

# ULFA News



## CAUT CAS Conference

Dr. Dan O'Donnell recently attended the CAUT Contract Academic Staff Conference. Turn to page 8 as he recounts his experiences and lessons learned.

Pages 8-9

## Copyright Corner

In this edition, Dr. Rumi Graham updates on copyright cases involving universities, looking at Access Copyright v. York University, Copibec v. Université Laval, and Cambridge University Press v. Becker (U.S.).

Page 6-7

## A Word from the President

With the fall semester over halfway done, ULFA's President Andrea Amelinckx would like to take this opportunity to update the membership on the Association's activities.

Page 2

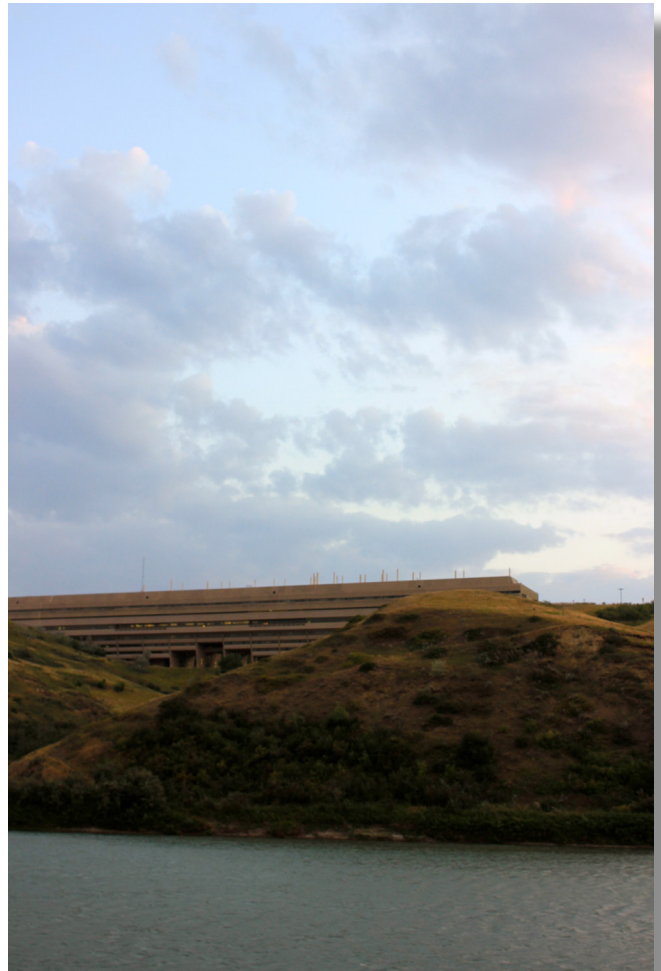


## Inside this Issue:

- Page 2 A Word from the President
- Page 3 ULFA Social Media
- Page 4 Committee Updates
- Page 7 Copyright Corner
- Page 9 CAUT Contract Academic Staff Workshop
- Page 11 Upcoming Events & Workshops
- Page 12 ULFA's Executive Committee 2017/2018

# A Word from the President

*A*s the Fall semester winds towards a close, ULFA looks back over the last year and all the challenges that ULFA has addressed and many that we have resolved. ULFA has been very busy preparing for upcoming bargaining under the new bargaining regime and environment following the legislative changes that occurred this past Spring. We have also been actively involved in working towards resolving our many grievances with the Board of Governors. On that front, we have two groups of grievances scheduled for arbitration hearings in December, March and April. As well, I am pleased to report welcome news regarding our member who had been suspended for over a year. The Board of Governors of the University of Lethbridge and the University of Lethbridge Faculty Association have agreed that the outstanding issues that have been raised concerning Dr. Anthony Hall will be addressed in the context of the Faculty Handbook. As a result, the suspension imposed on Dr. Hall has been lifted and he has returned back to work at the University. The parties will be fully participating in the agreed upon processes in the Faculty Handbook to investigate and address the outstanding issues. We welcome Dr. Hall back this week and look forward to working towards positive resolution with the Board of Governors on all our outstanding issues as we move into 2018. I invite all of you to attend the Fall General Meeting on December 7th from noon until 3pm in PE275.



