

**CITATION:** Kevin Liggett v. Veeva Software Systems Inc., 2026 ONSC 1210  
**COURT FILE NO.:** CV-21-00667728-0000  
**DATE:** 20260227

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Kevin Liggett

**AND:**

Veeva software Systems Inc. and Veeva Systems Inc.

**BEFORE:** Des Rosiers J.

**COUNSEL:** Tatha Swann and Lucinda Bendu, for the Plaintiff

Jeff C. Hopkins, for the Defendants

**Read:** February 23, 2026

**COSTS ENDORSEMENT**

- [1] On October 7, 2025, I rendered a decision on the plaintiff’s motion for summary judgment in a wrongful dismissal action. I concluded that Mr. Liggett was entitled to a six month notice period. He was also entitled to compensation for Restricted Stock Units (RSU) and stock options that would have vested during the notice period.
- [2] The parties agree on most of the amounts owed to the plaintiff by the defendants arising out of the summary judgment decision. The only issues remaining are costs and the calculation of pre-judgment interest.
- [3] For reasons below, I award \$58,110.13 in costs to the plaintiff inclusive of HST and disbursements. I also calculate the pre-judgment interest on the RSUs/stock options to be \$14,705.80.

**Costs**

- [4] The plaintiff is claiming \$58,110.13 in costs on a partial indemnity basis. The defendants argue that an amount of \$45,000 is more reasonable.
- [5] The fixing of costs is a discretionary decision under section 131 of the *Courts of Justice Act*, R.S.O. c. C.43. (“*CJA*”) The purpose of an award of costs is to indemnify a party for at least a portion of the costs that the party incurred in prosecuting or defending an action.
- [6] In exercising my discretion with respect to fixing costs, I considered the factors identified in Rule 57.01 of the *Rules of Civil Procedure*. I also considered the overall objective of any costs award: that it be fair and reasonable and within the reasonable expectation of the

unsuccessful party to pay: *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at paras. 26, 38.

- [7] I have reviewed both parties' bills of costs and consider them reasonable in light of counsel's level of experience and time devoted: r. 57.01(1)(0.a).
- [8] The plaintiff was mostly successful on his claim although he did not achieve all that he claimed in his action: r. 57.01(1)(a).
- [9] Although the issues were not unduly complex, arguments had to be marshalled on many issues: validity of the termination clause, notice period, and the contractual availability of RSUs/stock options during the notice period: r. 57.01(1)(c).
- [10] The issues were important to both parties. In a wrongful dismissal claim, the plaintiff has a substantial interest in the outcome of a claim instituted at a time when he was without income and forced to draw on his savings to pay legal fees. The issue was also of importance to the defendants who argued the validity of the termination clause applicable to other employees. The parties also debated the issue of the availability of the RSUs/stock options during the notice period: r. 57.01(1)(d).
- [11] I have considered the reasonable expectations of the defendants and I find that the amount of \$58,110.13 was within their reasonable expectations: r. 57.01(1)(0.b).

### **Pre-judgment interest**

- [12] Section 128 of the *CJA* provides for the award of pre-judgment interest from the date the cause of action arose. Section 130 of the *CJA* further provides for the court's discretion to allow for an interest rate higher or lower than the one provided under section 128. The plaintiff argues that I should use the TD average quarterly rate, a higher interest rate than the interest rate fixed according to the *CJA*.
- [13] The plaintiff argues that I should deviate from the presumptive prejudgment interest rate and award a higher rate of interest for three reasons. First, the plaintiff argues that market rates materially exceeded the *CJA* rates during the relevant period. Second, that the RSU award was based on a market share price which makes it logical to use a market based rate. Finally, the plaintiff argues that the purpose of RSU is investment growth and market appreciation.
- [14] The defendants calculate the pre-judgment interest at \$14,705.80 for RSUs/stock options using the presumptive prejudgment interest under section 128(1) of the *Courts of Justice Act*.
- [15] The plaintiff's calculations for the prejudgment interest for the RSUs/stock options amount to \$20,285.55, using the average quarterly TD rate.
- [16] Both parties rely on *Aubin v. Synagogue and Jewish Community Centre of Ottawa (Soloway Jewish Community Centre)*, 2024 ONCA 615, and its companion case *Henry v.*

