

CITATION: Abada v. University of Ottawa, 2025 ONSC 2702
COURT FILE NO.: CV-15-65784
DATE: 2025/06/24

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:)
)
Ahmed Abada) Self-represented
)
Plaintiff)
)
– and –)
)
)
University of Ottawa, Azzedine Boukerche,) Jamie Macdonald, for the Defendants
and Abdelghani Benmaddi)
)
Defendants)
)
)
) **HEARD:** January 6 to 23, 2025
)
)

2025 ONSC 2702 (CanLII)

REASONS FOR DECISION

R. SMITH J.

OVERVIEW

[1] Ahmed Abada (“Abada”) claims damages against his former PhD supervisor, Dr. Azzedine Boukerche (“Professor Boukerche”), the University of Ottawa (the “University”), and his former friend Abdelghani Benmaddi (“Benmaddi”). Abada was a PhD graduate student at the School of Electrical Engineering and Computer Science (the “School of EECS”) within the Faculty of Engineering at the University of Ottawa. Abada was enrolled in the graduate program from January 18, 2007, until he was removed in December 2015 for receiving two unsatisfactory progress reports. Abada spent a period of approximately nine years in the graduate program at the University but failed to complete his thesis and as a result was removed from the PhD program.

[2] Abada claims over \$1,000,000 for loss of earnings during the 9-year period plus interest on his financial loans incurred during the 9-year period against all of the Defendants. Abada also claims \$200,000 in general damages and \$500,000 for punitive damages against Professor Boukerche and Benmaddi for committing the torts of intimidation, breach of fiduciary duty, misfeasance in public office, conspiracy, intentional infliction of mental distress and special damages of \$10,000 for performing unpaid menial tasks at Professor Boukerche's residence.

[3] Professor Boukerche denied that he withheld the Plaintiff's research assistant bursary (the "RA bursary") payments and denies threatening the Plaintiff that he would be removed from the PhD program if he insisted on payment of the RA bursary funds.

[4] Professor Boukerche also denied that he prevented the Plaintiff from writing his comprehensive exam and testified that the Plaintiff never asked him to write the comprehensive exam because he was never adequately prepared due to his personal problems, namely being convicted of assaulting his wife, being sentenced to a period of time in prison, conducting an appeal, and dealing with a legal custody dispute.

[5] Professor Boukerche testified that Abada advised him that he could not concentrate because of his personal and legal problems. As a result of his inability to concentrate, he was unable to prepare for the comprehensive exams or complete a thesis while Professor Boukerche was his supervisor from 2007 until 2013, a period of approximately 7 years.

[6] The University denied that Abada has any valid cause of action against any of the Defendants as the "pith and substance" of his claim is of an academic nature, namely that the Defendants were negligent and breached his educational contract with the University. The University submits that the appropriate forum for the Plaintiff's complaints was the University's appeal process and not the courts.

[7] The Defendants further deny that they have breached any duty to the Plaintiff and deny that they have intentionally or negligently harmed the Plaintiff. The University submits that any damages the Plaintiff suffered are result of his own negligence and failure to fulfil his PhD requirements.

[8] Benmaddi was an event coordinator at the University and also worked as an assistant to Professor Boukerche, commencing in 2011. Benmaddi was formerly one of the Plaintiff's best friends and submits that he did not have any responsibility for oversight of the Plaintiff's PhD program whatsoever. He also denies being involved in any agreement or conspiracy with Professor Boukerche to harm Abada or to cause him mental distress. He also denies intentionally causing any harm to the Plaintiff.

ISSUES

[9] The following issues must be decided:

- I. Did Professor Boukerche refuse to pay the research assistant bursary funds to Abada and did he threaten to remove him from the PhD program if he insisted on receiving the RA bursary funds?
- II. Did Professor Boukerche refuse to allow Abada to write the Comprehensive Exam?
- III. Did Professor Boukerche direct Abada to perform menial tasks for his personal benefit?
- IV. Did Professor Boukerche fail to provide adequate direction and supervision to Abada, which prevented him from obtaining his PhD?
- V. Were the Defendants negligent and did they breach Abada's contract with the University?
- VI. Did the Defendants commit the torts of intimidation, breach of fiduciary duty, misfeasance in public office, conspiracy, or intentional infliction of mental distress?
- VII. Should the Plaintiff be awarded punitive damages?
- VIII. What damages, if any, should be awarded to the Plaintiff?

FACTS

[10] Most of the facts have been taken from the parties' Agreed Statement of Facts.

[11] The University of Ottawa is a university established further to *An Act respecting Université d'Ottawa*, S.O. 1965, C. 137. The University operates a School of Electrical Engineering and Computer Science (the “School of EECS”) within the Faculty of Engineering.

[12] Dr. Azzedine Boukerche is a professor in the School of EECS. Dr. Boukerche was the Plaintiff’s PhD supervisor from his admission into the program in January 2007 until the end of 2013. During the same period, he also acted as the research supervisor for approximately 20 graduate students enrolled in the University at either the masters, doctoral, or postdoctoral level.

[13] The University hired Abdelghani Benmaddi in July 2011 to work as an event co-ordinator within the School of EECS. He was one of the Plaintiff’s best friends until this action was commenced.

[14] Benmaddi did not have any responsibility for oversight of graduate students in the School of EECS.

