

Court File No. CV-08-00365567

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

APOTEX INC.

Plaintiff

- and -

NANCY OLIVIERI

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

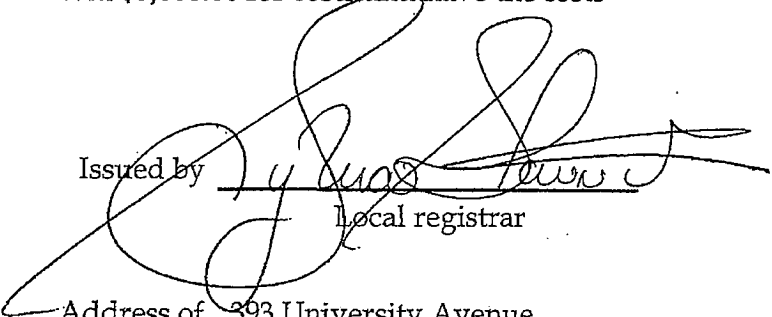
Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFFS' CLAIM, and \$7,500 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$5,000.00 for costs and have the costs assessed by the court.

Date November 4, 2008

Issued by


Local registrar

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Lawyers for the Defendant

CLAIM

1. The plaintiff claims:
 - (a) a declaration that the defendant has repudiated the Settlement (as herein defined);
 - (b) damages for breach of the Settlement in an amount to be quantified prior to trial;
 - (c) in the alternative to (a), a declaration that the plaintiff is entitled to set off its damages for the defendant's breach against any sum alleged to be owing to the plaintiff pursuant the Settlement;
 - (d) aggravated and punitive damages in the amount of \$500,000;
 - (e) pre-judgment and post-judgment interest pursuant to section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
 - (f) costs of this action on a substantial indemnity basis; and
 - (g) such further and other relief as counsel may advise and this Honourable Court permits.

A. Overview

2. Apotex Inc. ("Apotex") is a Canadian pharmaceutical company, which developed a drug called deferiprone for the treatment of a rare blood disorder called thalassemia. Deferiprone was intended to be a second line therapy for people who could not or would not take the first line therapy, deferoxamine.

3. The defendant, Dr. Nancy Olivieri, was a physician and medical researcher who worked on clinical trials for Apotex in respect of deferiprone.

4. This is an action involving the breach of a settlement entered into after a mediation by the parties in November 2004 settling three lawsuits commenced by Dr. Olivieri against Apotex and others (the "Settlement"). The three actions were all founded in defamation, but stem from a scientific disagreement between Dr. Olivieri and Apotex about deferiprone.
5. Pursuant to the Settlement, the parties agreed (among other things) that: (i) Dr. Olivieri would make a public statement in support of deferiprone; (ii) the parties would issue mutual expressions of regret; (iii) the parties would agree not to disparage each other in future, including that "Olivieri will not disparage Apotex, clinicians [and] researchers who use deferiprone, or deferiprone"; and (iv) the parties would only express future views about deferiprone in scientific forums.
6. As such, a fundamental term and true condition of the Settlement was that neither party would disparage the other. A resolution of the lawsuits was of no interest to Apotex unless the result was an immediate, complete and lasting cessation of Dr. Olivieri's public disparagement of Apotex and deferiprone.
7. Since November 2004 Dr. Olivieri continued to speak out publicly about Apotex and deferiprone in breach of the Settlement. Her statements have been critical and disparaging of both Apotex and deferiprone and they have not been made in scientific forums. Indeed, her conduct subsequent to the Settlement was virtually the same as prior to the Settlement.
8. Dr. Olivieri's conduct constitutes a breach of the Settlement, depriving Apotex of substantially the whole benefit of the Settlement and resulting in her repudiation of the Settlement. As a result, Apotex was released from any obligations under the Settlement.
9. Furthermore, Dr. Olivieri's conduct, which has been disparaging of Apotex and deferiprone, has resulted in damages to Apotex.

B. Background to the Dispute

10. Dr. Olivieri was a scientist hired by Apotex in 1992 in respect of certain studies it was conducting on deferiprone. Commencing in 1995, Dr. Olivieri made increasingly serious allegations about the safety and efficacy of deferiprone. At all times, Apotex believed those allegations to be unsubstantiated and upon conferring with other experts in the field, Apotex was advised that Dr. Olivieri's allegations were unfounded. A large body of published scientific information has corroborated Apotex's belief and deferiprone is now licensed for use in 58 countries, including 25 countries within the European Union.

