

Twitter Thread by Melissa J. Hogan



Melissa J. Hogan

@melissajhogan



■ @DianeLangberg wrote about NDAs in Christian environments, noting “An NDA is an agreement to hide something. In the cases I have encountered it has always been an agreement to exercise power over and hide sin.... [it is] unlike our Lord.”

1/

NDAs are traditionally “non-disclosure” - don’t talk about specific X. Often in church/ministry cases - they’re overly broad - don’t talk abt *anything* re: your employment

but also may include

“non-disparagement” - don’t say anything negative about us EVEN IF IT IS TRUE

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Numerous articles have described the use of NDAs in Christian environments and the conflict with principles described in the very faith supposedly being promoted. I’m linking them here then I’ll offer my 20-year lawyer and victim of silencing (gag order) take on the practice.

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“Silence of the sheep” (2018) from @emlybelz described how the conference of catholic bishops has now banned NDAs in abuse cases but how some churches and Christian orgs still use them without pause.

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<https://t.co/sU6dy4eISn>

Later in 2018, @scotmcknight discussed NDAs after the Bill Hybels sex abuse scandal, noting that often the stronger party is implicated in sin because the whole reason for the NDA is bc they know that something is wrong and they don’t want it known.

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<https://t.co/MaNMExWoZk>

Christianity Today @CTmagazine followed in 2019 with a podcast discussion on the use of NDAs, one factor being that secular practices have been applied to Christian environments

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<https://t.co/a0nyaRs724>

In 2020, [@MinistryWatch](#) noted how Harvey Weinstein, Bill O'Reilly, Bill Cosby, The Catholic Church, and Donald Trump have weaponized NDAs to hide sexual abuse, helping them abuse again and how Roger Ailes used an NDA to hide sexual harassment.

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<https://t.co/62u18SLHKx>

The [@MinistryWatch](#) article continued to describe other situations where churches or ministries used to try to hide shady financial practices, cultish behavior, or types of abuse.

8/

Other blogs are even clearer in arguing, like [@DianeLangberg](#), that NDAs should not be used because:

- 1) NDAs silence victims
- 2) NDAs protect perpetrators
- 3) NDAs eschew a gospel-shaped response to sin in favour of a secular response to sin

9/

<https://t.co/FbBf0CQuXB>

"Using non-disclosure agreements is, it seems to me, a failure—a failure to properly protect victims, a failure to properly call sinners to account for their ungodly behaviour, and a failure to trust the gospel to do its mighty reconciling work."

10/

<https://t.co/FbBf0CQuXB>

One anonymous writer describes their experience of signing an NDA after pressure by the org and how it was used to hide allegations of mismanagement, failures of safeguarding, and bullying. The article also describes breaking the NDA, why and how.

11/

<https://t.co/VpSCOnNtEb>

After that thorough background of NDAs in Christian context, let me describe my experience.

In my early law practice, I was a business lawyer. I often used non-disclosure/non-disparagement clauses in contracts purchasing businesses & some employment contracts.

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These were negotiated contracts of mutual benefit between legally represented and sophisticated business parties. The situations generally involved proprietary info (think inventions/tech), maybe private health care info, business expansion plans and growth strategies, etc.

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Those were the kinds of things subject to non-disclosure - so that a purchaser received the full benefit of what they were buying. Non-disparagement so the reputation of the business changing hands remained as expected - a bootstrap to

disclosures and reps about the business.

14/

Sometimes owner/sellers, high executives were also subject to NDAs, again, for the purpose of the purchaser getting the business that they expected to get and that was being represented to them elsewhere in the agreement.

15/

NDAs are born out of mistrust. I don't fully trust that you will keep my business ideas confidential. I don't fully trust that you'll speak well of my company, myself, etc. Therefore, I need a contract to make sure you stay quiet and only say nice things or I get to sue you.

16/

My experience in business, as a lawyer with NDAs is the polar opposite of an employer firing an employee and then saying "we want to be generous, here's \$X, just sign this agreement," which just happens to include a forever non-disclosure / non-disparagement agreement.

