

Appendix

Alleged “Disparagement” Claimed by in *Apotex Inc. v. Nancy Olivieri*, Ontario Superior Court of Justice file CV-08-00365567

Paragraph 23 of the statement of claim of Apotex Inc. in *Apotex Inc. v Olivieri* states:

A list of the speaking engagements and publications by Dr. Olivieri since the Settlement of which Apotex is currently aware is attached as Schedule “A”. In each case, Dr. Olivieri either directly disparaged Apotex and/or deferiprone or acquiesced or consented to the disparagement.

The specific allegations listed in Schedule “A” to the statement of claim are as follows:

- (a) On March 9, 2005, Dr. Olivieri either spoke at or participated in a presentation for the University of Toronto Graduate Students’ Union, in Toronto, in which she disparaged Apotex and deferiprone.
- (b) On March 28, 2005, Dr. Olivieri spoke at The University of Guelph. In promoting her talk, the University published a profile about her which stated, in part, as follows:

...The case of University of Toronto clinician, Dr. Olivieri, gained attention when her research at the Hospital for Sick Children led her to believe that a new drug treatment posed dangers to some patients. It is alleged that the hospital and the university failed to come to her defence when Apotex, co-sponsor of the research, objected to her publishing her findings. It is further alleged that hospital and university officials and representatives of Apotex variously subjected her to workplace and other harassment.
- (c) On April 4, 2005, Dr. Olivieri spoke at the University of Guelph to a group called Students Against Corporate Control. Dr. Olivieri’s profile was posted on the “Tri-Cities Weekly Alternative Online Edition” website and makes disparaging references to Apotex.
- (d) On April 9, 2005, Dr. Olivieri was scheduled to speak at the University of Winnipeg under the topic title of, “When Academic Freedom and Corporate Interests Collide”. Although Dr. Olivieri did not attend the conference, she submitted a paper that was distributed by the University of Winnipeg Faculty Association Symposium entitled, “The Commercialization of Research and Medical Care – A Matter of Academic Freedom”.
- (e) On or about April 28, 2005, Nancy Olivieri participated in a presentation for or on behalf of professor Edward Shorter at an event entitled: “Social Sources of Psychopharmacology Part II – The University Crisis”, in Toronto.

- (f) On May 6, 2005, Dr. Olivieri was the subject of an article in the globeandmail.com written by Rick Salutin entitled “Globalization and the Dr. Olivieri ethics case”.
- (g) On or about May 9, 2005, Nancy Olivieri participated in a presentation with the Canadian Health Coalition under the topic of “The Precautionary Principle and Canada’s Approach to Risk”, in Ottawa.
- (h) On or about May 20, 2005, Nancy Olivieri participated in a seminar at Harvard University with the Medical Ethics Faculty, in Cambridge, MA, on “medical ethics”.
- (i) On May 24, 2005, Maclean’s magazine published a letter by Dr. Olivieri responding to a Maclean’s article published on May 9, 2005 by Dr. Miriam Shuchman entitled “The Dr. Olivieri case revisited”. In her letter, Dr. Olivieri disparages deferiprone.
- (j) On May 29, 2005, Dr. Olivieri was the keynote speaker at the Canadian Association of Emergency Physicians’ Annual Scientific Conference in Edmonton, Alberta. Her speech was titled, “Science for Sale: Secrecy and the Price of Silence in Medical Research”. In her profile, she is described, in part, as follows:

...Over the last seven years, Dr. Olivieri’s stand against a drug company seeking to silence her concerns about a drug in clinical trial has provoked a public controversy between scientists and researchers who oppose, and those who support, the increasing corporatization of research and of medical care.

She delivered a slide presentation of her views of the dispute and presented Apotex in a disparaging way, and also disparaged deferiprone.

