defendants (as the only represented party) and the court, or result in delay if there are disputes over the instructions. The litigants' conduct on motions and conferences leads me to conclude that there will be numerous objections over evidentiary issues, which will require the jury to be excused multiple times.

[35] This motion presents an example of the pitfalls that might ensue. The plaintiffs' factum cites *Moffit* for the proposition that the test for denying a plaintiff a jury trial is whether "the evidence is such that no reasonable jury properly instructed could find for the responding party". That's not what the Court held; that's what the appellant argued. I appreciate that the plaintiffs are self-represented. But misunderstandings about the law, even if well-intentioned, will invariably lengthen the trial of this action.

[36] The plaintiffs have a right to have this case tried by their peers. But that right must give way, in this case, to the practical reality that a jury trial will be unduly long and

expensive, complicated, and likely result in a mistrial. There's a serious risk of an injustice.

[37] Thus, I endorse an order striking out the plaintiffs' jury notice.

V. COSTS

[38] Subject to the provisions of an act or the rules of court, the costs of and incidental to a proceeding or a step in a proceeding are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid. See *Courts of Justice Act*, RSO 1990, c C.43, s 131.

[39] In exercising its discretion under the *Courts of Justice Act*, s 131, to award costs, the court may consider, together with the result in the proceeding and any offer to settle or to contribute made in writing, the factors listed in *Rules of Civil Procedure*, r 57.01.

[40] In the usual case, costs are awarded to the prevailing party after judgment has been given. The traditional purpose of an award of costs is to indemnify the successful party in respect of the expenses sustained either defending a claim that in the end proved unfounded (if the successful party was the defendant), or in pursuing a valid legal right (if the plaintiff prevailed). Costs awards are "in the nature of damages awarded to the successful litigant against the unsuccessful, and by way of compensation for the expense to which he has been put by the suit improperly brought". *See British Columbia (Minister of Forests) v Okanagan Indian Band*, 2003 SCC 71, at paras 20-21.

[41] The main objective is to fix an amount of costs that is objectively reasonable, fair, and proportionate for the unsuccessful party to pay in the circumstances of the case, rather than to fix an amount based on the actual costs incurred by the successful litigant. See *Boucher*, at para 26.

[42] The Halton police defendants were the successful party. They seek $18,621.27 in costs on a partial indemnity basis. I find that costs of $7000, inclusive of fees, disbursements, and taxes are reasonable, fair, and proportionate. The plaintiffs have been litigating this case for several years. There have been other costs awards. They know the Halton police defendants' fees. Given that the plaintiffs have sought their costs of motions, including this one, they reasonably expected to pay costs if unsuccessful. Even though I found that the pleadings were re-opened for all purposes, this motion didn't result in "mixed success"—the Halton police defendants were entirely successful in striking out the jury notice. See *Atlas (Brampton) Partnership v Canada Grace Park Ltd.*, 2021 ONCA 334, at para 4.

[43] That said, I find almost $20,000 in costs to be disproportionate to the complexity of this motion. The caselaw on this issue is well-settled. There were no reply affidavits, cross-examinations, or oral submissions. The affidavit was drafted by a clerk. The plaintiffs' affidavit was lengthy, but repetitive of facts and arguments known to the defendants. As a result, I find that $10,000 in actual fees is more reasonable, which

yields a partial indemnity amount of around $7000 inclusive of taxes and disbursements.

Agarwal J

Date: February 10, 2026