



Managing the Difficult Professor

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Introduction

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Roadmap

- Brief examples from the Canadian Context
 - *Derek Pyne, Thompson Rivers*
 - *Morteza Shirkshanzadeh, Queen's University*
- *In Depth:*
 - *Bad News can be Bad News: the Steven Galloway Case*
 - *NDA's and Dismissed Professors: the University of Western Ontario Law School Controversy*



Crying “Academic Freedom”

- Morteza Shirkhanzadeh and Queen’s University
 - Alleged academic wrongdoing of colleagues
 - CAUT involvement

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Professor's academic freedom violated, report finds

CAUT report finds “pattern of retaliation” against professor alleging research misconduct

June 2, 2015 | Jacob Rosen

Steven Galloway,

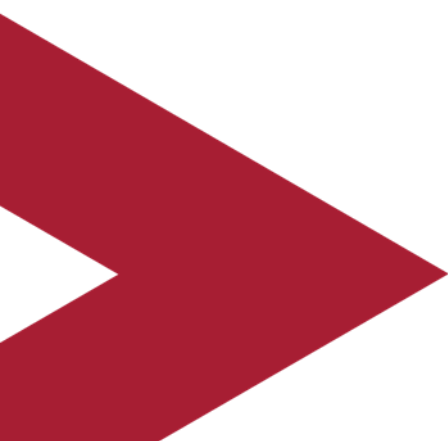
University of British Columbia

- Tenured professor, UBC English Department and Canadian novelist

Christie Blatchford: Fired UBC professor Steven Galloway suing woman who accused him of sexual assault

In total, more than 20 people are named in the lawsuit, including two UBC professors and a group of former students who 'recklessly repeated' the allegation.





The Fallout

The Star Edition
CHANGE LOCATION



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VANCOUVER

Crowdfunding for defendants in fired UBC prof's lawsuit hits almost \$50,000 in 24 hours



By [Melanie Green](#) StarMetro Vancouver

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Canadian literature community raises funds for defendants in Galloway lawsuit

A fundraising campaign to support the defendants of former UBC creative writing professor Steven Galloway's defamation lawsuit has raised over \$43,000 in less than a day. Since then, the fundraising goal has been raised to \$50,000.

By [Alex Nguyen](#) and [Zak Vescera](#) Oct. 31, 2018 · 4 min read

Author Brian Brett heavily criticizes UBC for handling of Galloway case

VANCOUVER SUN

NEWS BUSINESS SPORTS ARTS & LIFE HOMES TRAVEL OBITS CLASSIFIEDS CAREER

NEWS LOCAL NEWS FEATURED: THE REAL SCOOP MEDICINE MATTERS THE SEARCH

Margaret Atwood says UBC's handling of Galloway affair like 'Salem Witchcraft Trials'

Christie Blatchford: Why I'd name Steven Galloway's accuser

The only thing an independent investigation confirmed was that the UBC professor and one of his students had an extramarital affair



BRITISH COLUMBIA

UBC ordered to pay author Steven Galloway for breaching confidentiality terms

GARY MASON > NATIONAL AFFAIRS COLUMNIST
VANCOUVER
INCLUDES CORRECTION
PUBLISHED OCTOBER 16, 2018
UPDATED OCTOBER 31, 2018

PUBLISHED OCTOBER 16, 2018

This article was published more than 1 year ago. Some information in it may no longer be current.

SHARE

The University of British Columbia has been ordered to pay author Steven Galloway \$60,000 for breaching the confidentiality terms of an award he won after an arbitrator concluded the school violated the former professor's privacy rights and damaged his reputation when it suspended and then fired him two years ago.

NOVEMBER 2016 / SOCIETY

L'Affaire Galloway

Whatever the star UBC prof may have done, the university made things worse

BY KERRY GOLD

ILLUSTRATION BY BYRON EGGENSCHWILER

Updated 9:18, Sep. 17, 2018 | Published 10:25, Sep. 14, 2016



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LESLIE BECK



When is berating your colleagues cause for discipline?

- Derek Pyne and Thompson Rivers
 - Alleged union breached its duty of fair representation
 - “In pursuit of Academic Freedom”
 - CAUT involvement

Timeline

2015/16

Pyne disciplined for behavior towards Colleagues

March 2017

Pyne publishes article on colleagues.

January 2018

TRU orders psychological assessment.

May 2018

Pyne banned from Campus

July/Sept 2019

LRB dismisses ULP

CAUT Investigation!

British Columbia
Suspended B.C. professor to return to teaching but says he's still owed pay
Prof. Derek Pyne says the university still owes him back pay and his union has filed a grievance
The Canadian Press · Posted: Dec 07, 2018 8:52 PM PT | Last Updated: December 8, 2018

Undisclosed,

University of Windsor, Faculty of Law

- Emir Aly Crowne-Mohammed
 - Tenured professor, Windsor Law
- Julie MacFarlane
 - Professor, Windsor



Windsor · CBC Investigates

Universities should protect students, not reputation: Professors call for elimination of confidentiality deals



Ethics of non-disclosure agreements have been raised in wake of #MeToo movement

Universities should protect students, not reputation: Professors call for elimination of confidentiality deals



Ethics of non-disclosure agreements have been raised in wake of #MeToo movement

SEXUAL MISCONDUCT

Professors at war: Sexual misconduct allegations in Windsor reach Trinidad and Tobago



By Jane Gerster
June 19th, 2019

MacFarlane v. Canadian Universities Reciprocal Insurance Exchange – Should a professor warning others of a sexual predator colleague be covered by her employer university's liability policy?