[15] The Plaintiff obtained an undergraduate degree in Computer Engineering from the University of Ottawa in 2002 and a Master of Applied Science in Electrical Engineering from Carleton University in 2006.

[16] In January 2007, the Faculty of Graduate and Postdoctoral Studies (the “FGPS”) accepted the Plaintiff into the PhD program in the School of EECS with Dr. Boukerche as his research supervisor. The FGPS awarded the Plaintiff an admission scholarship to cover the cost of tuition fees for four years (valued at the time at \$23,028), and the School of EECS offered the Plaintiff a research assistant bursary with an initial annual value of \$9,250, to increase to \$10,250 in September 2007 (the “RA bursary”).

[17] Candidates for a doctoral degree within the School of EECS are required to take a minimum number of required courses, pass a comprehensive exam, and submit a thesis. They are also required to complete the requirements for their doctoral degree within six years. If a candidate required additional time, a request for an extension of time had to be submitted to the Executive Committee of the FGPS.

[18] The Plaintiff started his program in January 2007, which meant that he was required to complete the requirements for his doctoral degree by the end of December 2012 or obtain an extension of time.

[19] The Plaintiff experienced personal issues around the time of his acceptance into the PhD program. In January 2007, the Plaintiff was charged with three counts of assault contrary to s. 266 of the Criminal Code, one count of assault causing bodily harm contrary to s. 267(b) of the Criminal Code, and one count of uttering a threat to cause death contrary to s. 264.1(2) of the Criminal Code. The complainant with respect of all counts was the Plaintiff's wife.

[20] On February 13, 2007, the Plaintiff's wife commenced an application for custody of their two children, a restraining order, access to the Plaintiff, a non-removal of children clause, and a police enforcement mechanism. The court made an interim order on March 22, 2007.

[21] The evidence in the Plaintiff's criminal trial was heard on November 19, 20, and 21, 2007 and February 12 and 13, 2008, with closing submissions on March 27, 2008.

[22] In January 2008 (in the middle of the criminal trial), the Plaintiff applied for and was granted four months leave from the program for "family related problems".

[23] On April 9, 2008, Justice Nicholas of the Ontario Court of Justice found the Plaintiff guilty on all counts.

[24] On December 5, 2008, Justice Nicholas imposed a sentence of 90 days in jail on the assault charge of December 2005, a sentence of 30 days consecutive on the assault charge of September 2006, a sentence of 30 days consecutive on the assault charge of December 2006, a sentence of 30 days consecutive on the assault charge of January 2007 and a sentence of 30 days concurrent on the threatening charge of January 2007.

[25] The Plaintiff was remanded into custody upon sentencing on December 5, 2008 until January 5, 2009 when he was granted bail pending appeal.

[26] On February 24, 2009, the court issued an order in the family law proceeding on consent that, among other things, provided for joint custody of their children and a consent to a civil divorce.

[27] The Plaintiff appealed his criminal convictions. The appeal was heard on April 13, 2011 before Justice McNamara. On May 27, 2011, Justice McNamara found that the Plaintiff was entitled to a new trial due to the incompetence of his counsel.

[28] On April 13, 2012, the Crown stayed all charges against the Plaintiff and the Plaintiff requested an extension to complete his PhD program.

[29] By December 2012, the Plaintiff had completed his mandatory courses but had not passed a comprehensive exam or completed a thesis.

[30] On December 20, 2012, the Plaintiff applied to the FGPS for a one-year extension to complete his PhD program requirements. Abada stated that his progress had been delayed due to “Divorce, court proceedings, caring for dependent children, health issues”. Dr. Boukerche supported the Plaintiff’s request, noting on the application form that the Plaintiff had dealt with some family problems and so, until recently, had been unable to focus.

[31] On January 22, 2013, the FGPS granted a one-year extension to December 31, 2013, on the condition that the Plaintiff meet the goals of his proposed study plan. Further to this plan, the Plaintiff was required to pass his comprehensive exam by April 2013 and submit a thesis proposal by July 2013.

[32] On September 25, 2013, the FGPS wrote to the Plaintiff and asked him to submit a revised study plan because he had not met either of the goals set out in his initial study plan.

[33] In October 2013, the Plaintiff applied for another year long extension to complete his doctorate.

[34] On November 26, 2013, the Executive Committee of the FGPS rejected the Plaintiff’s request for a further extension and closed his file, effectively withdrawing him from the program. The Executive Committee advised the Plaintiff that he could appeal this decision to the University’s Senate Appeals Committee (the “SAC”).

[35] The SAC is the final level of appeal for academic matters once they have been heard at the faculty level. The Plaintiff successfully appealed to the SAC and was readmitted to the PhD program.

[36] On January 13, 2014, the Plaintiff submitted an appeal to the SAC. He sought a three-year extension to complete his PhD requirements.

[37] In his appeal, the Plaintiff alleged that his progress had been impeded due to a medical condition as well as criminal and family law proceedings. He also alleged, for the first time, that Dr. Boukerche had not provided adequate direction, had discouraged or prevented him from writing his comprehensive exam, had failed to give him the research assistant bursary funds promised to him on admission, and had asked him to help with household chores through Benmaddi.

[38] On April 25, 2014, the SAC granted the Plaintiff's appeal. The SAC allowed him to re-register in the PhD program and set a deadline of December 2014 to pass his comprehensive exam and three years to complete his doctorate under a new supervisor. The SAC declined to deal with the allegations regarding funding because this was not an issue under its jurisdiction.

