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A TALE OF TWO SLIP & FALLS

"ARYAN KAMYAB"

THE IMPORTANCE OF HAVING A WILL

"ALI AHMARI MOGHADDAM"

IDENTIFYING CREATIVE PATHWAYS TO PERMANENT RESIDENCY

"AFSHIN WAZDANI"

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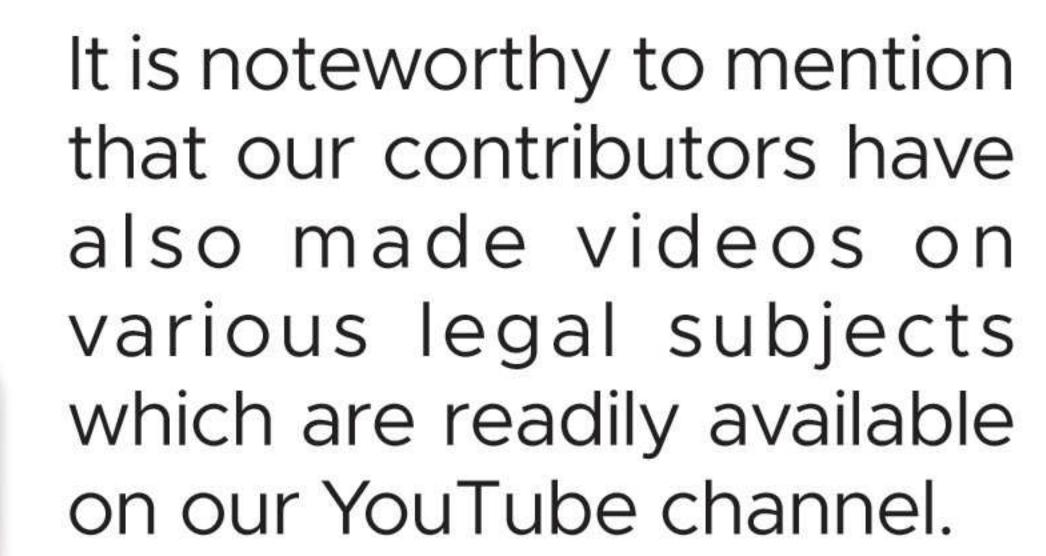
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Over the course of the past month we have received many inquiries concerning issues related to personal injuries.

As such, we submitted your requests to the personal injury lawyers currently contributing to our magazine and they have agreed to draft additional articles on pertinent issues in this area of law.

We encourage our readers to continue submitting requests on topics of interest that shall be considered for future publications.



Lastly, keep in mind you can access the PDF version of this magazine, as well as all previous issues on our website.







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Toronto Lawyer

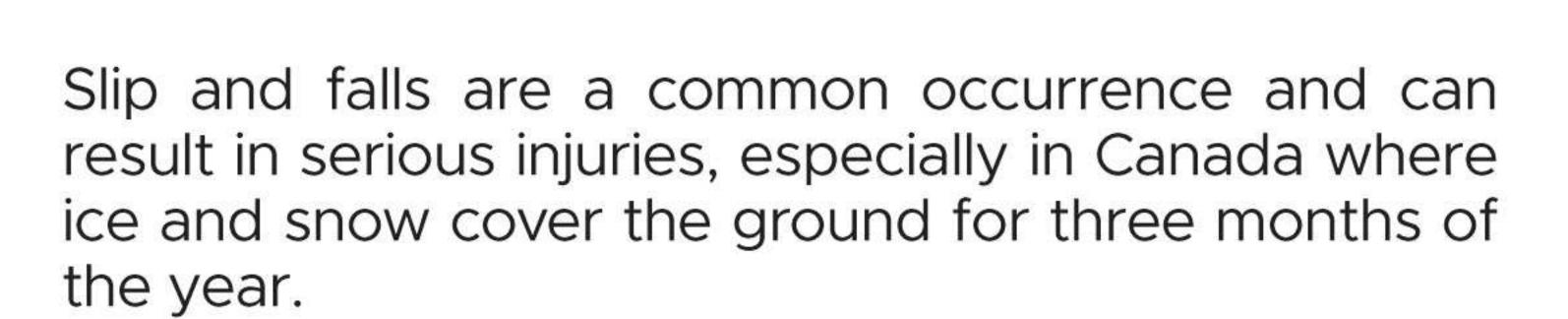
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Slip And Falls

