



Hicks Morley Hamilton Stewart Storie LLP
77 King St. W., 39th Floor, Box 371, TD Centre
Toronto, ON M5K 1K8
Tel: 416.362.1011 Fax: 416.362.9680

AMANDA E. LAWRENCE-PATEL
amanda-lawrence-patel@hicksmorley.com
Direct: 416.864.7030

Toronto
Waterloo
London
Kingston
Ottawa

File No. 697-682
September 28, 2022

SENT VIA EMAIL – james@jsmklaw.ca

James S. M. Kitchen
Barrister and Solicitor
203-304 Main Street South
Suite 224
Airdrie, Alberta T4B 3C3

Dear Mr. Kitchen:

Re: Western University – Request for Accommodation (COVID Vaccine Requirement) – Shane McCarthy

This letter is in response to your correspondence of September 12, 2022. In short, the University maintains its denial of Mr. McCarthy's request to be exempt from the University's requirement for its students to be vaccinated against COVID-19.

As you know, the test to determine whether an individual's beliefs fall under the protected ground of religion within the Ontario *Human Rights Code* arises from the Supreme Court of Canada's decision in *Syndicat Northcrest v Amselem*.¹ Here, the Court held that one "must examine whether an individual's belief has a "nexus with religion," in which an individual demonstrates he or she sincerely believes or is sincerely undertaking in order to connect with the divine or as a function of his or her spiritual faith." This requires the individual to demonstrate their sincere personal belief and that their belief, and any required act or omission, has a nexus with religion.

The "Statement of Sincere Christian Religious Beliefs" that Mr. McCarthy submitted with his exemption request and that is attached to your letter of September 12, 2022, does not speak to Mr. McCarthy's **personal**, sincerely held beliefs. Rather, the University understands that this statement is a template affidavit, and has now received multiple substantively identical affidavits from separate students.

In addition, Mr. McCarthy previously provided an exemption request in July, 2022. His previous request similarly did not include a personal statement of his sincerely held religious beliefs. Rather, his request included a slightly modified version of the template exemption request drafted by the Healthy American.

¹ 2004 SCC 47.

Accordingly, it is readily apparent that Mr. McCarthy has provided no information about his own **personal**, sincerely held beliefs. The University therefore properly denied his request for an exemption from the requirement to be vaccinated.

Mr. McCarthy is, of course, welcome to provide additional information which is personal to him and that demonstrates the sincerity of his own personal beliefs. However, until such a time as the University receives information beyond the template affidavit, or should Mr. McCarthy decline to provide additional information, it will maintain the denial of Mr. McCarthy's exemption request. The University will carefully review any additional information that Mr. McCarthy submits with respect to his sincerely held religious beliefs.

Yours very truly,



Amanda E. Lawrence-Patel

C: Client