

## ***Loose Lips Sink Ships...And Wallets!***

The Ontario Divisional Court has ordered a former reporter of The Globe and Mail (the “Globe”) to pay back a \$209,912.00 settlement with the newspaper after she disclosed confidential information regarding the terms of the settlement in a book she authored.

Jan Wong was employed by the Globe for 21 years as a journalist. Her employment was terminated when she refused to return to work when the Globe denied her request for a paid medical leave of absence. As a member of the union, Ms. Wong grieved her termination and the denial of her request for a paid sick leave. The case settled and Ms. Wong received the value of the paid sick leave that she requested, as well as \$209,912.00 which represented two years’ salary. The settlement included a confidentiality clause.

After the settlement, Ms. Wong published a book which contained various statements that violated the confidentiality provisions contained in the settlement. In particular, the book alluded to the large settlement payment that she received on several occasions. In response, the Globe requested the Arbitrator order Ms. Wong to repay the settlement amounts on account of this breach of the confidentiality clause in the settlement agreement.

The Arbitrator found in favour of the Globe and ordered Ms. Wong to repay the \$209,912.00. This decision was upheld by the Ontario Divisional Court on appeal.

This case is a good example of the importance of including confidentiality language in a settlement agreement. Although employers cannot prevent a former employee from disclosing the terms of a settlement, where the settlement agreement contains clear language regarding the parties’ confidentiality obligations, as well as the penalty that will be imposed in the event of a breach, it provides recourse to the employer in the event of a breach. A breach of confidentiality can be very damaging to an employer. Confidentiality language can also act as a deterrent to prevent the disclosure of confidential information.

If your organization is negotiating a settlement with a former employee, please contact a Service Provider at e2r® for assistance.