[39] On May 23, 2014, the Plaintiff made a formal request to the School of EECS for payment of the RA bursary. This was the first such request he had made.

[40] In May 2014, Dr. Boukerche agreed to pay the Plaintiff a total of \$83,080, covering six years of RA funding plus accrued interest. Dr. Boukerche made this payment in June 2014.

[41] On June 2, 2014, the Plaintiff asked Dr. Timothy Stanley, then interim Dean of the FGPS, for an additional \$15,985 as a refund in tuition fees paid after the expiry of his admission scholarship.

[42] On July 23, 2014, the Plaintiff sought clarification of the SAC's decision and asked that the extension of time for his doctorate run from the date of re-registration, once he had found a new supervisor.

[43] On August 20, 2014, Dr. Stanley referred the Plaintiff's request for a refund of tuition to the Executive Committee of the FGPS. Dr. Stanley granted the Plaintiff a special tuition scholarship of \$6,000 to cover his fees for the Fall 2014 term to be deducted from any other refund of tuition, pending a final decision by the Executive Committee.

[44] In September 2014, the Plaintiff returned to studies with Dr. Amiya Nayak as his supervisor.

[45] On September 11, 2014, the Executive Committee of the FGPS advised the Plaintiff that it would recommend to the SAC that he be given until April 2015 to pass the comprehensive examination and up to four years to complete his doctoral requirements, conditional on satisfactory progress reports.

[46] On October 2, 2014, the SAC accepted the recommendation from the FGPS that the Plaintiff be granted a further extension until April 2015 to pass his comprehensive examination and until August 2018 to submit his thesis, conditional on satisfactory progress reports.

[47] In December 2014, the Plaintiff completed his comprehensive examinations on the first semester of re-registration in the program.

[48] On January 5, 2015, the Executive Committee advised the Plaintiff that it would not refund tuition already paid but would grant him a new scholarship to cover tuition for the next three years (the additional time granted to him to complete his doctoral requirements).

[49] On April 7, 2015, the Plaintiff filed a formal complaint against Dr. Boukerche to Dr. Claude Laguë, the Dean of the Faculty of Engineering.

[50] In his complaint, the Plaintiff repeated and expanded upon the allegations made in his appeal to the Senate in January 2014. The Plaintiff sought an internal investigation of Dr. Boukerche's practices towards other students, a financial audit of the lab's funding, disciplinary action against Dr. Boukerche, and monetary compensation.

[51] In June 2015, Dr. Laguë issued a report setting out the results of his investigation. Dr. Laguë upheld some portions of the complaint and found other allegations were unsubstantiated, including the allegations that Dr. Boukerche had directed the Plaintiff to complete tasks outside the scope of his graduate studies or research project or had refused to allow the Plaintiff to take his comprehensive exam.

[52] By letter dated August 27, 2015, Dr. Boukerche apologized to the Plaintiff for his unsatisfactory academic experience from 2007 to 2013, for the delay in payment of the RA bursary funding, and for failing to provide more detailed comments in his September 2008 progress report.

[53] The Plaintiff commenced this action on September 18, 2015.

[54] The Plaintiff was withdrawn from the PhD program at the University of Ottawa in December 2015 after receiving two unsatisfactory progress reports from Dr. Nayak.

[55] In September 2017, the Plaintiff entered the PhD program in Electrical and Computer Engineering at Carleton University. The Plaintiff successfully completed the program and obtained his doctorate in June 2023.

Issue #1 - Did Professor Boukerche refuse to pay the research assistant bursary funds to Abada and did he threaten to remove him from the PhD program if he insisted on receiving the RA bursary funds?

[56] The Plaintiff testified that early in the 2007 term, he asked Professor Boukerche about receiving his bursary payments and Professor Boukerche refused to pay him the RA bursary funds. The Plaintiff alleged that Professor Boukerche threatened to remove him from the PhD program if he insisted on being paid the research assistant bursary funds.

[57] Professor Boukerche denied that the Plaintiff had ever spoken to him about receiving his RA bursary funds until 7 years and 4 months after he enrolled in the graduate program. He also denied ever threatening to “kick the Plaintiff out” of the PhD program if he insisted upon being paid his RA bursary funds.

[58] Suzanne St. Michel was in charge of administration for the EECS graduate program at the University of Ottawa for many years, including during the relevant time period. She had been retired for 3 years at the date of the trial. She testified that she and her assistant Laura Roach administered the funding for RA bursaries and prepared the contracts between the graduate students and the professor for the research assistant work. She testified that it was very common at the beginning of each semester for students to inquire about how to obtain payment of their RA bursary funds.

[59] Ms. St. Michel testified that the procedure followed by her office to obtain payment of RA bursary funds in the graduate Department was that her office in EECS would receive a copy of the admission letter from the FGPS. The admission letter included the terms of any research assistant bursary amounts that were granted to the student. Ms. Roach would then open a file for each graduate student who was entitled to receive payment of a RA bursary funds and the payments of the RA bursary funds would be recorded in the student's file. Following receipt of the admission letter, Ms. St. Michel or Ms. Roach would contact the supervising professor and obtain the details of the research work that would be performed by the graduate student. Ms. St. Michel would then prepare the contract between the graduate student and the supervising professor and arrange to have the contract signed. She and Ms. Roach would then administer the RA bursary funds, usually making payments to the graduate students on a monthly basis.

