

HUTCHINSON V. CITY OF TORONTO—FALCONBRIDGE, C.J.K.B.,  
IN CHAMBERS—SEPT. 28.

*Appeal—Leave to Appeal from Order of Judge in Chambers—Rule 507—Order Striking out Jury Notice—Discretion—Rule 398—Materials.*—Motion by the plaintiff (under Rule 507) for leave to appeal from an order of ROSE, J., in Chambers, striking out a jury notice. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the learned Judge had exercised his discretion under Rule 398. It was argued that his discretion was not judicially exercised, as he had not the proper material before him; but all the material which he needed was the pleadings, and they were before him. Motion refused with costs to the defendants in any event of the action. T. R. Ferguson, for the plaintiff. Irving S. Fairty, for the defendants.