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September 12, 2022

VIA EMAIL

John Doerksen
Vice-Provost, Students
Western University
Office of the President
Stevenson Hall, Suite 2107
London, Ontario, Canada, N6A 5B8
Phone: 519-661-3554
Email: doerksen@uwo.ca

Dear Mr. Doerksen,

RE: Request for Accommodation (COVID Vaccine Requirement) – Shane McCarthy

I write as counsel for Shane McCarthy, a third-year Mechanical Engineering student.

The purpose of this letter is to formally request Creed-based accommodation for Mr. McCarthy regarding Western's COVID vaccine requirement (Policy 3.1.1, effective August 22, 2022). As you know, Mr. McCarthy will require in-person access to campus to complete his degree requirements, yet section 1.0 of the Policy excludes students who do not prove receipt of the COVID vaccines. Unless, that is, they have been granted a human rights accommodation.

Mr. McCarthy is unable to receive the COVID vaccines due to his Christian religious beliefs. So as to confirm that he holds sincere religious beliefs that have a nexus with religion (Christianity), and that would be interfered with in a manner that is more than trivial or insubstantial,¹ Mr. McCarthy herein appends a statement of his relevant religious beliefs. These are the beliefs he will attest to should accommodation be denied and a human rights complaint necessitated.

¹ See *Syndicat Northcrest v Amselem*, 2004 SCC 47, at paragraphs 39-59 (appended). The *Amselem* test for demonstrating a protected religion belief has been adopted by the Ontario Human Rights Tribunal.

Mr. McCarthy requested accommodation on the basis of Creed on July 12, 2022. He explained his Christian beliefs regarding the COVID vaccines. Predictably, however disgracefully, Mr. McCarthy received an anonymous email on July 25 denying his request (enclosed). No reasons were provided for the denial, only the conclusion that Western’s “position” was that Mr. McCarthy did not establish grounds for a Creed-based accommodation. It ought to go without saying that such a recycled, flippant, and unexplained denial of a *bona fide* request for accommodation pursuant to the *Ontario Human Rights Code* is beneath Western. Mr. McCarthy is dismayed that his deeply-held religious beliefs were discounted with such apparent callousness and that he has been compelled to retain legal counsel in order to obtain the accommodation he is lawfully entitled to.

Any assertions on the part of Western that Mr. McCarthy’s religious beliefs are not sincerely held or do not have a nexus with Christianity are disingenuous. Mr. McCarthy submits the fact he has continued to decline receiving any COVID vaccines over the last year and half—despite intense social shaming and institutional coercion from Western and other sources—further demonstrates his sincerity and depth of conviction. The specificity of Mr. McCarthy’s appended beliefs plainly establishes the required nexus with a religion (Christianity). Further, any reasonable person, upon reviewing the highly-detailed beliefs he herein provides, would conclude that receiving the COVID vaccines would interfere with Mr. McCarthy’s religious beliefs in a manner that is far more than trivial or insubstantial.

In any event, Mr. McCarthy issues the herein request for Creed accommodation in place of the request he submitted in July. He trusts this request will be properly considered and granted, consistent with Western’s obligations pursuant to the *Human Rights Code*. I need not remind you that no educational institution may discriminate against Christians by denying reasonable accommodation.

COVID vaccine mandates may assist Western in establishing its *bona fides* as a “woke” institution, but the law cares about whether such discriminatory policies are scientific. Notwithstanding the ideological and optical motivation for Western’s COVID vaccine mandates, Mr. McCarthy reminds Western that, scientifically, both the COVID vaccines themselves and vaccine mandates are unnecessary and ineffective, like so many other undesirable control measures that only serve to abrogate rights and undermine human dignity. If indeed the vaccines are effective, unvaccinated persons pose no concern whatsoever. If the COVID vaccines are ineffective, which real-world data repeatedly demonstrates, then discriminating against, stigmatising, and excluding those who are unable to receive the vaccines due to protected characteristics is not only unlawful, it is nothing short of asinine and cruel. Providing reasonable accommodation to Mr. McCarthy jeopardizes the “health and safety” of no one on campus.

For all these reasons and more, there is no undue hardship imposed on Western by accommodating students unable to receive the COVID vaccinations due to their sincere religious beliefs. Nor is there any rationale to support a *bona fide* requirement that would see unvaccinated students excluded and discriminated to the extent that they are “dis-enrolled”.

Mr. McCarthy submits he is entitled at law to be accommodated such that he is able to effectively complete all his in-person Engineering degree requirements, notwithstanding his inability to receive the COVID vaccines.

Given classes have already commenced, Mr. McCarthy requests a substantive response to his herein request for accommodation no later than September 19, 2022.