[60] In Abada's case, the EECS graduate administration office never received a copy of his admission letter stating that he would receive a RA bursary. As a result, she never opened a file for Abada and didn't contact Professor Boukerche to prepare the research assistant contract. Abada also never contacted their office to inquire about obtaining his RA bursary funds and signing the research assistant contract.

[61] Professor Boukerche initially approved the award of a RA bursary for Abada sometime in the fall of 2006. He testified that he received several applications for the PhD program and had several other postgraduate students and he did not remember which postgraduate students were entitled to receive RA bursaries and which students were not. I accept Professor Boukerche's evidence that he did not remember if Abada was entitled to receive a research assistant bursary and I also accept his evidence that he did not receive a copy of Abada's admission letter even though the letter indicated that he was copied with the letter. It appears that the FGPS failed to send a copy of Abada's admission letter to both the EECS office and to Professor Boukerche. As a result, Professor Boukerche did not raise the issue of a research assistant contract or the bursary with Abada or with the administration office.

[62] I also accept Professor Boukerche's evidence that he did not refuse to pay the RA bursary funds to Abada and that he did not threaten to remove Abada from the graduate program if he insisted on being paid his RA bursary funds for the following reasons:

- a) Professor Boukerche's evidence was credible. Abadi 's evidence does not accord with the probabilities to a practical and reasonable person because it does not make sense that Professor Boukerche would approve a RA bursary for Abada in the fall of 2006 and then several months later, in January 2007, refuse to pay these funds to him. Professor Boukerche did not have any motive to refuse to pay the bursary funds after having approved the award of the RA bursary to Abada in writing;
- b) It also does not accord with the balance of probabilities that Professor Boukerche would threaten Abada with eviction from the PHD program if he insisted on receiving the RA bursary funds that were promised to him in the admission letter. This would be very unethical conduct, and Abada could have simply spoken to the Dean or the office administrators and complained about Dr. Boukerche's threat. Abada's right to receive the RA bursary funds was confirmed in writing in his letter of admission dated January 18, 2007;
- c) Ms. St. Michel testified that it was a common occurrence for graduate students to inquire at her administration office about what steps had to be taken to receive their RA bursary funds. This was especially common at the beginning of each semester. If Abada had gone to the administration office with a copy of his admission letter stating that he was entitled to receive a research assistant bursary, then Ms. St. Michel or Ms. Roach would have made inquiries and opened a file for him, contacted Professor Boukerche, drafted a research assistant contract, and processed the payment after the contract was signed. I accept Ms. St. Michel's evidence that she felt badly that their office was never informed by anyone that Abada was entitled to receive a RA bursary. She testified that Abada was the only graduate student she could remember who was entitled to receive a RA bursary and failed to inquire at her office about how they were to obtain the bursary funds, when the funds were not being paid to them;
- d) Initiating the RA bursary fund payments and signing the research assistant contract required input and cooperation between both the graduate student and Professor Boukerche. However, I find that the graduate student bears the primary onus to

inquire from the Professor or from the administrative office, and if necessary, from the Dean about the steps to be taken to receive payment of his RA bursary funds. Abada was the person who received written confirmation in his admission letter that he was approved to receive a research assistant bursary;

- e) The Plaintiff was not credible. His credibility was shaken by the evidence of his former best friend, Benmaddi, who testified that Abada approached him in 2015 and asked him to join in his lawsuit against Professor Boukerche and allege that Professor Boukerche had acted in an abusive manner towards him as well. Benmaddi testified that Abada told him if he joined in the Plaintiff's lawsuit against Professor Boukerche, they could receive \$150,000. Abada also threatened Benmaddi by telling him that if he did not join with him in his lawsuit against Professor Boukerche, he would include Benmaddi as a defendant in his lawsuit. Abada has followed through with his threat and has included Benmaddi as a defendant in this lawsuit. I find that Benmaddi was a credible and reliable witness who refused to give false evidence against Professor Boukerche to obtain money and was a good friend of the Plaintiff at this time; and,
- f) Professor Boukerche was not shaken on cross-examination and I find he provided reliable and credible evidence to the court. I prefer his evidence over the evidence of the Plaintiff.

Disposition of Issue #1

[63] For the above reasons, I find that Professor Boukerche did not refuse to pay Abada his research assistant bursary funds and did not threaten to remove Abada from the PhD program if he insisted on receiving payment of his RA bursary funds. Abada was primarily responsible for failing to receive his RA bursary funds because he failed to make any inquiries at the EECS graduate administration office at the beginning of the semester. In any event, this matter has been resolved as a result of Abada's appeal to the University Senate and the RA bursary funds plus interest have been paid to him.

Issue #2 - Did Professor Boukerche refuse to allow Abada to write the Comprehensive Exam?

[64] To obtain a PhD at the University of Ottawa, the graduate student must take several courses. Abada took the required three courses in the first year of his PhD program, obtaining A's in all courses. In addition, the graduate student must pass a Comprehensive Exam as well as complete and defend a thesis. The comprehensive exam is usually taken after the course work is finished and before the thesis is completed. This is the usual order but there is no specific rule about when the comprehensive exam must be taken.

