

**Attention is drawn to  
the order prohibiting  
publication of certain  
information as specified  
in this determination**

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2016] NZERA Wellington 113  
5578529

BETWEEN WESTERN INSTITUTE OF  
TECHNOLOGY AT  
TARANAKI  
Applicant

A N D DR CHRISTINE FENTON  
Respondent

Member of Authority: Rachel Larmer

Representatives: Hamish Kynaston, Counsel for Applicant  
Caroline McLorinan and Sean Maskill Counsel for  
Respondent

Investigation Meeting: 12 and 13 September 2016  
at New Plymouth

Written Record of Oral 15 September 2016  
Determination:

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**WRITTEN RECORD OF ORAL CONSENT DETERMINATION OF THE  
EMPLOYMENT RELATIONS AUTHORITY**

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**Employment relationship problem**

[1] At the conclusion of a two day Authority investigation meeting, the parties advised the Authority that they had reached a settlement of all issues between them, including costs, on the terms and conditions recorded in a confidential settlement

agreement signed by both parties on 13 September 2016 (“the Settlement”) and in accordance with the terms recorded in this oral consent determination.

[2] Dr Fenton acknowledges in hindsight that two of her Facebook posts about Western Institute of Technology at Taranaki (WITT) were disparaging of WITT and therefore in breach of her obligations under the Record of Settlement signed by the parties and a mediator under s.149 of the Employment Relations Act 2000.

[3] Dr Fenton apologises to WITT for her breaches and undertakes to comply with all of her obligations under the s.149 Record of Settlement in future. Dr Fenton will also make an agreed contribution towards WITT’s legal costs.

[4] The parties have agreed on additional settlement terms that they wish to remain confidential to the parties and their professional advisors so they have asked the Authority to issue a final non-publication order regarding these additional agreed terms of Settlement.

[5] For the purposes of preserving confidentiality I make a further order pursuant clause 10 of the Second Schedule of the Employment Relations Act 2000 prohibiting the publication of the terms of the Settlement, subject to the limited exception in paragraph [6] below.

[6] The Authority limits the application of this non-publication order to expressly exclude any restriction on producing these Settlement terms as evidence before the employment institutions in respect of any future litigation between the parties arising out of the obligations recorded in this oral consent determination or under the Record of Settlement under s.149 of the Employment Relations Act 2000.

[7] By consent, the Authority’s interim non-publication order issued at the commencement of its investigation meeting on 12 September 2016, which prohibits publication of the content of the alleged disparaging comments and the evidence each party gave of the alleged disparagement in support of their claims, has now been made into a final non-publication order.

[8] The interim non-publication order issued during the Authority’s investigation meeting on 13 September 2016, preventing publication of the evidence identifying the Source of the alleged WITT media leaks, is also now made into a final non-publication order.

[9] By consent, the terms of the Settlement signed by the parties on 13 September 2016 become orders of the Authority, so are final, binding and enforceable.

[10] A copy of the signed terms of the agreed Settlement are not attached to this determination in order to preserve their confidentiality but the original terms of Settlement signed by the parties will be held on the Authority's file for future reference.

**Rachel Larmer**  
**Member of the Employment Relations Authority**