# Like & Follow us on Facebook and Twitter

ULFA has entered the digital era. Please Like and Follow our social media accounts to stay up to date on Faculty Association events and updates.

## Facebook

@ULFacultyAssociation or

<https://www.facebook.com/ULFacultyAssociation/>

facebook

Email or Phone

Password

Log In

Forgotten account?

ULFA

@ULFacultyAssociation

Home

About

Posts

Photos

Like Share Suggest Edits ...

Contact Us

Message

## Twitter

@ULFAssociation or

<https://twitter.com/ULFAssociation>

UNIVERSITY OF LETHBRIDGE FACULTY ASSOCIATION

ULFA

@ULFAssociation

Tweets 7

Following 52

Followers 23



# Committee Updates

## Gender, Equity & Diversity

The Gender, Equity and Diversity Committee has met several times this term, and we have identified our projects for the year. We are splitting into sub-groups to tackle each of these. Projects include finishing an annotated bibliography on the impact bias might have in student evaluations of teaching, along with a recommendation on their use in formal evaluations; looking at issues of salary equity; an analysis of merit distribution, award distribution, and committee structures; potentially doing a diversity perception survey of members; and writing a Handbook article for a proposed Domestic Violence Leave.

Please feel free to reach out to any of our members if you have any questions, concerns, or comments about issues of equity and diversity on campus: Robert Benkoczi (Math & Computer Science), Andrea Cuellar (Anthropology), Bente Hansen (Music), Caroline Hodes (Women & Gender Studies), Sheila McManus (History), John Sheriff (Past Chair, Math & Computer Science), & Kelly Williams-Whitt (Management, Calgary Campus).



Nicole Eva,  
*Chair, Gender, Equity and  
Diversity Committee*

## Economic Benefits

Dear ULFA Members,

Since the last newsletter installment EBC has met on multiple occasions, during which the team has analyzed data and discussed negotiation strategies. As the Sessional Lecturers Handbook also expires this year, we have recently focused attention on topics that are relevant to Sessional Lecturers. Overall, we continue to move toward the development of opening proposals for bargaining.

In an effort to work closely with Handbooks, Dan O'Donnell (Chair of Handbooks) attended an EBC meeting. Dan will regularly attend EBC meetings when possible, and I plan to reciprocate with the Handbooks committee. Dan and I have also been convening biweekly to update each other on all matters related to negotiations, particularly those that impact both committees. Similarly, I recently partook in a conference call with chief bargainers from our other CAFA colleagues (Athabasca, U of C and U of A). Representatives from each institution provided information regarding their negotiation preparations, and in the case of U of C, ongoing negotiations. We have schedule future meetings to keep each other apprised of developments.

ULFA has also scheduled a meeting with the Board of Governors reps in early November to begin preliminary discussions of bargaining procedures as we transition to bargaining under the Labour Relations Code.

As part of our ongoing effort to prepare for negotiations, I will be participating in a workshop in Edmonton organized by Lancaster House entitled "Ramping up Bargaining in a Strike/ Lockout Era: Practical advice from the experts" in November.

As always, do not hesitate to direct questions or concerns regarding EB matters to the ULFA office, myself ([p.hayes@uleth.ca](mailto:p.hayes@uleth.ca), 403-329-2313) or any member of EBC.



Paul Hayes,  
*Chair, Economic Benefits  
Committee*

## Grievance

It has been a busy month, but also a month in which we've made a lot of progress towards resolving many of the issues that had arisen over the past year and more. Following the decision of Judge ... in last summer's court case regarding the ULFA member suspended in fall of 2016 heard, and with considerable help from experienced legal counsel, the Board and ULFA have been working towards a global resolution document. We have reached agreement in principle on the terms, and are working on details of the language as we try to ensure that everything is clearly set out and all concerns are dealt with. We expect the member to return to work shortly after the agreement is finalized. In future we expect handbook processes will be used in any similar situation, ensuring that members are protected and we are able to represent their interests as the collective agreement requires.

An arbitrator has been selected for grievances re. merit pool/salary calculations. Legal counsel for ULFA and the University are working to schedule the arbitration hearing. We believe our position is supported by the relevant language in our Handbook, and hope the result of the arbitration will be a correction in merit amounts for members on part time contracts in recent years. Related concerns about contributions to the merit pool are being negotiated with the Board; we expect to reach an agreement on these in the very near future.