Articles September 12, 2019

The Fallout

Universities 'Acting Like Church Did Decades Ago' On Sexual Misconduct Secrecy

Despite provincial legislation meant to spur change, university secrecy around allegations and investigations is hampering those efforts, experts say.

By Samantha ...ttia

My Life as a Whistleblower

Julie Macfarlane [Follow](#)
Mar 7 · 5 min read



This blog is the beginning of several I shall be posting on the insidious nature of non-disclosure agreements — or NDAs as they are known — which are very commonly used when an employee is terminated for sexual harassment or other sexual misconduct.

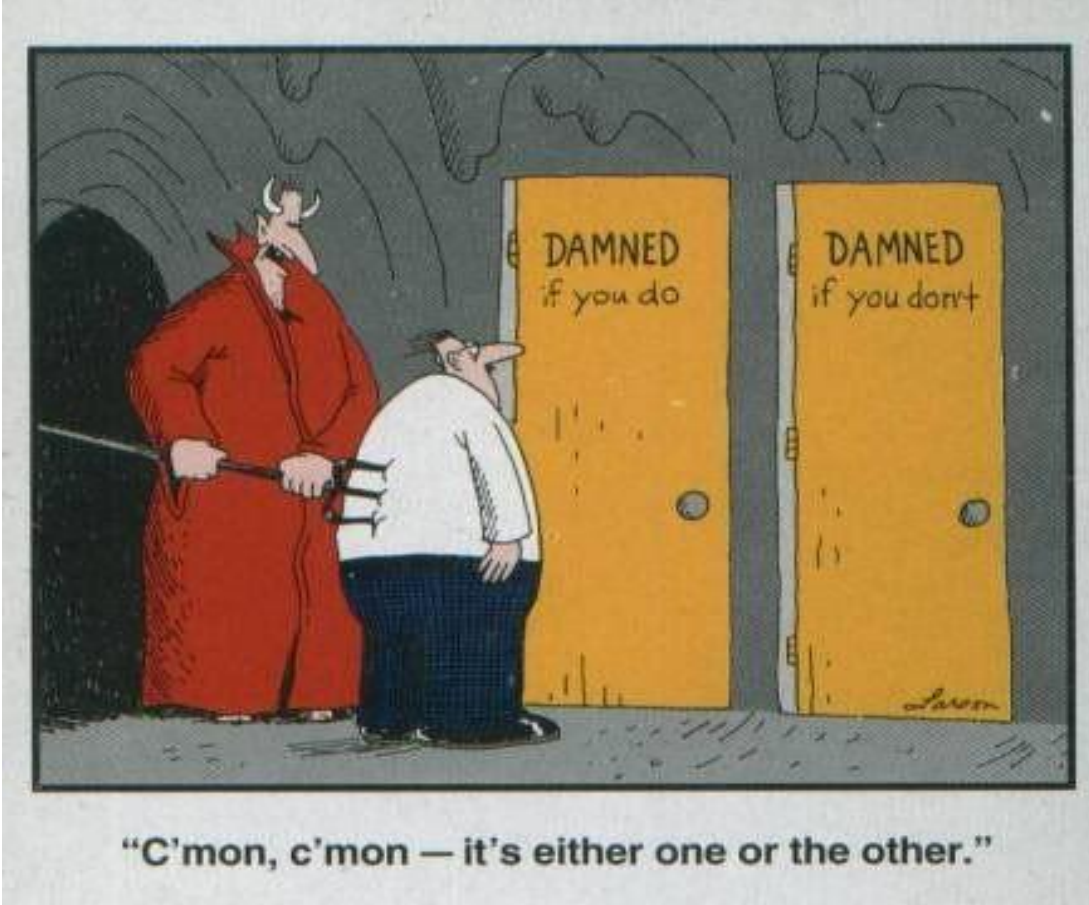
Should Canada restrict the use of gag orders in sexual abuse cases?



BY JANE GERSTER · GLOBAL NEWS

Posted March 24, 2019 9:00 am
Updated March 25, 2019 9:51 pm

Should Universities Act?



Lessons Learned

- Universities can engage the same practices of any other employer – proactivity, identification of concerns, documentation, and overall – trying to mitigate fallout when addressing student-sensitive or publicity-sensitive issues.
- BUT: Deal with concerns early.
- Universities must be consistent, clear, and extremely direct in dealing with professor reprimand or discipline.
- BUT: Be prepared to pivot as new information is learned.
- Be prepared to move into crisis management mode, particularly if CAUT gets involved.
- AND: carefully think through all of the issues.



These materials are intended to provide brief informational summaries only of legal developments and topics of general interest.

These materials should not be relied upon as a substitute for consultation with a lawyer with respect to the reader's specific circumstances. Each legal or regulatory situation is different and requires review of the relevant facts and applicable law.

If you have specific questions related to these materials or their application to you, you are encouraged to consult a member of our Firm to discuss your needs for specific legal advice relating to the particular circumstances of your situation.

Due to the rapidly changing nature of the law, Stewart McKelvey is not responsible for informing you of future legal developments.