

**COURT OF APPEAL FOR ONTARIO**

**B E T W E E N :**

**HER MAJESTY THE QUEEN**

**(Respondent)**

**- and -**

**GENEVIEVE POLYANDRY**

**(Appellant)**

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**APPELLANT'S / RESPONDENT'S FACTUM**  
**(Select One)**

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**NAME OF LAW FIRM**  
**Address of law firm**

**Names of Counsel (Include First and Last Names)**  
**Of Counsel for the Appellant / Respondent (select one)**

**Telephone:**

**Fax:**

**Email:**

**PART I:**  
**STATEMENT OF THE CASE**

1. This case is about the [Insert a short summary of the main issue raised by this appeal].

**PART II:**  
**AGREED SUMMARY OF THE FACTS**

2. The Applicant/Appellant and the Respondent have provided an agreed statement of facts, reproduced here.

3. On January 15, 2007, Ms. Polyandry married John Primo in a ceremony presided over by a Minister of their joint religion. After that ceremony, Ms. Polyandry then engaged in a similar marriage ceremony with Louis Secondaire. This was presided over by the same clergyman. Indeed, all persons were aware of the marriage situation, all agreed that this was proper according to their religious views and it was the intention of the persons to live together as husbands and wife.

4. The situation came to light when Ms. Polyandry, who is an employee of a large municipal pension office, attempted to designate both Mr. Primo and Mr. Secondaire as her husband. It was clarified that she had indeed gone through marriage ceremonies with both men. A supervisor denied her claim for registering both persons for spousal benefits, insisting that only one of the men could be recognized as a lawful husband. Ms. Polyandry objected to this and appealed that decision. The issue of benefits for one or both men is not the issue in this case. When Ms. Polyandry insisted that both men be

recognized as her husband, a person in the pension office notified the police, suspecting that there was some sort of criminally fraudulent scheme being created. Upon investigation, the police determined that there was no intention to defraud any person or party, but that Ms. Polyandry had violated S. 290 of the *Criminal Code*. She was thus charged with bigamy. Mr. Primo, as the person she first married, was not charged. Mr. Secondaire, who knew of the first marriage and still went through a ceremony with the accused in this case was also charged. His matter is being dealt with separately and all the parties have agreed that case should await the outcome of this constitutional challenge. A charge was contemplated against the pastor who officiated at the ceremony, but was not actually laid as he died shortly after this matter arose.

5. All agree that if the provisions of S. 290 of the *Code* can withstand *Charter* scrutiny, then the accused is guilty of the offence. However, Ms. Polyandry has challenged the law on four grounds:

- A. the law violates her freedom of association;
- B. it violates her freedom of religion;
- C. it violates her right to life, liberty and security of the person and is not in accord with the principles of fundamental justice; and
- D. it is not a reasonable limit on her freedom, demonstrably justified in a free and democratic society.

6. The trial judge decided that the legislation did not violate the applicant's *Charter* rights. As the trial judge stated,

[You may choose to quote from the reasons for judgment. All quotes should be indented and single-spaced, like this paragraph. All quotes must be referenced immediately after the paragraph, noting the page **or** paragraph number of the quote.]

*Reasons for Judgment*, para #.

#### DECISION OF THE SUPERIOR COURT

7. [You can summarize the decision of the trial judge, Justice Straightlace, to emphasize the points that are important to your firm's argument]

It is often helpful to quote directly from the trial judge's decision. This must be referenced by paragraph number so that the appellate judge can find the quote in the complete decision.

*Reasons for Judgment*, para #.

### **PART III**

#### **GROUND OF APPEAL**

##### **A. ISSUE ONE: FREEDOM OF ASSOCIATION UNDER S. 2(D)**

8. [Insert your firm's argument on this issue. Refer to the explanatory notes for information on how to refer to cases and how to structure your argument.]

##### **B. ISSUE TWO: FREEDOM OF RELIGION UNDER S. 2(A)**

9. [Insert your firm's argument on this issue. Refer to the explanatory notes for information on how to refer to cases and how to structure your argument.]

**C      ISSUE THREE - RIGHT TO LIBERTY UNDER S. 7**

10.    [Insert your firm's argument on this issue. Refer to the explanatory notes for information on how to refer to cases and how to structure your argument.]

**D      ISSUE FOUR –JUSTIFIABLE LIMITS IN A FREE AND DEMOCRATIC SOCIETY (S. 1)**

11.    [Insert your firm's argument on this issue. Refer to the explanatory notes for information on how to refer to cases and how to structure your argument.]

**APPLICATION TO THIS CASE**

12.    [Insert a concluding statement, summarizing how the preceding arguments support the order you have requested.]

**PART IV**  
**ADDITIONAL ISSUES**

13.    The Respondent / Appellate raises no additional issues.

**PART V**  
**ORDER REQUESTED**

14.    It is respectfully requested that [Insert the remedy or result that you would like. Refer to the explanatory notes for more information.]

**ALL OF WHICH** is respectfully submitted by

\_\_\_\_\_  
**Name of all four counsel**

Of Counsel for the Appellant/Respondent (Select One)

**DATED AT (LOCATION)** this \_\_\_\_<sup>th</sup> Day of (month), (year)

## **APPENDIX A**

### **AUTHORITIES TO BE CITED**

[List all the cases and/or statutes that you have referred to in your factum using proper legal citation. Refer to the explanatory notes for formatting guidelines.]