ATale

Of Two

The holiday season in late December sees an increase in parties and social gatherings, while at the same time, an increase in the likelihood of icy and snowy weather. Under these circumstances, accidents are waiting to happen.

This is a tale of two slip and fall accidents that ended quite differently. On one particular evening, two individuals Mrs. Yes and Mrs. No both attended separate holiday parties. Unfortunately, both of them would suffer severe injuries after slipping and falling on icy surfaces. However, one of the two victims would be successful in bringing a liability claim for damages, while the other would be unsuccessful. Here are their stories...





Mrs. Yes

Mrs. Yes was attending a party at a friend's house. After having enjoyed a long night of celebration, Mrs. Yes decided that it was time to go home. She said farewell to her friends, thanked the hosts for a great evening, and departed. Over the course of the party, the weather had changed significantly. Freezing rain had fallen midway through the evening and temperatures dropped drastically, creating icy conditions on the roads, including the host's driveway.

After stepping outside the house, Mrs. Yes recognized the cold conditions and tried to locate a safe and clear path for her to use. However, the only available route was down the driveway. She proceeded down the driveway, walking slowly and carefully, towards the sidewalk. But before reaching the end of the driveway, Mrs. Yes slipped on an icy portion of the ground and severely injured her leg. A nearby neighbor noticed her fall and came to her assistance.

Mrs. No

Meanwhile, in another part of town, Mrs. No was also attending a party at a friend's house when she noticed how late it had gotten. She said farewell to her friends, thanked the hosts for a great evening and proceeded to the door. The host walked her to the front door and cautioned her about the weather. Several hours prior, the host noticed that the weather had changed to freezing rain and monitored the sudden drop in temperature. Seeing as the host had several people at her home, she left the party twice throughout the evening and salted the driveway and walkway in anticipation of the icy conditions.

Mrs. No thanked the host for the warning but assured her that she would be ok. The host recommended that Mrs. No use the walkway at the side of the house because the walkway had been shovelled recently and salted, while the driveway, although salted, had not been shovelled recently. Mrs. No informed the host that she was in a hurry to get home because of how late it was, and that she would simply use the driveway and walk carefully. After saying farewell to the host, Mrs. No proceeded down the driveway without taking caution as she walked. Midway down the driveway, Mrs. No slipped on an icy portion of the driveway and severely injured her leg. A nearby neighbor came to her assistance.

Both Mrs.

Yes and Mrs. No suffered injuries that required physiotherapy and prevented them from working for several weeks. They both brought liability claims against the hosts for failing to ensure that the property was safe for guests. However, only Mrs. Yes was successful, while Mrs. No was unsuccessful. Here is a breakdown of why.

The Law

The Occupiers' Liability Act applies to both these circumstances. According to this statute, an occupier has a duty to ensure that their property is kept reasonably safe for all people who enter. An occupier is anybody who owns or is responsible for a premises. Both hosts were occupiers of the property at the time of the accidents, therefore both hosts owed their guests a duty of care to ensure that the properties were safe.

The Occupier: Mrs. Yes

The host of the party that Mrs. Yes attended failed to ensure that the property was safe. In situations where icy conditions pose a risk of injury, it is required that an occupier make efforts to remove the dangerous conditions. Typically, salting or sanding an icy driveway will help to remove the risk. An occupier must also ensure that they provide enough salt or sand. If the occupier does not add enough salt or fails to salt the entire portion of ice, they may still face liability. In this case, the hosts did not salt the driveway at all, even though they knew guests would be using their property. For these reasons, they were held liable.