- (k) On or about July 23-25, 2005, Dr. Olivieri spoke in Toronto at the Annual Convention of the Association of Trial Lawyers of America (“ATLA”), under the topic title of “Pharmaceutical Litigation Uncovering the Secrets of the Industry”. She opened her speech with the following introduction:

...I want to really thank ATLA for inviting me here today. I thank Tom for setting this up in a panic. And I’m in a panic myself this morning because I read the instructions, of course, good to read on a Sunday morning, which says don’t involve any war stories and I think this whole things a war story so I’m going to have to bore you with that but the other thing I want to say right away is that I don’t want to disparage a drug company or drug companies by name. I’m going to try to keep to the best of my ability, the name of the company and companies out of this talk. I think we’ll hear that there’s plenty to disparage in terms of the university’s and hospital’s response to this story, and I guess I’ll just start by tell you a little bit about it.”

- (l) On September 3, 2005, the Globe and Mail published a movie review written by Dr. Olivieri of *The Constant Gardener* – a movie based on John Le Carre’s novel by the same name. In her review, Dr. Olivieri draws parallels between the story in the novel/movie and her own story regarding Apotex.
- (m) In or about September 20, 2005, Nancy Olivieri either spoke at or participated in the University of Toronto 2005 Medical Biophysics annual Student Research Day Symposium, in Toronto.
- (n) In October 2005, *The Hypothesis* – Journal for the Discussion of Science published an article by Dr. Olivieri entitled, ‘Academic Freedom, Scientific Integrity, and Conflicts of interest: Lessons Learned for the U. of Toronto’. In that article, she again parallels her story to the novel, *The Constant Gardener*.
- (o) On October 21, 2005, Dr. Olivieri was the keynote speaker in Sudbury, Ontario at the Women’s Legal and Education Fund (“LEAF”) Breakfast at Laurentian University where she again detailed her experiences with Apotex. An online article describes Dr. Olivieri as,
- ...the researcher at the Hospital for Sick Children who gained attention when her research led her to believe that a new drug treatment posed dangers to some patients. She became a whistle-blower. When she decided to publish her result, the drug company sponsor of the research objected.
- ...
- Dr. Olivieri will talk about her experiences and the issues we all need to understand.
- (p) On or about October 25, 2005, Nancy Olivieri participated in the University of Toronto Senior Alumni Association Lecture Series, in Toronto.
- (q) On October 28, 2005, Dr. Olivieri spoke in Toronto at the Harry Crowe Foundation Conference called “Academic Freedom Post 9-11”. An article by Richard Epp published on the University of Lethbridge Faculty Association website refers to her presentation on “her case about the pharmaceutical industry and, in particular, the inadequate response to her situation by the University of Toronto.
- (r) On November 1, 2005, Dr. Olivieri spoke at the University of Guelph under the topic title “The Threat of Corporate Influence on University Campuses, Healthcare, and Education”. Her profile for the talk discusses how “the sponsoring drug company threatened ‘all legal remedies’ against her.
- (s) On November 10, 2006, *The Ontarian*, published in Guelph, Ontario detailed a talk given by Dr. Olivieri on her battle with Apotex and the Hospital for Sick Children.
- (t) On January 4, 2006, an article entitled “Researchers and corps clash”, written by Chelsea Moore, was published by the Canadian University Press. The article quotes Dr. Olivieri’s presentation at the University of Manitoba, wherein she

disparages Apotex by giving a detailed account of her dispute with the company as follows:

This is a story about the university and their failed attempt to protect academic freedom,” said Dr. Olivieri in her opening remarks. Dr. Olivieri’s experience dates back to nearly ten years ago when she conducted a study at U of T that was sponsored by Apotex, Canada’s leading pharmaceutical drug company. Part of her contract with Apotex was for her to conduct clinical trials of Deferiprone, a pill developed to treat a rare blood disorder called thalassemia. After having found that the drug could do significant harm to patients, Dr. Olivieri presented her findings to Apotex. The company did not believe her and threatened that if she revealed any of her research data to the public, she would be “served with all legal remedies”, explained Dr. Olivieri... Dr. Olivieri faced years of public humiliation because the company subsequently launched a hate campaign to discredit her scientific integrity and challenge her research motives... “It’s the kind of thing that you need to expect when you take on institutions,” said Dr. Olivieri, adding that private funding for research on university campuses increases the “suppression of publication” of important information.

This article was subsequently published in York University’s student newspaper, *Excalibur*, as well as the University of Manitoba’s student newspaper, *The Manitoban*.