17/

Imagine one moment you have an income & your family has health insurance. The next moment you don't. The employer who just fired you declares their generosity & offers \$ (reminding you they don't have to) -taking advantage of your dire financial situation that *they* created.

18/

The practice I understand is used at [@daveramsey](#) mirrors one described from [@OpenDoors](#). The leaving employee said, "If I didn't accept the agreement, we wouldn't have been able to pay our bills."

19/

<https://t.co/sU6dy4eISn>

In some cases, they may say you only have today to consider. In other cases, they may say, take it home & consider. When you don't quickly reply, they threaten to take it off the table. Maybe you already know they're telling former colleagues false reasons for your departure.

20/

Do you see the vast difference between the sale of a business using an NDA versus an employer kicking an employee to the curb and attempting to look generous by paying them for their silence and smile? It's not generosity. It's a contract for silence.

21/

They want an NDA contract because they don't trust you to keep their secrets. Not proprietary info. Secrets about what's happening there. They don't trust you to speak well of them. Why is that? Bc it is an abusive environment that many don't realize until they leave.

22/

So add the wrinkle that this employer claims to operate based on biblical principles. And exports their practices to other employers. It is bonkers that [@daveramsey](#) has been able to pull this off and maintain a Christian image for so long.

23/

If ...

- 1) you're not a lawyer
- 2) your employer claims to love Jesus and be doing his work
- 3) your employer emphasizes loyalty & trusting them
- 4) you are forbidden to discuss experiences & working conditions with your colleagues
- 5) you suddenly need \$

almost everyone signs.

24/

You know who might not sign?

People who:

- 1) realize their employer lied to them
- 2) realize their work environment was abusive
- 3) think their firing might be illegal
- 4) know others have similar stories
- 5) have enough \$ or a new job soon
- 6) HAVE SHOWED IT TO A LAWYER

25/

In other words (not legal advice):

- Read everything before signing
- Ideally get legal advice
- If you can (financially) avoid NDA, it's a good idea
- Don't presume good intent of the other party
- You may not realize what you know or problems with your workplace until later

26/

More good thoughts on @DianeLangberg's article and NDAs

27/ <https://t.co/LmdDPEYyHm>

"Humans who have been mistreated, abused or used in some fashion [...] [are] asked to agree to cover-up wrongdoing for the sake of the system \u2013 or worse, for the sake of God\u2019s reputation. It suggests that to speak truth is to hurt God and his name. How can this be?" <https://t.co/qCKE0cSmSC>

— Lauren Thoman (@LaurenThoman) February 16, 2021

If you've never thought about whether or not your former colleagues are under NDAs, maybe you're not a safe person for them to share with. How to be a safe person? Lauren breaks it down. Hint: silence is not an option. <https://t.co/m9JslnPXDl>

I should mention, this is why I keep talking about this. Because I know so many people who legally CAN'T.

How do I know they have NDAs, if they can't talk legally about them? Because they trusted me with their secrets... after I said something. That's how they knew I was safe. <https://t.co/M278njx2ct>

— Lauren Thoman (@LaurenThoman) February 16, 2021

An example of how someone can basically be under financial duress and have little choice but to sign an overly broad NDA

BY A CHURCH

(Why oh why? How is this Jesus?)

29/ <https://t.co/CNlbQl9Bw6>

A local church fired an employee (after letting them serve for 5 services that day.) They knew this person had just bought a house, had a child on the way, etc. But they took advantage of his financial situation to effectively force acceptance of an unreasonably broad NDA. <https://t.co/mp4DCVAdV0>

— Jeremy Pinnix (@jpinnix) February 16, 2021

I have also personally signed NDAs - related to rare disease focus groups and discussions with companies about research programs.

These were specific in their purpose. Equal power. No financial duress, much less financial difficulty created by the powerful party.

30/ <https://t.co/4gSC9GaRFs>

Exactly. I once signed an NDA for a major fruit company \U0001f609 to test an unreleased device (with complications). This was to protect specific tangible knowledge that had value. <https://t.co/5EtbFRMmle>

— Jeremy Pinnix (@jpinnix) February 16, 2021