11. Between 1996 and 1998, Apotex and Dr. Olivieri debated the matter largely in scientific forums. That changed, however, in 1998 when Dr. Olivieri initiated a media campaign against Apotex and deferiprone, which included hiring a public relations firm and founding an entity called "Doctors for Research Integrity". That media campaign sought to portray Dr. Olivieri as the "David" to Apotex's "Goliath", and to cast Dr. Olivieri as the whistleblower hero in a saga against an evil drug company trying to promote an unsafe drug. Dr. Olivieri began to speak regularly on the topic of ethics and medical research, and would portray Apotex as a company that put corporate interests ahead of patient safety.

12. Apotex has always taken the view that Dr. Olivieri has sought to disparage Apotex in the media and public forums in order to gain sympathy for her position before other scientists had an opportunity to conduct scientific studies to assess her claims regarding the safety and efficacy of the drug. Beginning in and around 2000, when independent data on deferiprone began appearing in the literature and at a time that the scientific community was rejecting her allegations about deferiprone, Dr. Olivieri intensified the attacks, in part by commencing lawsuits against those who challenged her position, including Apotex.

13. Dr. Olivieri's allegations in respect of deferiprone have been entirely discredited as the scientific research has accumulated. It would appear that instead of addressing the science, Dr. Olivieri has attempted to characterize what should have been a scientific debate into a "medical ethics" issue. As Apotex has always contended, the debate has always been one for the scientists to consider, and the science has shown Dr. Olivieri to have been wrong.

C. The Prior Actions

14. In 2000, Dr. Olivieri commenced three actions against Apotex and certain of its officers and certain media entities in respect of media publications that appeared in late 1999 and early 2000. The actions were subsequently consolidated (the "Olivieri Defamation Action").

15. Apotex filed a counterclaim in the Olivieri Defamation Action seeking damages for defamatory statements that Dr. Olivieri had made (and continued to make throughout the litigation) about deferiprone and Apotex.

16. After commencing the Olivieri Defamation Action in 2000, Dr. Olivieri continued to make statements disparaging Apotex and deferiprone. The statements were published in newspapers in Canada and internationally, and aired on major television and radio media around the world, including Canada, the United States, Australia and the United Kingdom. Dr. Olivieri participated in the formation of at least two websites which contained extensive criticism of Apotex and deferiprone.

17. Dr. Olivieri pursued Master's studies in medical ethics. Her disparaging statements about deferiprone and Apotex at public events were increasingly cast as issues of "medical ethics". Dr. Olivieri asserted that corporate-funded research was incompatible with good science because corporate interests would conflict with patient safety. To illustrate this theme, Dr. Olivieri routinely recounted, in

considerable detail, her interpretation of her dispute with Apotex, in a fashion disparaging of Apotex.

18. As a result of her actions in casting Apotex as a company that tried to suppress dangerous information about an investigational drug, her name has become synonymous with "whistleblower of Apotex".

D. The Settlement

19. On November 2 and 3, 2004, the parties attended a mediation in respect of the Olivieri Defamation Action.

20. On or about November 3, 2004, Apotex proposed a settlement comprised of some public and some confidential terms. As part of the public terms of the Settlement, all litigation would be dismissed, the parties agreed not to disparage each other or deferiprone, Dr. Olivieri would issue a written apology, the parties would only discuss deferiprone in scientific forums going forward and the parties would issue a mutual press release. In respect of the non-disparagement clause, the parties agreed to the following:

- a. Agreement by same parties not to disparage each other in the future:
 - i. Apotex/Sherman/Kay will not disparage Olivieri and her supporters;
 - ii. Olivieri will not disparage Apotex, clinicians, researchers who use deferiprone, or deferiprone; and
 - iii. Parties will only express future views about deferiprone in scientific forum.

21. All proposed settlement options tabled at the mediation by both parties contained a non-disparagement provision. The non-disparagement provision was a fundamental term of the Settlement. Dr. Olivieri was aware that Apotex would not have entered into the Settlement or any other settlement without such a clause.

E. Substantial Failure of Performance: Dr. Olivieri's Continued Disparagement of Apotex

22. Although the Settlement provided that on a go-forward basis neither party would disparage the other and the parties would confine their views about deferiprone to discussions in scientific forums, Dr. Olivieri continued to disparage both Apotex and deferiprone. Indeed, her statements and conduct subsequent to the mediation were essentially the same as prior to the mediation. This disparagement was evident even after the terms of the Settlement were identified (before the parties prepared the appropriate documentation). As a result, no formal documentation was ever prepared.