- (u) The February 1, 2006 edition of The Manitoban Online – Letters to the Editor, contained a December 14, 2005 letter To the Editor from Nancy Olivieri quoting numerous “misstatements” by the author of the article and included:

I was dismayed to discover on the Internet this week an article authored by Chelsea Moore titled “What Drugs and GMO’s have in common” and subtitled “Dr. Olivieri compares her battle against Apotex with documentary release at U of M[anitoba]”. Although not responsible for its errors, I write to correct this account of a controversy in which I have been involved, at the University of Toronto and Toronto’s Hospital for Sick Children, over the last ten years. I wish to make clear that I did not speak to Ms. Moore about this story. The article was neither seen nor reviewed by me prior to discovering on the Net. I believe that the article does not represent accurately my presentations at the University of Manitoba on November 30, when I was invited there by the CAUT to support student Ian Mauro and Stephane McLachlan, Mauro’s graduate advisor, in their launch of their film *Seeds of Change*...

- (v) On February 7, 2006, Dr. Olivieri spoke at the University of Toronto at a forum called “Corporate Influence on Campus: A Public Forum featuring Dr. Nancy Olivieri”. The profile of Dr. Olivieri on the Ontario Council for International Cooperation (“OCIC”) website was almost identical to the profile she used when

she appeared as a keynote speaker on May 29, 2005 at the Canadian Association of Emergency Physicians, set out in paragraph (j) above. Further, a poster promoting Dr. Olivieri's talk on February 7, 2006 was published by an organization called "Science for Peace". Dr. Olivieri is the President of Science for Peace, and the poster promoting her speaking engagement contained the identical quote from the OCIC website."

- (w) On March 7, 2006, Dr. Olivieri spoke twice at Queen's University under the following topics: (i) "Medicine, Morals, Misconduct, and Money: A Saga of Research in the Corporate Era"; and (ii) "Defending Economic Freedom". Dr. Olivieri's profile contains almost identical language to the profile used by the University of Guelph for her talk on March 28, 2005, cited at paragraph (b) above."
- (x) On March 12, 2006, Dr. Olivieri spoke at the University of Guelph under the topic title, "The Corporatization of the University: Who is Telling the Truth?" In the University's online description of Dr. Olivieri, it states in part as follows:

In 1995, Dr. Nancy Olivieri came to believe, based on scientifically credible preliminary evidence, that a drug being administered in a clinical trial Dr. Olivieri had supervised might cause harm to potentially fatally ill children. When Dr. Olivieri wished to disclose these concerns, the sponsoring drug company threatened "all legal remedies" against her.
- (y) On June 7, 2006, Dr. Olivieri was the lead speaker at Simon Fraser University ("SFU") President's Forum called "Medicine, Morals and Money". The SFU website which advertised the forum provides a description of "what has come to be known as the Olivieri Case", and said that it "vividly illustrated fundamental problems of public safety in medical research". The website states that "the case focused on, in particular, the responsibilities of academic institutions to protect clinical trial participants and to prevent attempts at suppression of publication by sponsors of research.
- (z) On November 3, 2007, Nancy Olivieri chaired a Harry Crowe Foundation Plenary session entitled "Protecting the Integrity of Academic Work" under the description "Collegiality lost: when bad things happen to good scholars. When science and research are compromised by special interest, it is not uncommon for some scholars to confront the problem directly. This is seldom done without costs. Who wins and who loses when academics push back?"
- (aa) A July, 2006 online article at "Straight.com" by Gail Johnson, under the Health banner of "Whistle blower spills medical-ethics myths" reports numerous statements by Dr. Olivieri made at a conference in June 2006.
- (bb) Dr. Olivieri was the introductory speaker at the September 2006 Bloor Cinema showing of a film entitled "Big Bucks, Big Pharma". The description of her talk included:

With an introduction by University of Toronto professor Dr. Nancy Olivieri Big Bucks, Big Pharma pulls back the curtain on

the multi-billion dollar pharmaceutical industry to expose the insidious way that illness is used, manipulated, and in some instances, created for capital gain. Focusing on the industry's marketing practices, media scholars and health professionals help viewers understand the ways in which direct-to-consumer (DTC) pharmaceutical advertising glamorizes and normalizes the use of prescription medications and works in tandem with promotion to doctors. Combined, these industry practices shape how patients and doctors understand and relate to disease and treatment. Ultimately, Big Bucks, Big Pharma challenges us to ask important questions about the consequences of relying on a for-profit industry for our health and well being."