Concerns regarding the language used regarding 'new evidence' in STP Appeal Processes are also being negotiated. The resolution of our concerns will include a draft communication for appellants directing their attention to relevant Handbook language.

ULFA has also been working with the administration to deal with some incidents involving an ULFA member, including vandalized posters in University Hall and insulting communications with classes. ULFA was consulted during the process, which led to the member being temporarily suspended with pay. We will continue to assist the member in reaching a resolution.

Finally, a member negotiating a reduced load contract was asked to agree that any resolution of our grievance regarding members on such contracts would not apply retroactively to the member. At this time no grievance has been brought in the case while negotiations continue, but it may become the subject of a grievance if the member is unable to negotiate better language.

All in all, I want to emphasize here that we are very pleased with the progress that has been made, and look forward hopefully to resolving the issues that are still outstanding, in the constructive and straightforward way that has characterized our recent engagement with the Board.



Bryson Brown,  
*Chair, Grievance Committee*

# Committee Updates

## Handbooks

The Handbooks and Bargaining committees are getting more and more active as we get closer to the beginning of this new round of negotiations. Elsewhere in the newsletter, you'll be able to read about our trip out to the CAUT Workshop on Sessional Bargaining. Members of the Handbooks and Bargaining teams have also attended a workshop on Bargaining in the Lockout Strike Environment hosted by Lancaster House, given a presentation on the current state of our preparations for the unlikely event of a Lockout or Strike, and attended a first meeting with the Board negotiators concerning technical aspects of negotiations under the new labour rules. In addition, we've also had several sessions with the Faculty Association labour lawyer Leanne Chaley concerning specific questions of law in relation to the new rules.

While members of the Bargaining team have been attending these workshops and talking to Leanne, the Handbooks Committee itself has also been hard at work. The things we've been looking at include

Articles that are affected by or superseded by the new rules in the Labour Relations Code

Places in which the Sessional and Faculty Handbook overlap

Beyond these, there are a number of other issues we have been following on the advice of members or in response to long-standing member concerns.

One important difference this year is that we almost certainly must bargain at "one table" (i.e. combine Handbook and Economic issues as part of a single negotiation. Traditionally, we have always separated these and bargained at two "tables." In preparation for this new form of bargaining, members of the Handbooks and Economic Benefits Committees will be working increasingly closely through December and January as we start turning our research into actual negotiating positions.

The Bargaining Committee maintains a blog containing regular negotiating updates. You can access it through our Facebook Group ([facebook.com/ULFacultyAssociation/](https://www.facebook.com/ULFacultyAssociation/)), by following the Faculty Association on Twitter ([twitter.com/ULFAssociation](https://twitter.com/ULFAssociation)), or directly from the ULFA site ([ulfa.ca/bargaining-updates](http://ulfa.ca/bargaining-updates)).

Thanks, as always to the members of the Handbooks Committee: Chris Burton, Ian McAdam, Patrick Wilson, YJ Bao, Lance Chong, John Usher, and David Scott. Also to the members of the Bargaining Committee: Annabree Fairweather, Paul Hayes, Dan O'Donnell, and Terry Sway.



Dan O'Donnell,  
*Chair, Handbooks Committee*



# Copyright Corner

## Update on Copyright Cases Involving Universities

### *Access Copyright v. York University*

In the [September/October 2017](#) newsletter I summarized the Federal Court's recent decision favouring Access Copyright on both of the two main matters at issue: whether an approved tariff is mandatory, and whether York's fair dealing guidelines are fair. On September 22, York filed an [appeal](#) that asks the Federal Court of Appeal to:

- set aside the July 12, 2017 Federal Court ruling,
- dismiss Access Copyright's action, and
- grant York's declarations that its fair dealing guidelines are fair and that the Copyright Board-certified interim tariff covering 2011 to 2013 is voluntary and therefore not enforceable against York.

The appeal further claims that York was denied procedural fairness. In York's view, the July ruling addressed matters beyond those determined in 2014 by the case management judge to be the subject of the Phase I trial that concluded in June 2016.