23. 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.

24. As the non-disparagement clause is an essential term of the Settlement, the breach thereof constitutes a breach of the Settlement amounting to repudiation of the Settlement by Dr. Olivieri.

25. As a result of Dr. Olivieri's repudiation of the Settlement, Apotex was released from all obligations under the Settlement.

F. Motion to Enforce Settlement

26. When Apotex became aware, in or about May 2005, that Dr. Olivieri was continuing to disparage it and deferiprone despite the Settlement, Apotex took the position that there was no settlement, since either there was clearly no meeting of the minds on essential terms or Dr. Olivieri had repudiated the Settlement. Apotex notified Olivieri of her substantial failure of performance under the Settlement.

27. Dr. Olivieri brought an unsuccessful motion to enforce the Settlement in or about August 1, 2006. She appealed and her appeal was allowed. In its reasons, the Court of Appeal stated that the judgment was "made without prejudice to the respondents' right to take such steps as they deem appropriate to pursue their allegations that Dr. Olivieri has breached or repudiated the settlement agreement."

G. Damages suffered by Apotex

28. Dr. Olivieri continued with the very same conduct post-Settlement as she had engaged in prior to the Settlement, and in respect of which Apotex thought it was settling. Dr. Olivieri's post-Settlement statements are disparaging of Apotex and/or deferiprone and have caused damage to Apotex, its business goodwill and reputation.

29. In the alternative, if Dr. Olivieri's breach is not held to be a breach resulting in repudiation, then Dr. Olivieri has breached the Settlement entitling Apotex to damages. The continuing damage to Apotex is yet to be quantified but is well in excess of the amounts owed to Dr. Olivieri, if any, under the Settlement.

30. In any event, Apotex has sustained damages by reason of Dr. Olivieri's breach of the Settlement.

H. Set Off

31. Apotex states that it is entitled to set off amounts owing by it, if any, under the Settlement against its damages, and pleads and relies upon the doctrine of equitable set off.

32. Apotex's claim for damages is directly related to and arises out of Dr. Olivieri's repudiation or, in the alternative, breach of the Settlement. If the Settlement was not repudiated, it would be inequitable to require Apotex to make

any payment under the Settlement without addressing the damages suffered by Apotex as a result of Dr. Olivieri's repudiation breach of the Settlement.

33. The set off for damages from Dr. Olivieri's breach of the Settlement is clearly and intimately connected to Apotex's obligation (if any) to make payment under the Settlement. The anticipated damages are so closely connected to the payment under the Settlement that it would be manifestly unjust and unfair to require Apotex to pay Olivieri without permitting Apotex to set off its claim for damages.

34. Apotex proposes that this action be tried in Toronto.

November 4, 2008

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Lawyers for the Plaintiff

SCHEDULE "A"

1. The following is a summary of the speaking engagements and publications by Dr. Olivieri (of which Apotex is currently aware) since the date of the Settlement:

- (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 Miriam Shuchman called "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 thing is 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 and hospital's response to this story, and I guess I'll just start by telling 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 from 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, 2005, *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 called, "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 or reviewed by me prior to my 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 Academic 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) A June 26, 2006 online article in *The Peak: Simon Fraser University's Independent Student Newspaper*, contains a letter from Nancy Olivieri, under the banner "Speak Out: Misquoted and misrepresented" and refers to the President's Forum held on June 7, 2006. The letter reads in part:

I have the greatest respect for the staff and faculty of Simon Fraser University, and in particular for President Michael Stevenson - whose President's Forum (June 7) there provided a lively format for discussion of biomedical conflicts of interest in medical research. The faculty and staff of Simon Fraser University deserve to understand that evening's discussion - but the regrettable approximation of facts and misquotes provided by Menzies and Tilley {Olivieri talk spurs controversy, debate, June 12, 2006} has sadly failed to provide it. Menzies and Tilley also provide a highly misleading account of my comments and those of others

who spoke on that interesting evening. Similar inaccurate press reporting throughout the past decade, has served only to confuse understanding of the ethical issues arising from discussions of conflicts of interest in research...

- (aa) A July 6, 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 ways 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 interest 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 thalassaemia 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.

- (ii) 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 interests, 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?"

APOTEX INC.

NANCY OLIVIERI

and

Plaintiffs

Defendant

Court File No:

N-08-00365567

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at **TORONTO**

STATEMENT OF CLAIM

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