

CANADA / JUDGMENT

Rabbani v. Furney

2026 ONCA 271

COURT

Court of Appeal for Ontario

DECIDED

14 April 2026

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Rabbani v. Furney Collection Decisions of the Court of Appeal Date 2026-04-14 Neutral citation 2026 ONCA 271 Docket numbers COA-25-CV-1308 Judges Paciocco, David M.; Copeland, Jill M.; Dawe, Jonathan Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Rabbani v. Furney, 2026 ONCA 271 DATE: 20260414 DOCKET: COA-25-CV-1308 Paciocco, Copeland and Dawe JJ.A. BETWEEN Mohammad Ali Rabbani Plaintiff/Defendant by Counterclaim (Respondent) and Alex Aidan Fitzgerald Furney also known as Alex Furney* and Maryam Furney* and Hassan Hashami Defendants/Plaintiffs by Counterclaim (Appellants*) Alex Furney and Maryam Furney, acting in person Louis Vittas and David Tepelenas, for the respondent Heard and rendered orally: April 10, 2026 On appeal from the Order of Justice Andrew J. Spurgeon of the Superior Court of Justice, dated August 18, 2025. REASONS FOR DECISION

- [1] The appellants, Alex and Maryam Furney (“the Furneys”), are appealing an order that they post \$66,670 as security for costs pending the trial of their counterclaim against the respondent, Mohammad Rabbani.[1]
- [2] On December 16, 2025, the court wrote to the parties to advise that the appeal may fall within the jurisdiction of the Divisional Court pursuant to s. 19(1)(b) of the Courts of Justice Act, R.S.O. 1990, c. C. 43, because the order under appeal may be interlocutory rather than final. On March 26, 2026, the court advised the parties that the panel would hear argument on this jurisdictional issue before considering the Furneys’ request that the appeal be adjourned.
- [3] We are satisfied that we have no jurisdiction to hear this appeal. This court has consistently held that orders requiring the posting of security for costs are interlocutory, not final: see e.g., *Nazarinia Holdings Inc. v. 2049080 Ontario Inc.*, 2012 ONCA 652, at para. 2; *Leslie v. Encanto Potash Trading Corporation*, 2021 ONCA 464, at para. 6; *Kapital Produce Limited v. Farm Credit Canada*, 2026 ONCA 114, at para. 1.
- [4] The Furneys argue that because they cannot afford to post the amount specified in the order under appeal, the order will bring the litigation to an end, making it “final in substance”. They emphasize that there are no ongoing proceedings in this matter in the court below. However, “the characterization of [an] order depends upon its legal nature, not its practical effect”: *Paulpillai Estate v. Yusuf*, 2020 ONCA 655, at para. 16. Orders requiring a litigant to

post security for costs are interlocutory, not final, because they do not “determine the real matter in dispute between the parties – the very subject matter of the litigation – or any substantive right”: *Drywall Acoustic Lathing Insulation Local 675 Pension Fund v. SNC-Lavalin Group Inc.*, 2020 ONCA 375, at para. 16.

- [5] The Furneys also argue that this court has already “accepted jurisdiction” by receiving and filing their materials; that the respondent “never objected to this Court’s jurisdiction”, and never brought a motion to quash their appeal; and that they will be prejudiced if their appeal is not heard in this court.
- [6] None of these considerations make a difference. As this court observed in *J.N. v. Durham Regional Police Service*, 2012 ONCA 428, 294 O.A.C. 56, at para. 25: [J]urisdiction is fundamental to a court or tribunal’s authority to deal with a matter. Jurisdiction is not optional, cannot be conferred by consent, cured by attornment, or assumed voluntarily just because there is an interesting and significant issue to be considered:
- [7] In short, our finding that this court has no jurisdiction to hear appeals from orders of this nature means that the Furney’s appeal cannot proceed in this court.
- [8] The appeal is accordingly quashed for want of jurisdiction. This makes the Furneys’ request for an adjournment moot.
- [9] Costs to the respondent are fixed at \$1,695.00, all inclusive. “David M. Paciocco J.A.” “J. Copeland J.A.” “J. Dawe J.A.”
- [1] Mr. Rabbani was previously granted summary judgment in his claim against the Furneys: *Rabbani v. Furney at al.*, 2023 ONSC 7059, aff’d 2024 ONCA 943.

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