[65] Professor Boukerche testified that Abada was not ready to take the comprehensive exam because he was unable to concentrate and prepare due to issues in his personal life. The personal issues including being charged and convicted of assaulting his wife and successfully appealing his criminal conviction. In addition, Abada and his wife separated and were involved in a contested custody dispute during the same time period. These criminal and family issues occurred from when he was charged in January 2007 until April 13, 2012 when the Crown stayed all charges against him. Abada was dealing with serious personal issues at the same as he started his graduate program with Professor Boukerche as his supervisor.

[66] Professor Boukerche testified that if Abada had asked to write the comprehensive exam, he would have arranged for the exam to occur. There is a complete absence of any written request by Abada to anyone, including Professor Boukerche, that he wished to write his comprehensive exams. In addition, Abada did not complain to anyone about being unable to write his comprehensive exam.

[67] I find that Professor Boukerche's evidence was credible and reliable and was more credible than the Plaintiff's evidence because it was corroborated by the evidence of the criminal charges and family related problems as outlined in the agreed statement of facts. The Plaintiff gave the same reasons in his request for an extension of one year on December 20, 2012, when he stated that his progress had been delayed due to "divorce, court proceedings, caring for dependent children, and health issues". Professor Boukerche supported Abada's request for the extension of time.

[68] I also find that the question of whether the accused was ready to take the comprehensive exam or not is a matter that is "in pith and substance" of an academic nature. The Ontario Court of Appeal in *Dawson v. University of Toronto*, [2007] O.J. No. 4861 stated that the court below

had determined that “all the matters raised in the statement of claim were “in pith and substance” matters of an academic nature” and dismissed the appeal. In any event, Abada obtained a remedy on April 25, 2014 when the University Senate Appeals Committee (“SAC”) allowed him to reregister and set a deadline of December 2014 to pass his comprehensive exam. In December 2014, Abada completed his comprehensive examination. Abada obtained a remedy on appeal within the University and was assigned a new supervisor and successfully completed his comprehensive exam.

Disposition of Issue #2

[69] For the above reasons, I find on a balance of probabilities that Professor Boukerche did not refuse to allow Abada to take the comprehensive exam. The taking of the comprehensive exam is “in pith and substance” a matter of an academic nature. The Plaintiff obtained a remedy within the university’s academic appeal process in any event.

Issue #3 - Did Professor Boukerche direct Abada to perform menial tasks at his home for his personal benefit?

[70] The Plaintiff testified that he was assigned to do menial tasks at Professor Boukerche’s residence on a regular basis, including mowing the lawn, cleaning his pool and cleaning out his garage.

[71] Professor Boukerche denied that he had ever asked or directed Abada to perform menial tasks at his home. Professor Boukerche agreed that Abada offered to help him move from his apartment into his new residence. The circumstances were that Professor Boukerche had rented a truck for moving and offered to allow another of his graduate students to use the truck on the same day. The other graduate student offered to help Professor Boukerche with his move in return for the use of the rental truck. Abada overheard the conversation and offered to help Professor Boukerche with the move.

[72] Benmaddi testified that there was also an occasion where he attended with Abada to move some books from Professor Boukerche’s garage into his house. Benmaddi testified that he asked Abada if he wanted to come with him and select some of the books that might help him with his comprehensive exam. The Plaintiff accompanied Benmaddi on this occasion as well.

[73] Professor Boukerche testified that he had no need to have Abada perform snow shoveling or lawnmowing at his home because he already had a snow removal service, a lawn service, a hedge trimmer service, and a pool maintenance contract. Professor Boukerche produced copies of the invoices from these various maintenance services. I accept Professor Boukerche's evidence that he never directed Abada to perform menial tasks at his home except for the occasion when Abada offered to help with the move from his apartment and also to assist with moving books from the garage.

Disposition of Issue #3

[74] I accept Professor Boukerche's evidence as it was both credible and reliable and corroborated by various service contracts that he did not direct Abada to perform menial maintenance tasks at his residence. I prefer Professor Boukerche's evidence over that of the Plaintiff. As a result, I dismiss Abada's claim for \$10,000 in damages for performing menial tasks at Professor Boukerche's home.

Issue #4 - Did Professor Boukerche fail to provide adequate direction and supervision to Abada which prevented him from obtaining his PhD?

[75] Abada claims that Professor Boukerche failed to provide adequate direction and supervision to allow him to decide upon a thesis topic and complete a thesis. Abada claims that this failure amounted to a breach of his contract with the University and is evidence of Professor Boukerche's negligence?

[76] Benmaddi denied that he had any role in the giving direction or supervision to Abada to assist him to obtain a PhD. He worked as an event coordinator for the University and an assistant to Professor Boukerche. As a result, he denies any responsibility for any supervision of Abada's PhD thesis. Benmaddi also denied the Plaintiff's allegation that he asked Abada to perform menial tasks at Professor Boukerche's home. Benmaddi testified that Professor Boukerche allowed him and his family to use his swimming pool in the summer months when he was away travelling. Benmaddi testified that he occasionally asked Abada as a friend to accompany him to Professor Boukerche's home where he sometimes put chlorine in the pool so that it would be safe for his

children to go swimming. I accept Benmaddi's evidence that Abada accompanied him on some of these occasions as his friend and not at the request of Professor Berkerche.