Over the past month, additional publicly available information about the case from the postsecondary sector, besides the filing of York's appeal, has been scarce. On the day the Federal Court ruling was released, [CAUT](#) expressed disappointment in what it sees as a setback for balanced copyright and [Universities Canada](#) said only that it is reviewing the decision carefully.

### *Copibec v. Université Laval*

In the [March/April 2017](#) newsletter I noted a Quebec Court of Appeal ruling that overturned the February 2016 dismissal by the Quebec Superior Court of Copibec's application for authorization of a class action against Laval. Laval is the only Quebec institution to adopt fair dealing guidelines similar to those held by most Canadian universities outside of Quebec and to opt out of blanket licensing for educational copying.

The successful appeal ruling in February 2017 meant Copibec was authorized to go back to the Superior Court to pursue its class action. On September 7, 2017 Copibec published its class action [notice](#), which also informed authors not wishing to be part of the class of the opt-out deadline, October 16, 2017.

A Copibec [information page](#) about this case outlines the required steps for launching a class action. One Quebec author who is eligible to be a party to the class action explains he has decided to [opt out](#) for two main reasons: "1) the suit ignores the business realities of the academic setting and 2) it constitutes a severe breach of academic freedom and intellectual freedom, which are intertwined with freedom of expression."





## ***Cambridge University Press v. Becker (U.S.)***

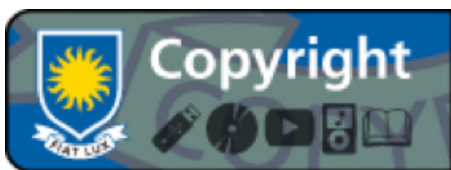
It's useful to keep in mind that ongoing cases reflecting sharply divergent positions held by copyright collectives and publicly funded universities on what constitutes statutorily allowed educational copying are not limited to Canada. In 2008, Georgia State University (GSU) was sued for allegedly infringing copyright by making unlicensed book excerpts available on e-reserve.

The suit was filed by three academic publishers—Cambridge, Oxford and Sage—but in its 2012 decision, the District Court of Northern Georgia said “the Court infers that CCC [Copyright Clearance Center] and AAP [Association of American Publishers] organized the litigation and recruited the three plaintiffs to participate.” The CCC is the only U.S. (and the world’s largest) copyright collective for textual works.

The publishers appealed the 2012 decision which largely favoured GSU – of the publishers’ 99 book chapters that GSU had placed on e-reserve, the District Court found only 5 to be infringing. In 2014 the publishers won their appeal as the Court of Appeals for the Eleventh Circuit reversed and remanded the District Court decision on the basis that the Court’s fair use analyses were in several instances flawed.

On remand, the District Court delivered a new opinion in 2016 in which GSU was once again the prevailing party, as only 4 of the 48 reanalyzed excerpts were determined to be infringing. But the case is not over yet, as the publishers appealed the 2016 decision. The Eleventh Circuit hearing took place in July 2017, and so we now await the Court of Appeal’s latest opinion. For more information on this continuing saga, see the [GSU Library Copyright Lawsuit](#) research guide.

As always, if you have copyright questions or would like advice or information on copyright matters in your teaching, research or other U of L work, please feel free to contact me.



E-mail: [copyright@uleth.ca](mailto:copyright@uleth.ca)

Phone: 403-332-4472

Website: [www.uleth.ca/copyright](http://www.uleth.ca/copyright)



Rumi Graham,  
*University Copyright Advisor*



# CAUT Contract Academic Staff Conference

Contract Academic Staff (CAS) is CAUT's term for employees who are paid on a per-course, short term, and contractual basis--the group known as "Sessional Lecturers" at the University of Lethbridge.

Last week, ULFA Executive Director Annabree Fairweather and I attended the Canadian Association of University Teachers (CAUT) Contract Academic Staff workshop in Toronto.

The struggles of CAS for fair working conditions and pay, as well as universities' use of such contracts to replace longer-term research and teaching faculty is a major issue across North America. In many places, contractual staff now teach a majority of the credit hours on campus.

The programme for the workshop called for a day of presentations and then an all day workshop practicing various elements involved in representing CAS at the University.