The hosts tried to argue that Mrs. Yes was partially responsible for her injuries. According to the law, if the victim behaves recklessly or willingly assumes the risk involved, they may be partly responsible and will only be able to collect a portion of the damages. In this case, Mrs. Yes was not reckless and did not willingly assume the risk for the following reasons:

- 1 She was unable to see below the thin layer of snow, and was therefore unsure if the driveway was slippery;
- Pecause she was unsure of the conditions, she tried to locate a safer route, but none existed;
- She walked down the driveway as carefully and slowly as possible, in case there was ice below her; and
- Mrs. Yes was wearing heavy winter boots at the time, which is appropriate footwear for the circumstances.

The Occupier: Mrs. No

The hosts of the party that Mrs. No attended did their best to ensure that the property was safe and therefore were not held liable. The law tells us that occupiers must take reasonable steps to ensure that the property is reasonably safe.

This means they are not required to remove every single possible risk, as this would be an unreasonable requirement. In this case, the host recognized the weather changes and salted the driveway and walkway twice throughout the night. Additionally, the host suggested that the guest use the safer alternate path that had been shovelled. These are reasonable steps to ensure that guests are safe while on the premises.

Furthermore, even if the host failed to take reasonable steps to ensure that the property was safe, the guest in this case would have been partially, if not entirely, responsible for her injuries for the following reasons:

- 1 Mrs. No was warned of the weather conditions but did not make efforts to walk carefully;
- 2 She was offered a safer route down the walkway but chose to use the driveway instead;
- She was in a hurry and was therefore acting recklessly with regards to the icy conditions; and
- She chose to wear high-heeled shoes that night, which posed a greater risk to her safety, given the difficulty in walking on ice in that particular footwear.

Optional Third Guest What Do You Think?

Mr. Wrong Defendant

Mr. Wrong Defendant was attending the same party that Mrs. Yes was attending. However, Mr. Wrong Defendant left 30 minutes earlier. As he stepped outside of the house, he noticed the winter conditions and decided to walk carefully down the driveway. Unlike Mrs. Yes, he managed to reach the end of the driveway and stepped onto the sidewalk. He then took two steps and slipped on an icy portion of the sidewalk and fell, severely injuring his leg. A nearby neighbor saw him fall on the sidewalk and helped him.

Like Mrs. Yes, Mr. Wrong Defendant also sued the host of the party due to their failure to salt the driveway and provide a safe environment for their guests. Unfortunately for Mr. Wrong Defendant, the hosts were not found to be liable in this case because the victim did not slip and fall on their property.

Because he fell on the sidewalk, the occupier was in fact the municipality and not the party host. Municipalities are responsible for ensuring the safety of certain public spaces, such as sidewalks, roads and parks. Mr. Wrong Defendant was suing the wrong occupier.

Unfortunately for Mr. Wrong Defendant, it was too late to change his claim. But even if he correctly sued the municipality, it would have been much more difficult for him to succeed because municipalities are treated differently than residential hosts. Although it is reasonable for a resident to salt their driveway shortly after an ice storm (especially if they are hosting guests), it may not be reasonable for the municipality to salt every single sidewalk in the city shortly after an ice storm.



Mr. Wrong Defendant

Even though these stories are quite similar, the differences between them can result in completely opposite outcomes. Both the guest and the host play key roles in deciding liability. The occupier of a property must take reasonable steps to ensure the environment is safe, while the guest must also act reasonably and do everything they can to avoid an injury.

Finding a balance between what is reasonable and what is unreasonable can be very difficult. If you are injured in a slip and fall accident, you should seek legal advice in order to determine the strength of your case and whether or not your tale will have a happy ending.