[77] Professor Boukerche denied Abada's claim that he failed to supervise him adequately. He testified that Abada was unable to complete his thesis or pass his comprehensive exam because he could not concentrate and focus due to his criminal and family problems. Abada never decided on a thesis topic and as a result, never completed a thesis during the seven years when Professor Boukerche was his supervisor. Professor Boukerche further testified that Abada was never able to concentrate and focus in order to get prepared to write his comprehensive exams. His personal and legal problems also prevented him from deciding on a thesis topic and from starting to work on his thesis. As a result, Abada did not make any progress on a thesis topic while he was supervised by Professor Boukerche.

[78] Professor Boukerche testified that PhD graduate students were mature students who were expected to work independently. Professor Boukerche supported the extensions sought by Abada and testified that Abada spoke to him about his family and legal problems.

[79] In fact, Abada did not make any progress on his thesis project with his next thesis supervisor, Professor Nayak either. Professor Nayak completed two consecutive unsatisfactory progress reports at the end of two semesters which caused Abada to be withdrawn from the PhD program at the University of Ottawa. Professor Nayak testified that he felt Abada was wasting his time because he was not making any progress on his thesis.

[80] On January 13, 2014, Abada submitted an appeal to the SAC seeking a further extension to complete his PhD and stated that he was impeded due to a medical condition as well as criminal and family law proceedings. In his appeal to the SAC, Abada alleged that Professor Boukerche had not provided him with adequate direction, had discouraged or prevented him from writing his comprehensive exam, had failed to give him RA bursary funds promised to him on admission, and had directed him to help with household chores through Benmaddi.

[81] The SAC did not deal with the allegations regarding funding of the bursary because it was not within their jurisdiction. On May 23, 2014, the Plaintiff made a formal request to the school of

EECS for payment of the RA bursary funding. In May 2014, Professor Boukerche agreed to pay the Plaintiff for a total of \$83,080 covering 6 years of the RA bursary funding plus interest.

[82] On April 7, 2015, the Plaintiff filed a formal complaint to the Dean of Engineering against Professor Boukerche including the same allegations he had made on his appeal to the SAC, plus he sought additional remedies. The Dean found that Abada's allegations that Professor Boukerche had refused to allow the Plaintiff to take his comprehensive exam and had asked him to complete menial tasks outside the scope of his graduate studies, research, or project were unsubstantiated.

[83] Abada has raised the same allegations against Professor Boukerche in this court case including the allegation that he failed to provide adequate direction and supervision as his thesis supervisor. These issues have already been considered by the SAC and again by the Dean of Engineering. The Plaintiff seeks a different result before this Court.

[84] I find that the issue of whether the supervision and direction of Professor Boukerche was adequate is an issue that is in "pith and substance" of an academic nature. As stated by the Ontario Court of Appeal in *Dawson*, matters that are in "pith and substance" of an academic nature should be dealt with by the appeal processes within the University. In this case, the Plaintiff has already availed himself of an appeal before the SAC and also filed a complaint to the Dean of Engineering against Professor Boukerche making the same allegations that are made here. These allegations include, failing to provide adequate direction and supervision to Mr. Abada. These allegations were found to be unsubstantiated by the SAC or the Dean of Engineering, Mr. Lague.

[85] Following the *Jaffer v. York University*, 2010 ONCA 654, *Gauthier c. Saint-Germain*, 2010 ONCA 309, and *Dawson v. University of Toronto*, supra. decisions, I find that Abada's attempt to relitigate the factual underpinnings of previous academic decisions, that have already been subject to the University's internal appeal processes, is an abuse of process.

Disposition of Issue #4

[86] For the above reasons, I find that the issue of whether Professor Boukerche provided adequate direction and supervision to Abada to assist him to complete his PhD thesis and write his comprehensive exam is a matter that is in "pith and substance" an educational nature. In addition, this issue has been raised by the Plaintiff before the SAC and before the Dean of Engineering

without a finding in favour of the Plaintiff. I find it constitutes an abuse of process to raise the same issues again before this court.

Issue #5 - Were the Defendants negligent and did they breach Abada's contract with the University?

Negligence

[87] The issue of whether Professor Boukerche was negligent in the manner in which he supervised or gave directions to Abada is answered in the negative for the same reasons as given for issue #4, namely I find that this is a matter of an academic nature and Abada has exercised the remedies available under the University's appeal procedures. As result, I do not find that Professor Boukerche was negligent. The same finding applies to the University who would be vicariously liable.

[88] I also find that Benmaddi did not owe a duty of care to Abada with respect to supervising his thesis project and as result he has no liability for negligence. I also make the same finding that Benmaddi is not liable for breach of contract because he did not have a contract with Abada to provide any supervision or direction with regards to Abada obtaining a PhD.

Breach of Contract

[89] In *Gauthier c. Saint-Germain*, 2010 ONCA 309 at paragraph 48, the Ontario Court of Appeal stated as follows with regards to establishing a cause of action against a University in contract or in negligence:

[48] To establish a cause of action for breach of contract, the student must show that the University failed to meet its express or implicit obligation to which this institution committed by approving the student's registration...and

[49] As regard the allegations of negligence, the matter of Young confirmed that a university is well and truly held accountable for its diligence towards its students. However, in order to establish a cause of action based on negligence, the student cannot simply state that a professor was too demanding in his evaluations, or to reveal his incompetence. In order to establish a failure by the University in its duty to be vigilant, the student must submit specific facts to show that the

behaviour of the University or the professor in question, constituted an intentional tort, as in Sabo, or was outside the discretionary scope granted to the University and its professors.