Annabree was one of a select group of invited speakers who played a role on both days. On the first day, she discussed ULFA's experiences in representing contract faculty, particularly in negotiations and grievance. On the second day, she was the expert invited to introduce the grievance workshop.

In addition to attending lectures and the workshop, participants also joined an exciting lunch-time rally by and for striking college workers at Toronto's Huron College.

## The Programme

The conference began with session "We know what is wrong." This looked at the well-known issues that can make contract work so demoralising and difficult. Lack of respect from administration (and often peers and students). Low pay. Lack of long-term certainty about employment and financial insecurity. Susceptibility to bullying from senior colleagues and administration due to the precarious nature of such contracts. Particularly moving and important in this session was the discussion from contract staff themselves about the impact poor working conditions can have on their research, health, family, and teaching.

The remaining sessions on the first day looked at the "Core Struggles" affecting this group of employees--Bargaining and Contract Language, Grievances, and Mobilization. Speakers discussed approaches they had taken in each of these areas to win improved job conditions and pay for contract staff. Most of the speakers were contract staff in their own right and it was very inspirational to see just how much they had been able to accomplish at Universities



*Rapper Mohammad Ali rouses the crowd at the Humber College Rally*

across the country, including several that are often compared to the University of Lethbridge or otherwise used as comparators by our administration.

On the second day, the participants divided up into breakout groups, each of which practiced a single skill involved in the representation of contract staff. I was assigned to the grievance group, where we discussed and prepared a grievance for contract staff at a fictitious Canadian University, Great Northern U. Annabree was assigned to a different group, who practiced making short, effective cellphone videos. Other groups looked at preparing negotiating language, writing press-releases, and preparing information fliers, posters, and websites.

## Lessons Learned

One lesson to come out of this workshop was just how far behind the norms in our sector the University of Lethbridge is in protecting and developing its contract academic workforce. Even compared to similar universities in similar jurisdictions and locations, our current collective agreement has fewer protections for our contract staff.

But perhaps most of all, it is clear that we lag behind much of the country in understanding who our contract staff are and why protecting their rights and improving their relationship to the university is in all our interests.

At the University of Lethbridge, we tend to understand CAS as a short term solution to emergent problems: the people we hire to teach courses when holes appear in our schedule or to replace people on leave. Throughout, the emphasis is on limiting our relationship to these employees purely to the time they are under contract.

While flexibility is an important aspect of CAS employment everywhere, the best universities in Canada tend to understand contract staff as a crucial part of their faculty: a group of professionals who can provide both flexibility

and continuity and whose expertise and skills can be cultivated and developed in a mutually beneficial way. Recognising the important role sessional faculty play at the university and cultivating this relationship on a longer term basis improves the working conditions, job satisfaction, and effectiveness of the contract staff without compromising the university's flexibility. The best collective agreements in Canada understand contract staff as valuable and uniquely flexible teaching professionals and provide reasonable professional support and continuity.

This is a place where we can do much better as a community! While at the CAUT meeting, we met a number of experts who will be able to assist us in reviewing our contract and thinking through the steps we need to take with the administration to ensure we really are a destination university for everybody who works and studies here.

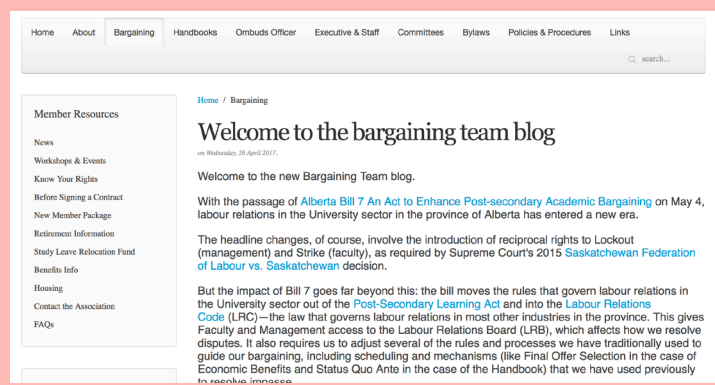


Dan O'Donnell,  
*Chair, Handbooks Committee*

# ULFA Bargaining Blog

Read the full article on the bargaining blog found on ULFA's website,

[www.ulfa.ca/bargaining-updates](http://www.ulfa.ca/bargaining-updates)