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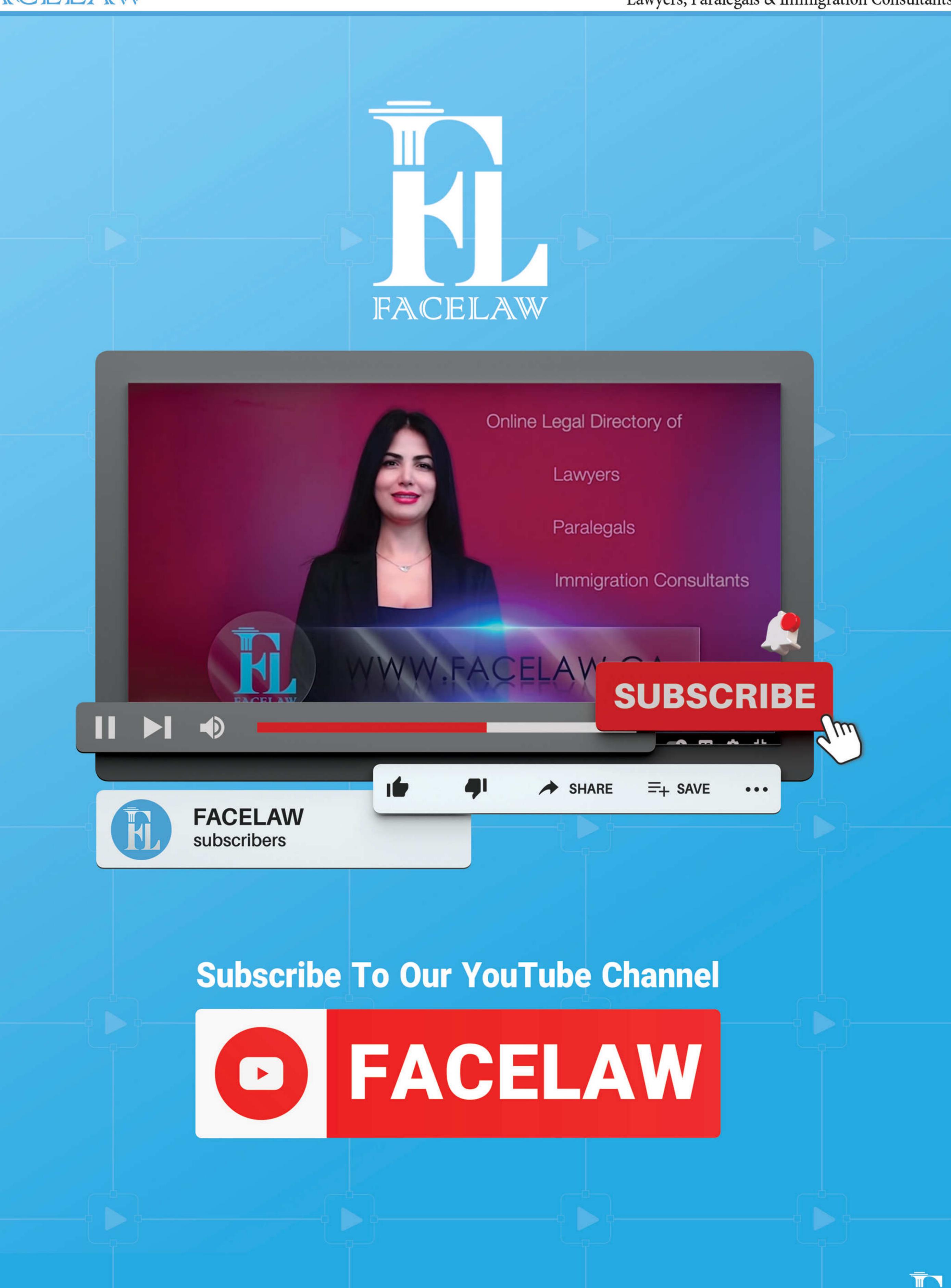
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The Importance Of Having A Will

Your loved ones will be grateful for your decision to create a Will and begin your estate planning process. There is a significant importance for Ontario adults to have a valid Will to address several important decisions regarding their estate.

A Will is a legal document that is an individual's last will and testament which outlines your wishes in the event you pass away. Your Will is a guide for your loved ones to follow in accordance with your wishes, and without this it can cause a strain and difficulty on your family members. To ensure you are adequately planning your estate and protecting your loved ones, it is essential to create a valid Will.