[90] In this case, the University committed to providing Abada with a scholarship of free tuition for 4 years, providing him with an annual research assistant bursary of \$9,250 and admitted him to its graduate program. Abada has not proven any specific facts on a balance of probabilities to show that Professor Boukerche committed any act that constituted an intentional tort or that any of his actions were outside the discretionary scope granted to the University and its professors. I have previously found that Professor Boukerche did not intentionally refuse to pay the research assistant/bursary funds to Abada and also that Professor Boukerche did not threaten to evict Abada from the graduate program if he insisted on receiving his RA bursary funds.

[91] The only contractual term that was not complied with by the University was the payment of the bursary. This was resolved within the University appeal process and Professor Boukerche paid the amount of the bursary for 6 years plus interest to Abada. As a result, this contractual issue was resolved without any need for any intervention by the court.

Disposition of Issue #5

[92] For the above reasons, I find that Abada has failed to prove any specific facts to show that any of the Defendants were negligent or committed any specific acts which constituted an intentional tort or breached the contract between Abada and the University.

Issue #6 - Did the Defendants commit the torts of intimidation, breach of fiduciary duty, misfeasance in public office, conspiracy, or intentional infliction of mental distress?

Intimidation

[93] In *Pine Glenn v. Rolling Meadows*, 2024 ONSC 1464 at paragraph 72, the court set out the essential elements of the tort of intimidation as follows:

[72]

- (a) the defendant coerces the Plaintiff or others to the injury of the Plaintiff to act or to refrain from doing an act;

- (b) the defendant uses a threat as a means of compulsion;
- (c) the defendant intends to injure the Plaintiff;
- (d) the threat involves the use of unlawful means;
- (e) the Plaintiff complies with the defendant's demand; and,
- (f) the Plaintiff suffers damage.

[94] I find that Abada has failed to prove the tort of intimidation as I have found that Professor Boukerche did not intentionally refuse to pay the RA bursary funds to Abada, and I also found that Professor Boukerche did not threaten to evict Abada from the PhD program if he insisted on receiving his RA bursary funds. As a result, Abada was not coerced to do anything by Professor Boukerche or by Benmaddi. In addition, Professor Boukerche did not threaten Abada in any way. I also find that Professor Boukerche had no intention to injure Abada but rather sought to assist him by supporting his applications for extensions of time.

Breach of Fiduciary Duty

[95] In *Crippen v. University of Ottawa*, 1208 O.R. (3rd) 50 at paragraph 33, the court stated as follows: “I find no hint of any undertaking by the University to ever act only in the best interests of the students in opposition to the institution as a whole.” The case before me also involves the University of Ottawa and I agree with the reasoning in *Crippen*. The Plaintiff has failed to prove that there was any agreement, implied or otherwise, that the University, Professor Boukerche, or Benmaddi for that matter, would forsake all other interests in favour of those of Abada.

[96] The Plaintiff's claim for committing the tort of breach of fiduciary duty is dismissed.

Misfeasance in Public Office

[97] In the *Crippen* decision at paragraphs 38 and 39, the court set out the law with respect to misfeasance in public office. In *Odhavji Estate v. Woodhouse*, [2003] 3 S.C.R. 69 at paragraph 30, the Supreme Court of Canada stated that, “the underlying purposes of the tort is to protect each citizen's reasonable expectation that a public officer will not intentionally injure a member of the public through deliberate unlawful conduct in the exercise of public functions”. The tort requires

an element of bad faith or dishonesty, and the tortfeasor must have been aware that his or her unlawful conduct would cause harm.

[98] I find that Professor Boukerche was not a holder of a public office, but rather an employee of a public institution, namely the University of Ottawa. The Plaintiff has not referred me to any case where a professor at a University was found to be a holder of a public office. In addition, I also find that the Plaintiff has not proven any facts which would permit me to find or to draw an inference that there were any actions by Professor Boukerche, Benmaddi or the University which involved an element of bad faith or dishonesty. For these reasons, the Plaintiff's claim for committing the tort of misfeasance in public office is dismissed.

Conspiracy or Intentional Infliction of Mental Distress

[99] The Plaintiff also alleged that Professor Boukerche and Benmaddi conspired together to cause him mental distress. Benmaddi only started working for Professor Boukerche in 2011. Benmaddi asked Abada if he wanted to come with him to the professor's home to put chlorine in his pool on several occasions and also asked if he would like to come with him to help move some boxes of books from the professor's garage into his home.

[100] Benmaddi testified that he asked Abada if he wished to come with him when he went to Professor Boukerche's house as a friend and not at the request of Professor Boukerche. Benmaddi also testified that there wasn't any agreement between him and Professor Boukerche to ask Abada to accompany him to Professor Boukerche's home to assist with various tasks. Benmaddi testified that Abada may have accompanied him when he went to Professor Boukerche's home on less than 10 occasions. I accept Benmaddi's evidence and find him to be a very credible and reliable witness. Benmaddi refused Abada's request to join with him to allege that he was abused by Professor Boukerche in order to obtain damages of \$150,000. Benmaddi testified that it would be wrong to lie and falsely accuse Professor Boukerche of abusing him.