Regards,



James S.M. Kitchen
Barrister & Solicitor
Counsel for Shane McCarthy

cc Ken Coley, Dean of Engineering (kcoley@uwo.ca)
vaxinfo@uwo.ca

Enclosures

STATEMENT OF SINCERE CHRISTIAN RELIGIOUS BELIEFS OF SHANE MCCARTHY

1. I, Shane McCarthy, am a Christian—a follower and disciple of the Lord Jesus Christ. I believe the entirety of the Holy Bible is true and that I am duty-bound out of love for my God and King to abide by all the commands in Scripture to the best of my ability.
2. God laid before me life and death (Deuteronomy 30:19), and I have chosen life in Christ. I steadfastly believe that “all scripture is God-breathed” (1 Timothy 3:16), and it is through the Scriptures that God communicates His instructions and expectations, which are perfect and true for my life (Psalms 18:30). God desires and values obedience to His word, stemming from our love for Him, more than any religious ritual or sacrifice (1 Samuel 15:22; Hosea 6:6; Mark 12:32-33).
3. For this reason, my beliefs are exclusively grounded in scripture, which is the Word of God, and wholly independent of any philosophies, beliefs or doctrines of *any* congregational associations I may have. Out of love and obedience to God, I strive to live by the scriptures and “live a life worthy of the calling to which [I] have been called” (Ephesians 4:1), that is, a godly life reflective of the salvation gifted to me at Calvary. God commands me to “take pains to have a clear conscience towards both God and man” (Acts 24:16), “desiring to act honourably in all things” (Hebrews 13:18) and warns me not to reject my conscience otherwise shipwreck my faith (1 Timothy 1:18-19). James, the brother of Christ, states it clearly: “any person who knows what is right to do but does not do it, to him it is sin” (James 4:17). Thus, I will not blindly conform to the rules, regulations or mandates of any country, state, principality, or institution but will

first test everything to ensure it is within the will of God, and only when those rules align with God's Law will I comply (Romans 12:2; 1 Corinthians 8:1-13).

4. As a Bible-believing follower of Christ, my first loyalty is to Christ and His Word (the Bible), not to any particular Christian leader or their teachings. That some Christian teachers or leaders have endorsed the COVID vaccines is religiously (and therefore legally) irrelevant.
5. I sincerely hold to religious (Christian) beliefs that compel me to not receive into my body the COVID vaccines due to their nature and contents. I am also religiously compelled by my beliefs to not participate in a mandatory COVID vaccination scheme, which, among other sinful things, involves coercion and vitiation of consent because it inevitably causes some individuals to receive the COVID vaccines against their will. Disobeying the Lord in this matter would be a sin, a sin which, if I committed, would grieve me deeply and cause me spiritual and moral distress.
6. I understand my obligation at law to demonstrate that I hold sincere religious beliefs that have a nexus with religion (Christianity), and that would be interfered with in a manner that is more than trivial or insubstantial. Reproduced below is the full articulation of my relevant sincere religious beliefs, including references to Scripture:
 - a. In all circumstances Christians seek to live in freedom, without fear, and openly before God and other people because "it is for freedom that Christ set us free" (Galatians 5:1). If I received the COVID vaccines, it would be for no other reason than because someone in a position of power over me told me to. To do that would be to act out of fear. I am commanded by the Bible to fear God, not other

people (Matthew 32-33; Galatians 1:10; Proverbs 1:7, 29:25). If I received the COVID vaccinations, I would be violating my conscience and committing a sin (James 4:17). “Do not be afraid of those who kill the body but cannot kill the soul. Rather, be afraid of the One who can destroy both soul and body in hell. ... Whoever acknowledges me before others, I will also acknowledge before my Father in heaven. But whoever disowns me before others, I will disown before my Father in heaven” (Mathew 10:28).

- b. My Lord and Saviour, Jesus Christ is a God of justice who hates injustice, oppression, and tyranny (Deuteronomy 10:17–20; Isaiah 1:15–17; Ecclesiastes 3:16–17; 4:1; 5:8; Psalms 7:11; 9:7–9). He has appointed government to do good and to avenge evil (Romans 13:3–4; 1 Peter 2:13–14). Jesus’ concern for justice is my concern, as a follower of Jesus Christ. Out of love for neighbor and obedience to Christ, I am called to resist oppression, which necessarily includes coercive vaccination programs, whether at the hands of government or private entities (Ephesians 5:11).
- c. Jesus Christ is the supreme King of all, and I am subject to His final authority alone in all matters of conscience, what I do with my body, and how I respond to societal injustice and coercive efforts to control my behaviour, which is a form of temptation (Ephesians 4:4-6; Colossians 1:16-18). Christians recognize that they will one day stand before God to give an account for their lives and therefore seek to exercise wisdom and discernment in all their decisions, and to live to please the Lord (Romans 12:2; II Corinthians 5:10). Further, I believe I must not be conformed to the ways of the world, but to be transformed by the renewing of my

mind based on God's ways, which are above the ways of the world and of men, so that I "will be able to test and approve what God's will is—his good, pleasing and perfect will (Romans 12:2; Isaiah 55: 8-9). I sincerely believe that if I received the COVID vaccines, I would commit a sin before God and that God's will for me is to not receive the COVID vaccines.