Many people put off completing this important legal document for a few reasons. There are misconceptions about not having enough assets to make creating a Will worthwhile. Regardless of an estate size, having a valid Will is extremely important to handle all the affairs of distribution of assets as well as handling estate debt. Additionally, many others put it off and leave it on their to-do lists, to complete eventually.

However, there are many reasons one should have a level of urgency in completing a Will. If you have minor children, you will want to ensure they are taken care of by the guardian of your choosing, if you are no longer here. Otherwise, the court is left with the decision on who to appoint as the guardian of your children.

If you have special personal belongings and possessions that you wish to gift to loved ones, you are able to do so using your Will. Any monetary gifts you want to give friends and family members, or charitable gifts can also be drafted into your Will. Your wishes on how you want your property to be distributed, will be in your Will and your Estate Trustee that you appoint must follow these instructions.



What is a Valid Will in Ontario?

A valid Will in the province of Ontario must be signed by the person who is making it, as well as witnessed by two individuals who do not benefit or inherit under the Will.

The person creating the Will is called the testator, and this individual must be over the age of majority in Ontario (age of 18), and of sound mind.

Although there are many DIY Kits for Wills, many of these do it yourself solutions do not take into account estate planning needs of specific individuals, which can differ depending on the testator's personal situation and assets.

These do it yourself kits can seem easy and simple, however they can also cause significant harm to your estate and your heirs if done incorrectly without a lawyer's assistance.





What it means if you die without a Will

If you die in Ontario without a Will, this is considered intestate. Because there is no will, there is also no Estate Trustee who can immediately deal with your property. An application needs to be made to appoint an Estate Trustee Without a Will.

The probate process is lengthier, costly and under Ontario's Succession Law Reform Act, your estate is disposed of using this statutory distribution. According to this statutory guideline, your estate goes to your spouse and children, however if you have no children, your next of kin is your parents.

If your parents are no longer living, it is passed down to your siblings, and if they are no longer living, it goes to your nieces and nephews, and so forth. Eventually if you have no living next of kin, the property escheats to the Crown and your estate goes to the Ontario government. This priority is created based on the Table of Consanguinity, which looks at each level of kinship in your family tree.

However, if you are unmarried and in a common law relationship, there is no statutory right for a common law partner to inherit from your estate. This can cause you to disinherit your common law spouse without intending to do so.

Additionally, if you have minor children and do not have a Will that appoints a guardian, the court will decide who to appoint without your input. It is important that a decision as significant as who cares for your children in your absence, is made carefully by yourself. Creating a validly executed Will can avoid these issues by addressing your specific wishes in the document.



What it means if you die with a Will

If you die with a Will in Ontario, this is considered testate. As long as your Will is validly executed, the distribution of your estate follows in accordance with your wishes. You are also able to choose who manages your estate by appointing your Estate Trustee. Your Estate Trustee is given authority by your Will, to manage your estate, distribute and dispose of assets according to your wishes. Although your estate will still go through probate, the process is a lot speedier as your estate will be administered by your Estate Trustee.

The distribution is also done in terms of priority, in the manner you as the testator decide. If you have minor children, your Will is where you can appoint a guardian to care for your children. This is an important decision for your children's best interests, and it is critical to select someone you trust to fill this role.

Additionally, by reviewing your estate with your lawyer when creating your Will, you can go over your assets and discuss tax implications of the distribution of these assets, and select the right planning tools that can help reduce taxes for your estate planning needs. By having a Will and an appointed Estate Trustee, your loved ones can be assured that your affairs will be handled during the administration of your estate, in accordance with your wishes.



Hiring a Lawyer

It is essential when creating your estate plan and your Will specifically, that you retain a lawyer that can adequately draft your personal wishes and needs.