[101] The elements of a conspiracy to injure were set out by the Supreme Court of Canada in *Lilleyman v. Bumblebee Foods LLC*, 2023 ONSC 4408 at paragraph 95 as follows:

[95] "The elements of a claim of civil conspiracy are: (1) two or more Defendants make an agreement to injure the Plaintiff; (2) the Defendants:

(a) use some means lawful or unlawful for the predominant purpose of injuring the Plaintiff or (b) used unlawful means with knowledge that their acts were aimed at the Plaintiff and knowing or constructively knowing that their acts would result in injury to the Plaintiff; (3) the Defendants act in furtherance of their agreement to injure and (4) the Plaintiff suffers damage as a result of the Defendants' conduct.

[102] At paragraph 100 of *Lilleyman*, the Supreme Court of Canada stated that the Plaintiff must show that the predominant purpose of the lawful or unlawful conduct was to harm the Plaintiff. The Supreme Court stated, "Where the Defendants are predominantly motivated by their own self-interest, they are not liable even if the Plaintiff is harmed by their conduct."

[103] I accept Benmaddi's evidence and that of Professor Boukerche that there was not an agreement between them to harm the Plaintiff. In fact, I find that Benmaddi was Abada's friend and tried to help him when he could, For example Benmaddi told Abada on four occasions to contact a person named Natasha that he believed could help Abada to obtain his RA bursary funds. Abada never contacted Natasha. Abada also asked Benmaddi to speak to Professor Boukerche to explain his the legal and family problems and to ask him to support Abada's request for an extension of time. Benmaddi agreed to do so and as a result Professor Boukerche supported Abada's requests for extensions.

[104] For the above reasons, I dismiss the Plaintiff's claim for damages for the tort of conspiracy or intentional infliction of mental distress as there was no agreement between Benmaddi and Professor Boukerche to cause harm to Abada and no intention to cause any harm to the Plaintiff whatsoever.

Issue #7 - Should the Plaintiff be awarded punitive damages?

[105] In order for punitive damages to be awarded, the court must find egregious or malicious conduct on the part of the defendant. I find that the Defendants did not commit any acts that would justify a punitive damages award. I found that Professor Boukerche did not knowingly or intentionally withhold RA bursary funds from the Plaintiff, did not threaten to remove him from the graduate program if he insisted on receiving the RA bursary funds, did not refuse to allow Abada to write the comprehensive exam, did not direct Abada or ask Benmaddi to get Abada to

perform menial tasks at his home, and did not conspire with Benmaddi to cause Abada harm or mental distress. The Plaintiff's claim for punitive damages is therefore dismissed.

Issue #8 - What damages, if any, should be awarded to the Plaintiff?

[106] I prefer the evidence of the Defendants, Professor Boukerche and Benmaddi, which I found to be credible and reliable over the evidence of the Plaintiff which I did not find credible for reasons set out above. I have dismissed all of the Plaintiff's claims for damages based on negligence, breach of contract, and on all of the specific torts alleged.

[107] The Plaintiff's main claim for damages is based on having wasted approximately nine years at the University of Ottawa attempting to obtain his PhD.

[108] Mr. Martel, an actuary, testified about the loss of earnings if Abada had graduated with a PHD in 2011, 2012, 2013 to 2020. He based his calculation on the average employment income of a PhD graduate in the field of electrical and computer engineering. He also calculated the loss of income caused by the delay of graduation through his career trajectory up to a possible retirement age of 65. Mr. Martel calculated Mr. Abada's damages ranged from \$93,000-\$886,800 for his claim for past damages and from \$8,500-\$524,900 for his claim for future losses.

[109] Mr. Abada did not seem to understand the actuarial report or the calculations and had difficulty identifying the amount of his claim for damages. The Plaintiff failed to provide any evidence of market conditions on which to calculate the amount of the loss of income that he would have earned as a University professor. No evidence was presented of what the salary of a professor of electrical engineering at a University would have earned, no evidence of the likelihood of Abada would obtain employment as a professor at a University upon graduation with a PhD, there was also no evidence was provided of any interest on loans that Abada pleaded he had taken out, and no evidence was provided of how many hours of work or what hourly rate he would be paid for doing maintenance tasks at Professor Boukerche's home.

[110] I find that the cause of the Plaintiff's delay in graduation with a PhD and his ultimate removal from the graduate program at the University of Ottawa in 2015, after nine years at the University without completing his comprehensive exam and without choosing a thesis topic or preparing a thesis was caused by Abada and was not caused by any of the Defendants. Rather any

damages that the Plaintiff has suffered as a result of the delay in obtaining his PhD was caused by his inability to concentrate and work on his PhD thesis and prepare for his comprehensive exam because of his personal criminal and family problems. The Plaintiff has failed to prove that “but for” some action or omission by any of the Defendants he would have obtained his PhD from the University within a reasonable time period.

[111] Accordingly, I find that the Plaintiff has failed to prove that he has suffered any damages based on the claims he has made against all three Defendants.

FINAL DISPOSITION

[112] For the above reasons, the Plaintiff’s claims against all of the Defendants are dismissed.

COSTS

[113] The Defendants shall be given 10 days to make submissions on costs, the Plaintiff shall have 10 days to respond and the Defendants shall have 7 days to reply.

The Honourable Justice Robert Smith

Date: June 24, 2025

CITATION: Abada v. University of Ottawa, 2025 ONSC 2702
COURT FILE NO.: CV-15-65784
DATE: 2025/06/24

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Ahmed Abada

Plaintiff

– and –

University of Ottawa, Azzedine Boukerche, and
Abdelghani Benmaddi

Defendants

REASONS FOR DECISION

R. Smith J.

Released: June 24, 2025