



# HUMAN RIGHTS TRIBUNAL OF ONTARIO

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**BETWEEN:**

**Cynthia Elliott**

**Applicant**

**-and-**

**Mills Pontiac Buick GMC Ltd.**

**Respondent**

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## INTERIM DECISION

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**Adjudicator:** Naomi Overend  
**Date:** November 29, 2010  
**File Number:** 2010-06526-I  
**Citation:** 2010 HRTO 2360  
**Indexed as:** **Elliott v. Mills Pontiac Buick GMC**

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[1] The applicant filed this Application, dated August 10, 2010, under s. 34 of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended, (the “Code”) alleging discrimination in employment on the basis of sex, sexual solicitation, family status and marital status.

[2] Following receipt of the respondent’s Response, the applicant sought to amend her Application by adding documents to it. She included the documents she wanted to add in her Request for Order During Proceedings (Form 10). Two of these three documents are communications in furtherance of settlement sent by counsel for the respondent to the applicant.

[3] The respondent has not waived any privilege over these documents, and asks that the Request be denied and the documents be sealed in its Response to the Request for Order (Form 11). The respondent takes no position with respect to the third document, a letter to the applicant from the insurer denying her claim for weekly indemnity benefits.

[4] Generally, applicants are not required to attach documents to their Application, although they are encouraged to list relevant documents in answer to question 16 on Form 1. Rather than attaching the letter to her Application, I order that the applicant’s Application be amended to include reference to the letter from Empire Life to the applicant, dated October 28, 2010, in answer to question 16.

[5] With respect to the remaining two documents, I agree with the Tribunal’s decision in *Renneboog v. Variform*, 2009 HRTO 1264 (CanLII), that settlement conversations are privileged and that there “are compelling reasons to protect the confidentiality of settlement discussions in order to encourage parties to engage in frank and fruitful efforts to resolve their disputes.” Accordingly, the applicant’s request to amend her Application to attach these two documents is denied.

[6] The only issue that remains is what to do with the two settlement letters, which are attached to both the applicant’s Request and the respondent’s Response to the

Request, and the applicant's reference to the contents of them in her answer to question 4 in the Request. I order that the documents be returned to the respective parties and the last sentence of the applicant's answer to question 4 in her Request be redacted in the Tribunal's file.

[7] I will not be assigned to hear this matter.

Dated at Toronto, this 29<sup>th</sup> day of November, 2010.

*"Signed by"*

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Naomi Overend  
Vice-chair