

NOVA SCOTIA COURT OF APPEAL

Citation: *Tapics v. Dalhousie University*, 2015 NSCA 72

Date: 20150722

Docket: CA 433549

Registry: Halifax

Between:

Tara Tapics

Appellant

v.

Dalhousie University, Dr. Christopher Taggart, and Dr. Marlon Lewis

Respondents

Judge: The Honourable Justice Joel E. Fichaud

Appeal Heard: May 28, 2015, in Halifax, Nova Scotia

Subject: Abuse of process by relitigation

Summary: Ms. Tapics was enrolled in Ph.D. studies at Dalhousie University's Department of Oceanography. Her initial thesis topic involved sea turtles. After a year and a half, her field supervisor left, taking the data essential for Ms. Tapics' research. Ms. Tapics changed her topic to right whales. Then her faculty supervisor withdrew. The Faculty of Graduate Studies could find no replacement supervisor. Ms. Tapics appealed unsuccessfully to an *ad hoc* committee of the Faculty of Graduate Studies, and then to the University Senate's Appeal Panel. Her appeals sought a replacement faculty supervisor. The Senate Panel suggested mediation. Ms. Tapics then sued the University in tort and for breach of contract. The Supreme Court of Nova Scotia dismissed her civil claims as an abuse of process. The Supreme Court judge said that the lawsuit attempted to relitigate matters that had been determined, or should have been determined by the University's appeal tribunals. Ms. Tapics appealed to the

Court of Appeal.

Issues: Did the judge err by ruling that Ms. Tapics' civil claim was an abuse of process?

Result: The Court of Appeal allowed the appeal in part. Ms. Tapics' allegations that related to the withdrawal of her faculty supervisor, respecting the right whales project, and the adequacy of the University's efforts to replace him had been determined by the University's internal appeal tribunals. The judge correctly ruled that Ms. Tapics' lawsuit over those matters would be an abuse of process by relitigation. But Ms. Tapics' claims respecting the conduct of her initial field supervisor, during the sea turtles project, had not been determined by the University's internal appeal tribunals. Ms. Tapics' lawsuit respecting that matter was not relitigation and was not an abuse of the court's process. That aspect of her lawsuit may proceed.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 35 pages.