- (cc) On or about February 2007, The Faculty Association of the University of Calgary, Academic Views, online publication, highlighted on its first page "Upholding academic freedom: the Dr. Nancy Olivieri case":

Over the past decade, I believe no academic freedom case has garnered as much national and international attention or proved a catalyst for change like that of Dr. Nancy Olivieri. On February 27, Dr. Olivieri will visit our campus to share her story, an invitation to this event can be found on page two.

Dr. Olivieri's presentation, Confusion and Clarity, Conspiracies and Comebacks: The Olivieri/U of T/Sick Kids' Saga, should provide us all with a glimpse into the potential for our academic freedom rights to be shaken by the interests of private industry.

In 1996, Dr. Olivieri, a hematologist at the University of Toronto, identified a significant and unexpected risk with a medication she was testing as a treatment for a blood disorder called thalassemia. The pharmaceutical company, Apotex Inc., by threatening legal action, tried to prevent her from revealing the potential dangers of the drug to her patients or anyone else...

- (dd) On or about March 5, 2007, Dr. Olivieri was a scheduled presenter at Queen's University under the title topic of: "Clinical Trials to Legal Trials: A Researcher's Journey from the C.M.P.A. to the European Court of Justice."

- (ee) An online search of the internet "Wikipedia" website with the search query "Nancy Fern Olivieri" most recently modified August 8, 2007, states:

Nancy Fern Olivieri, BSC, MD, FRCPC, is a prominent Toronto haematologist and researcher with an interest in the treatment of hemoglobinopathies.

She is best known for a protracted struggle with the Hospital for Sick Children and pharmaceutical giant Apotex about the thalassemia drug deferiprone.

Dr. Olivieri has advocated for greater academic freedom since her battle and has called for less control of research by pharmaceutical companies.

- (ff) An October 24, 2007 web site posting for Merit Motion Pictures advertised a movie under the description “Do No Harm: The Nancy Olivieri Story, currently in phase I script development and seeking pre-sales and international distribution or co-production partners...the controversial story of internationally renowned scientist and whistle blower, Dr. Nancy Olivieri, who’s [sic] search for truth and justice rocked the academic and scientific community around the world...”
- (gg) On October 18, 2007, Dr. Nancy Olivieri was listed as the speaker for Ryerson university, ethics at Ryerson Speaker Series under the title “After ‘Victory’: The Elephantine Memory of Institutional Power”.
- (hh) On October 29, 2007 at the Brunswick Theatre in Toronto, a speaking event by Dr. Nancy Olivieri was promoted as follows:

In 1995, Dr. Nancy Olivieri came to believe, based on scientifically credible preliminary evidence, that a drug used in a clinical trial Dr. Olivieri had supervised since 1989, might be less effective than previously believed, resulting in potential harm to children for whom another safe drug was already licensed. When Dr. Olivieri wished to disclose these concerns, she was threatened with “all legal remedies”, but despite these warnings, fulfilled all ethical obligations. Dr. Olivieri’s institutions, the Hospital for Sick Children and the University of Toronto, did not provide effective support either for her rights, or the principles of research and clinical ethics or academic freedom. After the controversy became public, the University claimed publicly that it had effectively supported Dr. Olivieri, but this was not true. Both the University and Sick Kids’ Hospital took actions that were harmful to Dr. Olivieri’s interests and professional reputation and disrupted her work. After enduring years of public harassment, Dr. Olivieri was exonerated of all false charges by the Royal Ontario College of Physicians and Surgeons, the provincial licensing body for physicians, which described her conduct in its 2001 Report as “commendable”.

Nancy Olivieri was introduced at the event with the same wording used in advertising the event.