Court File No. COA-25-CV-1613
(ONSC Court File No. CV-23-1146)

FORM 61A

Courts of Justice Act

NOTICE OF APPEAL TO THE COURT OF APPEAL

ONTARIO

COURT OF APPEAL

BETWEEN

SUZANNE KRYSAC

Appellant/Plaintiff

- and -

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

Respondent/Defendant

NOTICE OF APPEAL

THE Plaintiff, Suzanne Krysac, APPEALS to the Court of Appeal from the order of Justice Brian D. Dubé in *Suzanne Krysac and Municipality of Chatham-Kent*, 2025 ONSC 5559, issued on October 1, 2025 at the Chatham Superior Court of Justice.

THE APPELLANT ASKS that the judgment be set aside and a judgment be granted as follows *(or as may be)*: general damages of $177,000 representing 24 months pay in lieu of notice, damages pursuant to section 46.1(1) of the Ontario *Human Rights Code* in the amount of $40,000 for Creed-based discrimination, and moral damages in the amount of $35,000 for mental distress caused by the manner in which Mrs. Krysac was terminated; that the Appellant shall have her costs; and such other relief as this Honourable Court deems just.

THE GROUNDS OF APPEAL are as follows: The lower court erred in concluding that the Appellant was not wrongfully terminated from her employment on the basis of discrimination, or in any event.

Errors of Law

The lower court erred in concluding that the Appellant was not terminated from her employment on the basis of religious discrimination in contradiction of its own findings, most of which individually, and all of which collectively, satisfy the *Amselem* test.

The lower court found that "[t]he evidence establishes that the plaintiff articulated her faith…in a consistent and sincere manner, and that her opposition to testing was firmly rooted in her religious beliefs"—a finding evincing satisfaction of the full *Amselem* criteria— yet errantly concluded religious discrimination did not occur when the defendant terminated the Appellant's employment rather than seeking accommodation solutions.

The lower court found that "the plaintiff's conscience-based decision-making as informed by God gave rise to an honest and deeply held belief that undergoing testing would contravene her religious convictions and constitute a sin"—a finding evincing satisfaction of the full *Amselem* criteria—yet errantly concluded religious discrimination did not occur when the defendant terminated the Appellant's employment rather than seeking accommodation solutions.

The lower court errantly found that the "conscience-based decision-making process", over which the lower court also found that the God of the Appellant's religion presides, somehow fails to constitute a comprehensive and overarching system of religious beliefs.

The lower court erred in its failure to find that the Appellant's belief in her body's status as God's temple and her full submission relating to what she puts into her body as a requirement of her religious belief and practice ***is*** the "overarching systemic component" to which the lower court refers.

The lower court erred in its characterization of "singular belief", disregarding that the very facts in *Amselem* would evince a singular belief were "singular belief" to be defined as the lower court defined it.

The lower court also erred in law in finding that "termination was the only reasonable course of action".

Error of Principle

The lower court's preoccupation with an invented component of a phantom test that seeks to subvert the *Amselem* test is an error in principle. The lower court's acceptance of various tribunals' additions to and subversions of *Amselem*, and one lower court decision's adoption of such, are unwarranted and fail to be a suitable replacement for the clear strictures on lower courts as set out by the Supreme Court of Canada in the leading decision on religion as a protected characteristic.

Errors of Fact

Additionally, the lower court made errors of fact that were both palpable and overriding.

The lower court erred in fact by finding that allowing the Plaintiff to continue to work from home for a few more weeks or months, despite having successfully performed her essential duties from home for over eight months prior to termination, "would have placed an undue burden on her co-workers". The court also erred in finding there were approximately 30 co-workers in the Plaintiff's department who performed her case management role when, in fact, there were 60.

Relatedly, the lower court erred in fact by finding that the period of continued work from home was "indefinite", when, plainly, it was not indefinite. Rather, it was temporary; likely to end within a matter of weeks or months; and did, as a matter of fact, end six weeks after the Defendant terminated the Plaintiff. Further, the federal and provincial government employment vaccine mandates had already been rescinded months before the date of termination.

The lower court further erred in fact by placing too much, and indeed any, weight on rare emergencies requiring in-person attendance in the context of the large number of the Plaintiff's co-workers and the short period of time remaining before the Defendant's vaccine requirement was likely to be rescinded.

The lower court therefore erred in both fact and law in finding that the Appellant was "unable to perform the most basic fundamental elements of her employment", that termination was a proportionate response in the circumstances, and that termination was "the only reasonable course of action available".

Conclusion

The provincial, and even national importance of tackling the subversion of high court precedent in service of what lower courts and tribunals would prefer the law to be cannot be overstated. The Court of Appeal must settle this issue in a principled and reasoned decision with due regard to the Supreme Court of Canada's longstanding decision in *Syndicat Northcrest v Amselem*, 2004 SCC 47, anything short of which does violence to *stare decisis*, and ultimately, the rule of law.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS: the order appealed is the final order of a judge of the Superior Court of Justice (see s. 6(1)(b) of the Courts of Justice Act).

November 1, 2025

KITCHEN WELLS LLP
203-304 Main Street S, Suite 224
Airdrie, AB T4B 3C3
James SM Kitchen
T 587-330-0893
james@kwllp.ca

Counsel for the Appellant / Plaintiff

TO: CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT
315 King St. W., Box 640
Chatham, ON N7M 5K8
Emily S. Crawford LSO#: 69803D
Tel: 519.360.1998
Fax: 519.436.3237
emilycr@chatham-kent.ca

Counsel for the Respondent / Defendant

SUZANNE KRYSAC *Appellant / Plaintiff*	and	**CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT** *Respondent / Defendant*	Court File No.:

ONTARIO
COURT OF APPEAL

Proceeding commenced at CHATHAM

NOTICE OF APPEAL

KITCHEN WELLS LLP
203-304 Main St S, Suite 224
Airdrie, Alberta T4B 3C3

James SM Kitchen
Tel: 587-330-0893
Email: james@kwllp.ca

Lawyer for the Appellant / Plaintiff