- d. Fundamental to the Christian faith is the belief that all human persons bear the image of God (Genesis 1:27, 9:6). Christians are instructed by Scripture to view their bodies as temples of the Holy Spirit and to steward their bodies as creatures ultimately accountable to God (Romans 12:1-2; I Corinthians 3:16-17, 6:19-20). For me, this extends to not injecting my body with substances such as those contained in the COVID mRNA vaccines, which are the only ones currently widely available and acceptable to authorities. Some of these substances are not fully known, potentially dangerous, and have the effect of interfering with or manipulating my natural cell composition and cell mechanisms. The mRNA and the "spike protein" this mRNA codes for are examples. I am compelled to maintain both the physical and spiritual integrity of my body, including my Divinely-designed cell mechanisms. I believe I am fearfully and wonderfully made by God and must trust my health first to God, to His design of my immune system (over a man-made intervention that may alter the function of my immune system and is necessarily inferior to God's design), and the sources of natural health and healing that God has provided (Genesis 1; Exodus 23:25; Psalms 91:5-7 and 139:14; I Corinthians 3:19; Jeremiah 17:5).

- e. I am deeply concerned that the COVID vaccine and associated vaccine passports and mandates are a precursor to or may become the “mark of the beast” referred to in the Bible (Revelation 13:16-17). I am compelled to exercise wisdom regarding this matter (Revelation 13:18) by being very careful to not inadvertently receive the mark, as to receive the mark is to commit a sin and to betray Christ, while the rewards of remaining loyal to Christ are eternal life (Revelation 14:11, 16:2, 19:20, 20:4). I must avoid anything that could be associated with the mark of the beast.
- f. Christians are required to fully, diligently, and resolutely honour the sanctity of human life, which I believe manifests at conception and includes pre-natal life (Genesis 1:27, 4:1 and 17, 9:6; Jeremiah 1:5; Psalms 22:10-11, 106:35-38, 113:7-9, 127:3, 139:13-16; Matthew 18:1-4, 19:13-15). “Whoever sheds human blood, by humans shall their blood be shed; for in the image of God has God made mankind” (Genesis 9:6). For me, this necessarily extends to protecting, through my choices, unborn children from medical experimentation in the *testing, development, or production* of vaccines, and not participating *directly or indirectly* in any vaccine that was derived *directly or indirectly* from aborted human fetal cell lines (Exodus 20:13, Leviticus 18:21, 20:2-5, Deuteronomy 12:30-32, 18:10, 2 Kings 16:3, Psalm 16:38). Receiving any of the available COVID vaccines would be to violate this belief and commit a sin before God (James 4:17; Romans 14:23; Leviticus 20:1-5). How products for human consumption are obtained and what they are derived from is important for me, just

like it was for King David and the prophet Daniel (2 Samuel 23:15-17 and Daniel 1:8-14).

7. I have prayed about the above beliefs as they apply to the COVID vaccine and I have received confirmation from the Holy Spirit that it is the Lord's Will for me to act in accordance with these beliefs in rejecting the COVID vaccines. The Holy Spirit is the third person of the Trinity (consisting of God the Father, the Son Jesus Christ, and the Holy Spirit). As Jesus said, he gave Christians the Holy Spirit, the "Spirit of Truth", to guide and teach us (John 14:17, 26; 16:13).

I affirm the above statements are true.

Shane McCarthy

September 11, 2022

RE: Religious Exemption Request



Vaccination and Testing Centre
To Shane Alexander McCarthy-Cisar

This message was sent with High importance.

Reply Reply All Forward

Mon 2022-07-25 1:55 PM

Hello Shane,

Thank you for your recent communication regarding the University's Vaccination Policy.

Western is in receipt of your request for an exemption from the requirement to be vaccinated, which has been reviewed carefully. Western's position is that the documentation submitted, which consists of a template letter, does not establish the existence of grounds for an exemption from the requirement to be vaccinated based on creed or religion. Therefore, in order to safeguard the health and safety of Western campus community members and visitors, your request for an exemption from the Policy to permit on-campus attendance is denied.

Thank you,

Vaccination and Testing Centre

Western University

Thames Hall

Room 3189

London, ON Canada

519-661-2111 ext 82379

vaxinfo@uwo.ca

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