*Zaitlen*, 2024 ONCA 614. Both cases dealt with departures from the 5% pre-judgment interest rates for non-pecuniary losses in personal injury cases. In *Aubin*, the trial judge had used a lower interest rate recognizing that at the time the market rate was below the presumptive 5%. The Court of Appeal disagreed and relied on the evidence provided by the plaintiff that their investment strategy yielded an interest rate of 8.46% at the relevant times.

- [17] In *Aubin*, the Court of Appeal makes it quite clear that the *CJA* “sets up a rebuttable presumption that should only be deviated from where the party seeking a higher or lower rate demonstrates that there are unusual or special circumstances sufficient to justify such a departure, having regard to the mandatory criteria under s. 130(2) of the *CJA*: *Agribrands Purina Canada Inc. v. Kasamekas*, 2011 ONCA 460, 106 O.R. (3d) 427, at para. 74; *Tuffnail v. Meekes*, 2020 ONCA 340, at para. 113. (*Aubin*, par. 32)
- [18] The Court of Appeal further noted that the “establishment of a presumptive prejudgment interest rate scheme represents the will of the legislature to establish a coherent scheme that sacrifices perfection “in the interest of consistency and certainty”: *Robert McAlpine Ltd. v. Byrne Glass Enterprises Ltd.*, [2001] O.J. No. 3208 (C.A.), at para. 5. (*Aubin*, par. 33)
- [19] A fulsome reading of *Aubin* leads me to the following conclusion:
- the Legislature made a choice in establishing a rate of prejudgment interest that valued certainty and consistency;
  - a court must consider all the factors in section 130(2) before making an award;
  - and finally, it must have evidence to determine what appropriate rate of interest would have been earned by the plaintiff.
- [20] The legislative choice of certainty and consistency has the advantage of relieving parties from having to lead evidence on what they would have earned had they invested the money owed to them. This choice offers the certainty of a prejudgment interest on monies owed without any evidence being led. This contributes to access to justice by providing a presumption of entitlement without the necessity of an evidentiary burden.
- [21] If a party is seeking to deviate from the presumptive rate, section 130(2) mandates a series of factors to be considered.
- [22] Section 130(2) provides for the following:
- For the purpose of subsection (1), the court shall take into account,
- (a) changes in market interest rates;
  - (b) the circumstances of the case;

- (c) the fact that an advance payment was made;
- (d) the circumstances of medical disclosure by the plaintiff;
- (e) the amount claimed, and the amount recovered in the proceeding;
- (f) the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding; and
- (g) any other relevant consideration.

- [23] I note that in *Aubin*, the court had evidence of the rate of return on investments for both the defendant and the plaintiff. I do not have such evidence in front of me.
- [24] I conclude that the plaintiff has not discharged his burden of demonstrating that I should use a higher rate of interest in the circumstances. He has not demonstrated that his investment strategy would have yielded higher returns.
- [25] I also find that this is a case that responds squarely to the legislative objective of providing certainty and preventing an additional evidentiary burden on the parties. The difference between the parties amounts to approximately \$6,000. Inviting the parties to present evidence of their respective rates of return on investment during the relevant period would cost significantly more than such an amount.
- [26] A consideration of all the factors listed in section 130(2) of the *CJA* does not lead me to conclude that there are unusual or special circumstances that justify a departure from the policy choice made by the Legislature. I decline to exercise my discretion pursuant to section 130 (2) of the *CJA* to use the TD average quarterly rate for the prejudgment interest owed on the RSUs/stock options.

### **Conclusion**

- [27] I award costs in the amount of \$58,110.13 and prejudgment interest for the RSUs/stock options part of the judgement in the amount of \$14, 705.80.
- [28] Judgment is attached.



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Des Rosiers J.

**Date:** February 27, 2026