

Widener Law Review, Widener University Delaware Law School, presents:

Silence for Sale:

THE USES AND ABUSES OF
NON-DISCLOSURE AGREEMENTS,
NON-DISPARAGEMENT CLAUSES,
AND SECRET SETTLEMENTS



Friday, March 25, 2022

8:00 am – 5:00 pm

Distinguished Speaker: Burt Neuborne, Professor Emeritus,
New York University School of Law

Widener University Delaware Law School
4601 Concord Pike, Ruby R. Vale Moot Courtroom
Wilmington, Delaware or hybrid via ZOOM

Promises not to disclose information—often called non-disclosure agreements (NDAs)—are widely used in employment contracts, litigation settlements, and other contexts. In recent years, the use of NDAs, and the related uses of private arbitrations and overly broad protective orders, have come under intense scrutiny because of mounting evidence that these devices have been used to suppress information of public concern, including information about sexual predators, dangerously defective products, and compromising information about candidates for public office. At the same time, these devices are routinely used for legitimate purposes such as protecting trade secrets or sensitive financial or medical information. The legal challenge is to come up with a regulatory regime—either statutory or judge-made—that effectively separates the wheat of legitimate confidentiality protections from the chaff of illegitimate ones. That is the topic of this symposium, which explores the uses and abuses of contracts, private arbitrations, and protective orders to suppress information of potentially vital public interest.

**6 CLE credits (5 substantive and 1 enhanced ethics) in
Delaware, Pennsylvania — New Jersey may self-report**

8:00 am Registration Check-In
Continental Breakfast

8:45–9:00 am Welcome
Rodney A. Smolla, Dean and Professor,
Widener University Delaware Law School
Madeline Carlson, Editor-in-Chief,
Widener Law Review

9:00–9:15 am Overview of the Program
Alan E. Garfield, Professor, Widener
University Delaware Law School

**9:15–10:45 am A View from the Trenches:
Practitioners Negotiating
and Litigating NDAs**

Moderator: Bruce Grohsgal, Professor,
Widener University Delaware Law School
Nkechi Kanu, Esquire, Crowell & Moring
John Langford, Esquire, Protect Democracy
Jeffrey Pasek, Esquire, Cozen O'Connor

10:45–11:00 am Break (with refreshments)

11:00 am –Noon Distinguished Lecture
Burt Neuborne, Visiting Professor,
University of California Berkeley School
of Law; Professor Emeritus, New York
University School of Law

12:00–12:45 pm Lunch—Barristers' Club

**1:00–2:20 pm How Should the Law
Regulate NDAs?**
Moderator: Stephen Friedman, Professor,
Widener University Delaware Law School

Miriam Cherry, Professor, St. Louis
University School of Law
David Hoffman, Professor, University of
Pennsylvania Carey Law School
Maureen Arellano Weston, Professor,
Pepperdine University Caruso School of
Law

**2:20–3:40 pm Does the First
Amendment Limit the
Enforcement
of NDAs?**
Moderator: Alan Garfield, Professor,
Widener University Delaware Law School

Seth Kreimer, Professor, University of
Pennsylvania Carey Law School

Burt Neuborne, Visiting Professor,
University of California Berkeley School
of Law; Professor Emeritus, New York
University School of Law

Rodney Smolla, Dean and Professor,
Widener University Delaware Law School

3:45–4:00 pm Break

4:00–5:00 pm The Ethics of Using NDAs
Moderator, Dana Harrington Conner,
Professor, Widener University Delaware
Law School

Jon Bauer, Professor, University of
Connecticut School of Law

Nora Freeman Engstrom, Professor,
Stanford Law School

Richard Zitrin, Professor, University of
California Hastings College of the Law

5:00–5:05 pm Closing Remarks
Alan Garfield, Professor, Widener University
Delaware Law School

Course materials will be distributed electronically.

Online registration is required at
delawarelaw.widener.edu/lawreviewcle.

For questions or for accessibility or special
needs requests, contact Carol Perrupato at
caperrupato@widener.edu.

REGISTRATION INFORMATION

CLE Registration —In person	\$200
CLE Registration —Via ZOOM	\$175
Delaware Law Alumni	\$175
Students	Free

If health concerns prevent holding an in-person
program, the program will be held entirely
online. Registrants for the in-person program
could request either a full refund or a partial
refund if they plan to attend the online program.
**Registrants attending the live program must
wear a mask and show proof of vaccination
upon arrival.**