

## Book, website under attack by Bay St. lawyers

OLLIVIA SEXTON  
StaffWriter

The November 15, 2004, issue of the *Obiter Dicta* published an article about a new book entitled *No Moral Conscience: The Hospital for Sick Children and Lisa Shore*, written by Sharon Shore, a Third Year Osgoode student. Recently, this *Obiter* article was cited in a series of demand letters sent to the publisher of Shore's new book, her internet service provider, and Shore herself requiring that: (1) the publication *No Moral Conscience* immediately cease; (2) the website dedicated to Sharon's daughter, Lisa Shore, be shut down; and (3) a copy of the names and addresses of all those to whom the book has been sold and/or delivered to be provided to the solicitors.

The book at issue in these letters, and at the center of a potential defamation law suit against Shore, is the self-published manuscript about what Shore believes happened the night her daughter died while under the care of the Toronto Hospital for Sick Children, and the legal aftermath that ensued. The book is meticulously documented, recounting each moment from when Lisa was first admitted to Sick Kids for recurring leg pain, to the coroner's inquest, police investigation, and the laying and dropping of criminal charges because Lisa died. In telling the story, Shore relies on inquest transcripts, hospital records, witness statements and other legal documents. The book is a mother's quest for the truth in the face of a powerful opponent. It's a tragic story, and a book well worth reading.

Since the publication of *No Moral Conscience* in mid-November 2004, Shore's interest in voicing the story has been met with fierce resistance.

First, a letter was sent to Trafford Publishing in early January 2005 demanding that publication of Shore's book cease immediately. Unfortunately for Shore, Trafford, fearing a lawsuit, acquiesced to the demands, informing Shore that they could not continue as the book's publisher.

Two days later, a similar letter was sent to Shore's internet service provider. This letter demanded that [www.lisashore.com](http://www.lisashore.com) be shut down immediately. Also fearing a lawsuit, Shore's website service provider complied. Shore was forced to switch to a New York-based provider, who, despite having received a demand letter themselves, reassured Shore that the site would not be shut down without a warrant. (American bravado at its finest!)

Finally, a week after the first letter was sent, Shore received a cease and desist letter on her doorstep. The letter gave Shore until 5 p.m. that day to comply with its demands. Sharon consulted a Toronto libel lawyer who advised her to take no action in response to the letter. The lawyer told Shore that all the letters were weak and characterized them as nothing more than a bullying tactic. Shore is following her lawyer's advice and ignoring the letter.

Far from silenced, Shore is now turning her attention to the Ontario College of Nurses. Following a coroner's inquest, which determined that Lisa's death was a homicide, the College charged the two nurses who cared for the little girl with failing to meet standards of practice; failing to keep records as required; falsifying a record; and

**Why did Lisa die?** When her parents brought 10-year-old Lisa Shore to a world-renowned children's hospital for treatment of non-life-threatening pain, they expected, as any parents would, she would receive competent and compassionate care. Less than 12 hours later, Lisa was dead.

The Hospital for Sick Children denied any responsibility, even after an inquest jury found that Lisa's death was a homicide. Unwilling to admit that two of its employees had been grossly negligent, the hospital and its lawyers instead tried to paint Lisa's mother as an obsessed fanatic intent on destroying the careers of two conscientious nurses.

**NO MORAL CONSCIENCE** is a harrowing first-person account of an innocent child's death and her grieving mother's battle for justice. Augmented by Lisa's medical records, newspaper articles, and court transcripts at [www.lisashore.com](http://www.lisashore.com), this remarkable memoir speaks to an ordinary woman's struggle for survival and truth.



**About the Author**

Sharon Shore lives in Thornhill, Ontario with her husband and two sons, and is a law student in her third and final year at Osgoode Hall Law School. Sharon decided to become a lawyer as a result of her experiences with the legal system after her daughter Lisa's tragic death. She intends to practice law with compassion and integrity.

NO MORAL CONSCIENCE

SHARON SHORE

### No Moral Conscience

The Hospital for Sick Children and the death of Lisa Shore



Trafford Publishing has succumbed to the pressure of Bay Street lawyers, informing Sharon Shore that they could not continue as the book's publisher. Osgoode Professor Bruce Ryder commented that "we should all be concerned when defamation law is used in an apparent attempt to limit discussion on matters of vital public importance."

partaking in conduct considered to be disgraceful or discreditable. A disciplinary hearing was ordered, but subsequently adjourned, pending the disposition of criminal charges, which were resolved in May 2003. Almost two years after the criminal charges were dismissed, the independent disciplinary hearing at the College has yet to be held. Shore is writing to the College to question why the two nurses are now on active duty while there are disciplinary charges outstanding against them. Shore is concerned about the College's role in maintaining public safety.

There are a few reasons to feel uncomfortable about the recent developments in Shore's ongoing saga: The fact that nurses with outstanding misconduct charges are on active duty at a hospital, and some serious issues surrounding the conflict between defamation and freedom of speech. The latter is the issue I find of particular concern. Can the threat of a defamation lawsuit, cloaked behind a curtain of legal legitimacy, restrict a person from expressing her opinion. And, more importantly, is that what is happening to Shore?

According to Bruce Ryder, a constitutional scholar and professor at Osgoode, the answer to the latter question is, well, it depends. Ryder explains:

"Canadian defamation law tilts the balance strongly in favour of the protection of individual reputation over freedom of expression, even when comment on public figures or matters of public interest is at issue. The Supreme Court has thus far in the Charter era refused to redress the imbalance, most notably in the *Hill v. Church of Scientology* ruling. Damage awards in defamation actions can be substantial. As a result, the mere threat of a defamation action can chill free expression. Sharon's experience with her publisher and former website host complying with lawyers' demand letters without a fight is, sadly,

not unusual. Sharon Shore's book and website are damaging to the reputations of the Hospital for Sick Children and those who were responsible for [Lisa's] care. It could hardly be otherwise since the facts surrounding Lisa Shore's death are damaging to their reputations. Sharon Shore should be free to keep those facts in the public eye and to express her opinions based on those facts, and, when she does, she can rely on the defences of truth and fair comment in any defamation action brought against her. Accountability is necessary to minimize the risk that the tragedy that befell the Shores will not be repeated. We should all be concerned when defamation law is used in an apparent attempt to limit discussion on matters of vital public importance."

So, what's next for Shore? She has taken steps to find a new publisher, one that is willing to print her book despite the threat of legal action. As for any personal fears she may have surrounding a defamation action being brought against her, Shore replies candidly, "I will do whatever it takes to make sure the public learns the truth, no matter how hard some people try to silence me. I'm prepared to see this through." And she won't be alone. The Canadian Civil Liberties Association, whose Chair is Osgoode's professor John McCamus, has spoken with Shore and will monitor the situation.

For Shore, this ongoing battle is "well worth it." Shore believes that the best justice she can get for her daughter is to expose the truth about what really happened.

Shore's website can be seen at: [www.lisashore.com](http://www.lisashore.com). Osgoode staff and students will be able to buy Shore's book, *No Moral Conscience*, next Wednesday, February 16, when she will be holding a question and answer session at the school. The event will be hosted by the Mature Students' Association and the Health Law Association. See postings around the school for further details.