

Confidentiality Agreements: Should You Agree to Secrecy?

If you sue someone, you or the other side will probably offer to settle the case. Settling a case means one side agrees to do something to avoid going to court. For example, if you sue a drunk driver for crashing into your car, the other side might offer to settle the case by promising to pay part of your medical bill.

But, sometimes a settlement offer comes with a catch — if you take the money, you have to promise to keep it a secret. This is called a confidentiality agreement. The promise might cover a few details, such as how much the driver agreed to pay. Or the promise might cover everything, including the name of the drunk driver.

Confidentiality agreements are usually a bad idea. If you sign a confidentiality agreement:

- You can't help your friends and neighbors if they have a similar problem.
- You can't talk with friends or family about what happened to you.
- You won't be able to warn anyone.
- The person or company that hurt you will be allowed to hide what they did — and that might let them hurt other people in the future.
- You could get sued if you accidentally break the confidentiality agreement.

Following are some real examples of why confidentiality agreements are bad

1. Someone else could get hurt:

- In a 1995 lawsuit, someone discovered evidence that a gun maker company had known for 50 years that one of its trigger designs had a problem; it could make a gun go off without pulling the trigger. The gun maker settled the lawsuit. But all the evidence was kept secret. Five years later, a gun with the same type of trigger misfired and killed a nine-year-old boy. His father didn't know about the defect until it was too late.

- A man crashed his Honda Civic. The air bags went off and launched sharp pieces of metal toward him, causing extensive injuries. He sued Honda and settled, but the settlement was confidential, and Honda did not tell regulators. Since then, many other people were injured by the same air bag defect.

2. You might get sued for talking:

- A 69-year-old man was fired from his job at a school and sued for age discrimination. The man's daughter had attended the school when he was fired and knew about the case. The school ultimately settled and paid the man \$80,000 plus back wages. As part of the settlement, he promised to keep the agreement a secret. But he told his daughter about the settlement and she told friends on Facebook. The school found out, took the man back to court, and the court cancelled the settlement.

Now, imagine that you win your case against this company:

- Would you tell your best friend or family members?
- What if someone you know said they were about to buy a car or get a mortgage from this company? Would you tell him or let him take his chances?



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June 2015