



A recent case shows that if an employee receives a settlement conditional on a promise to keep it confidential, she will be held to it!*

Following an employee's termination of employment, her union grieved the termination. The employer ultimately settled the matter by paying the employee two years' of compensation. Part of the settlement included confidentiality and non-disparagement terms, stipulating the employee would have to repay the settlement if she breached them. (Such terms usually exempt a spouse and a legal adviser.) The employee wrote a book in which she repeatedly referred to the large sum of money she had received from her former employer. Not surprisingly, the arbitrator found that the employee had breached the confidentiality term. Somewhat more surprisingly, the arbitrator ordered the employee to repay the lump sum.

In reviewing the arbitrator's decision, the Divisional Court concluded the arbitrator's finding was reasonable: the confidentiality provision was extremely important to the employer and the repayment term was simply an enforcement mechanism. This reflects an important business reality: often when we are negotiating on behalf of one of our doctors, the doctor may not even consider settlement unless it would be strictly confidential. Otherwise, the doctor can expect to be faced with copy-cat claims by other employees. Accordingly, we are pleased to see the Court take a rational and practical approach that will encourage businesses to settle. If an employee receives a settlement and promises to keep it confidential, the Court will hold her to it!

To learn more, or to discuss a problem employee or possible termination, [contact us today!](#)

* *Wong v. Globe and Mail*, 2014 ONSC 6372.



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