The screenshot shows the ULFA website's navigation menu with 'Bargaining' selected. The main content area features a 'Welcome to the bargaining team blog' post dated 26 April 2017. The post text reads: 'Welcome to the new Bargaining Team blog. With the passage of Alberta Bill 7 An Act to Enhance Post-secondary Academic Bargaining on May 4, labour relations in the University sector in the province of Alberta has entered a new era. The headline changes, of course, involve the introduction of reciprocal rights to Lockout (management) and Strike (faculty), as required by Supreme Court's 2015 Saskatchewan Federation of Labour vs. Saskatchewan decision. But the impact of Bill 7 goes far beyond this: the bill moves the rules that govern labour relations in the University sector out of the Post-Secondary Learning Act and into the Labour Relations Code (LRC)—the law that governs labour relations in most other industries in the province. This gives Faculty and Management access to the Labour Relations Board (LRB), which affects how we resolve disputes. It also requires us to adjust several of the rules and processes we have traditionally used to guide our bargaining, including scheduling and mechanisms (like Final Offer Selection in the case of Economic Benefits and Status Quo Ante in the case of the Handbook) that we have used previously to resolve impasse.'



# UPCOMING EVENTS & WORKSHOPS

## Fall General Meeting

When: Thursday, December 7, 2017

Time: 12:00 – 3:00pm

Where: PE275

The provisional agenda will be circulated 3 weeks prior to the meeting. Lunch and beverages (alcoholic and non-alcoholic) will be provided.

Video conferencing will be offered using the university's WebEx program. This will allow members the ability to attend the meeting from anywhere in the world, whether they are on the Calgary campus, in their office, or abroad on study leave. To attend the meeting via WebEx, make arrangements with Derrick ([antson@uleth.ca](mailto:antson@uleth.ca) or 403-329-2578) by December 1, 2017 and he will ensure you receive the meeting invite.

## STP Workshops for Applicants

Workshop Option #1:

Tuesday, March 27, 2018

Room: TBA

Workshop Option #2:

Wednesday, March 28, 2018

2018

Room: TBA

The presentation will cover the STP process as well as provide advice on putting together a teaching dossier, research materials, and the service component of your application. As well, there will be information on how to engage the appeal process in the event of an unfavourable decision, along with a question and answer period.

An RSVP is not required; however, it would be greatly appreciated. To RSVP your attendance, please contact Derrick via phone (ext. 2578) or by email ([antson@uleth.ca](mailto:antson@uleth.ca)).

## Annual General Meeting

When: Monday, April 16, 2018; 12:00 - 3:00 p.m.

Where: TBA

The provisional agenda will be circulated 3 weeks prior to the meeting. Lunch and beverages (alcoholic and non-alcoholic) will be provided.

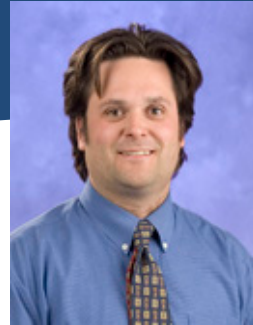




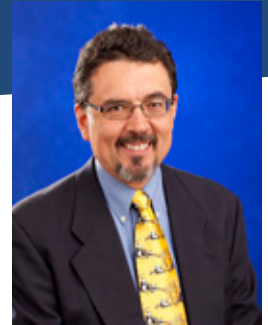
Andrea Amelinckx  
*President*



David Kaminski  
*Past President*



Jon Doan  
*VP/President Nominate*



Richard Mueller  
*Secretary/Treasurer*



Dan O'Donnell  
*Chair, Handbooks  
Committee*



Paul Hayes  
*Chair, Economic  
Benefits Committee*



Bryson Brown  
*Chair, Grievance  
Committee*



Nicole Eva  
*Chair, Gender, Equity  
and Diversity Committee*



Jim Wishloff  
*Ombuds Officer*



Annabree Fairweather  
*Executive Director*



Derrick Antson  
*Professional Officer*

Current and past issues of ULFA news are posted on  
the Association's website ([www.ulfa.ca](http://www.ulfa.ca))

