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## Professor wins \$1.2 million for "egregious" sacking

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An academic found to have been unlawfully dismissed by James Cook University over criticisms of prominent climate research has been awarded more than \$1.2 million, the presiding judge excoriating the institution over its "egregious abuse of power" and public statements intended to "sow doubt" about his findings.

Federal Circuit Court Judge Salvatore Vasta in his penalty ruling published today awarded Professor Peter Ridd, former head of JCU's physics departments, a total of \$1,219,214.47, \$125,000 of which was imposed as a penalty for multiple agreement breaches under [s50](#) of the Fair Work Act.

Although not requested by Professor Ridd, he also made declarations for 13 specific contraventions by the university.

In April, Judge Vasta [found](#) that the university unlawfully dismissed Professor Ridd in May 2018, ruling that its [code of conduct](#) was "subordinate" to an intellectual freedom [clause](#) in its 2013 [agreement](#) (see [Related Article](#)).

The dismissal followed findings by JCU that Professor Ridd breached its code of conduct by denigrating the university and his colleagues and by failing to maintain confidentiality or behave "in a way that upholds the integrity and good reputation of the university".

Professor Ridd told a journalist in 2015 that "bad science" and misleading photos were circulating about the effect of climate change on the Great Barrier Reef and suggested that key stakeholder institutions interacting with JCU needed to "check their facts before they spin their story".

Judge Vasta held that JCU made a "fundamental error" by assuming that its code of conduct took precedence over clause 14, which "pervades their conduct throughout the whole of their interaction".

The decision was at the time [criticised](#) by JCU Provost Professor Chris Cocklin, who said it did not "refer to any case law, nor any authority in Australia to support its position".

## Employers "don't want a bar of me": Professor

Described as a "fixture" on campus, having begun study there in 1978 and become a full-time staff member in 1989, Professor Ridd gave evidence that he had earned just \$3000 for consultancy work since his dismissal, and that his employment prospects were grim as "most big institutions don't want a bar of somebody who has been through my sort of controversy".

Agreeing, Judge Vasta pointed to the role played by the statement issued by Provost Professor Cocklin before his decision was made public, which followed on from a group email to JCU's mailing list and a link provided on JCU's Twitter feed.

"The email was a blatant attempt to undermine this court's decision and sow doubts about findings that had both vindicated the position taken by Professor Ridd and restored his reputation," Judge Vasta said.

"While it has been said that such a response from a litigant is 'unprecedented', I have been at pains to ensure that the court does not 'punish' JCU for publishing the statement.

"However. . . the email, press release and tweet are not insignificant matters when the assessment of compensation and pecuniary penalties are considered.

"The nature of the public comments. . . (and their impact on Professor Ridd in particular) are an aspect that must be and has been taken into account by me."

## "The heart of intellectual freedom"

Observing that Professor Ridd had "endured over three years of unfair treatment by JCU", the judge said that there nevertheless was "no malice or vindictiveness in [his] manner".

"He has sought to debate matters of public significance via a legitimate true scientific process where ideas are matched against each other in the search for truth.

"This is at the heart of intellectual freedom.

"That freedom is all that Professor Ridd has ever sought to exercise.

"He would have continued to do so but for the myopic and unjustified actions of his lifelong employer."

Noting that the professor had been "painted as 'non-collegiate', 'recalcitrant' and even 'dishonest'", Judge Vasta said "none of these are attributes that can be seen in this man".

"He has been ostracized from the academic community and accused of 'serious misconduct' and was deliberately made to feel isolated via the making of unlawful directions as to confidentiality."

Pointing out that JCU had received legal advice its confidentiality directions were unlawful and that the professor was exercising his rights under clause 14 of the agreement, Judge Vasta said that it then "deliberately set out on a course of conduct that was unfair to an employee".

"There has been no acknowledgement whatsoever that the behaviour of JCU has been unlawful.

"There has been no acknowledgement by JCU that the treatment of Professor Ridd has been unfair.

"This is why deterrence looms large in the assessment of the appropriate pecuniary penalties."

## Rights "trampled over"

Describing the first contravention as "serious", Judge Vasta said the professor "was entitled to write what he wrote without fear of retribution because he was acting in accordance with his rights".

"The second contravention is more serious.

"The manner in which JCU trawled through his emails, to try and find some more evidence of breaches of the Code of Conduct, was reprehensibly unfair to Professor Ridd, especially since he was entitled to write everything that he wrote.

"The third contravention is extremely serious.

"The directions to Professor Ridd were unlawful and trampled over his rights.

"This was a contravention that was repeated a number of times despite JCU being told, in no uncertain terms, of the unlawfulness of their conduct in making such directions.

"This represents an egregious abuse of the power an employer has over an employee.

"It is well understandable that Professor Ridd believed that he was being gagged by the University.

"Objectively, there is no other reason for the making of directions of the sort made here.

The final contravention, he said, "is the most serious of all".

"There was no justification for the termination of Professor Ridd.

"To terminate a long-standing and productive employee because he was exercising his workplace rights is the most serious breach that an employer can make under the current industrial relations regime.

"This course of action deserves condign 'punishment' that will deter both this university and any other employer from dismissing an employee for exercising basic workplace rights."

In determining appropriate compensation, the judge assessed that Professor Ridd would have worked full-time until December 24, 2021 and part-time from then until the day before his 64th birthday on December 24, 2024.

He discounted 5% for "the vicissitudes of life".

Ridd was represented by Stuart Wood QC, currently acting for sacked rugby player Israel Folau in what has been styled as another free speech [case](#) (see [Related Article](#) and Folau's statement of claim [here](#)).

[Ridd v James Cook University \(No.2\) \[2019\] FCCA 2489 \(6 September 2019\)](#)

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