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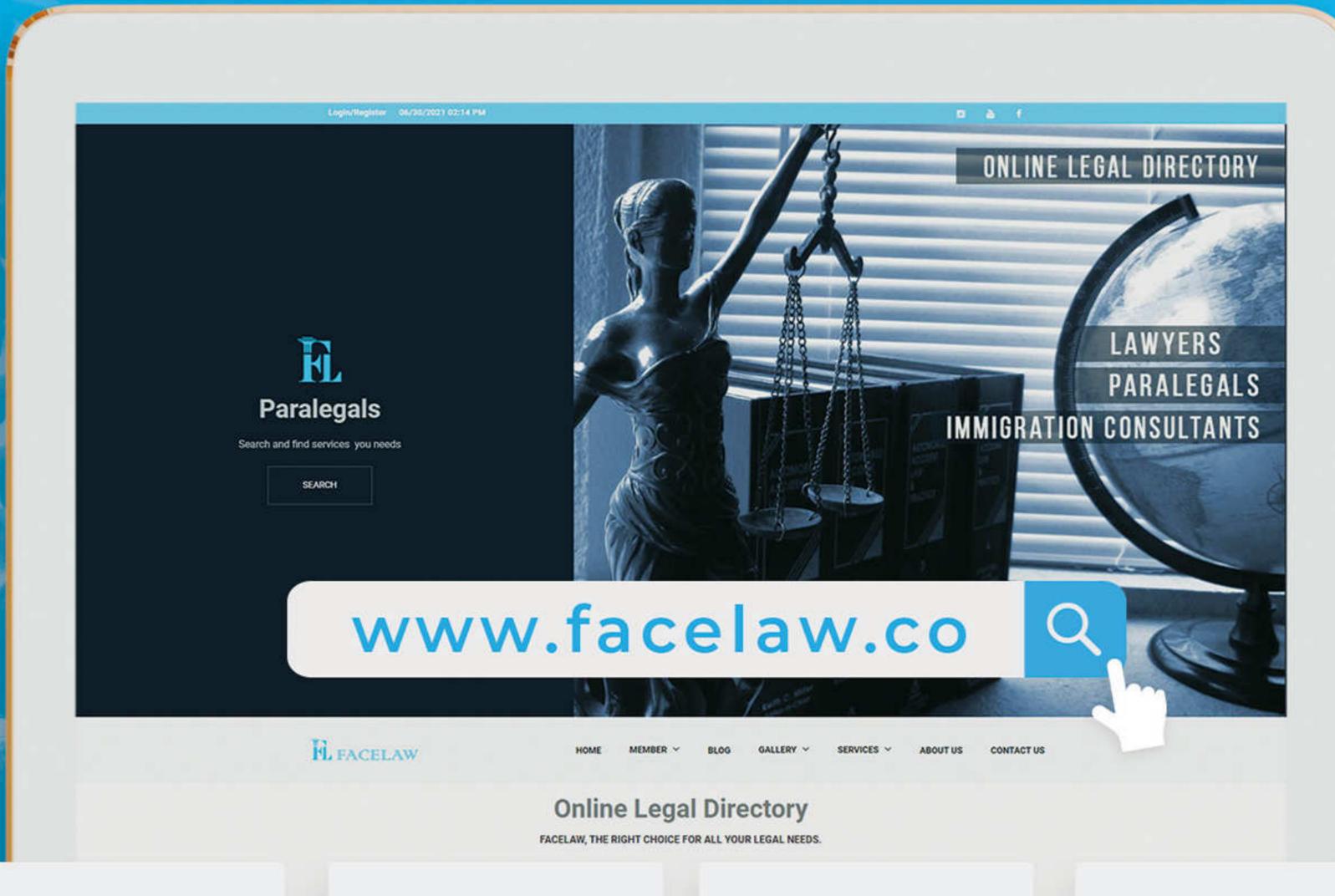
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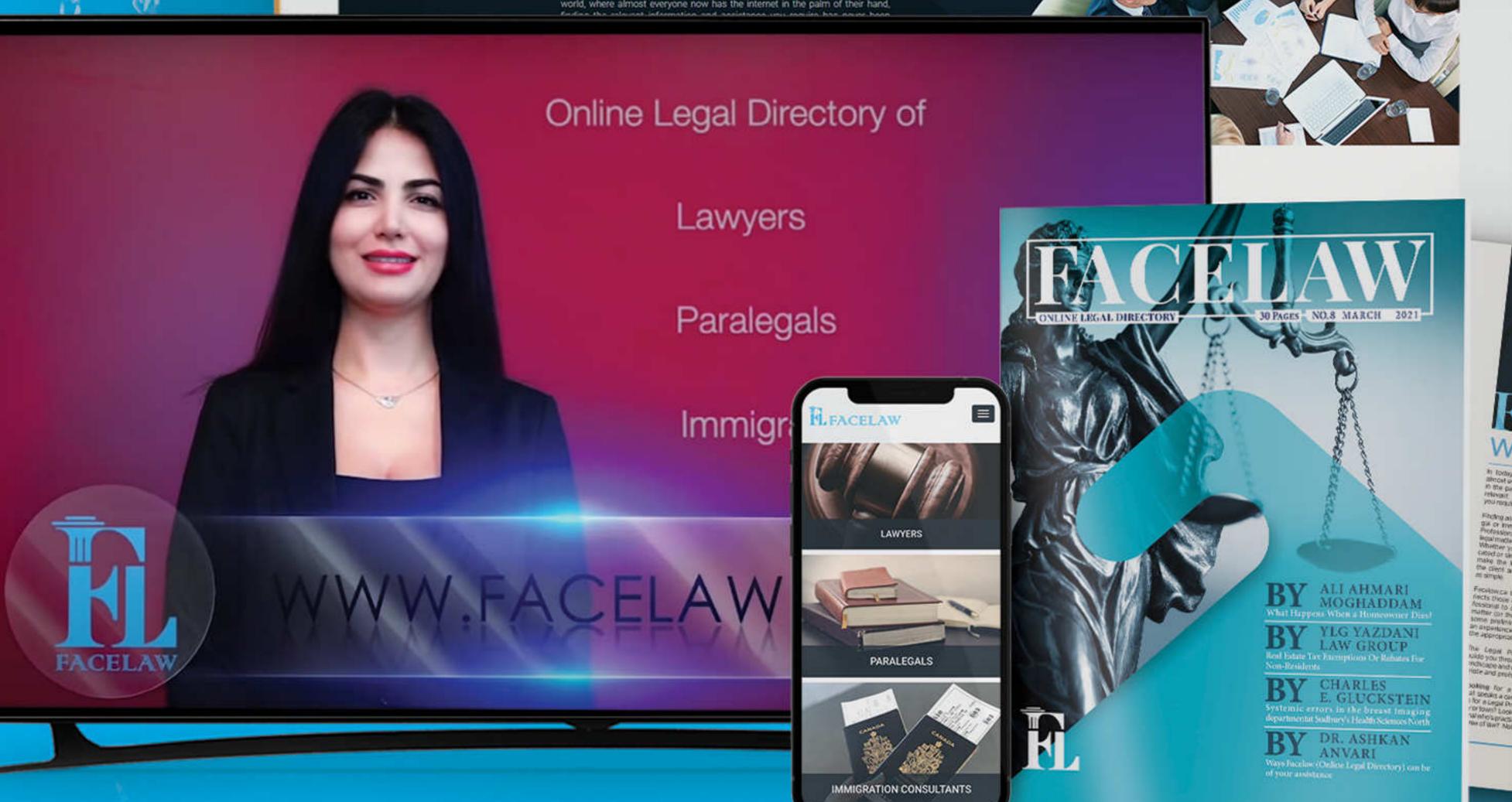




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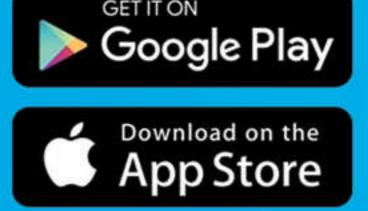




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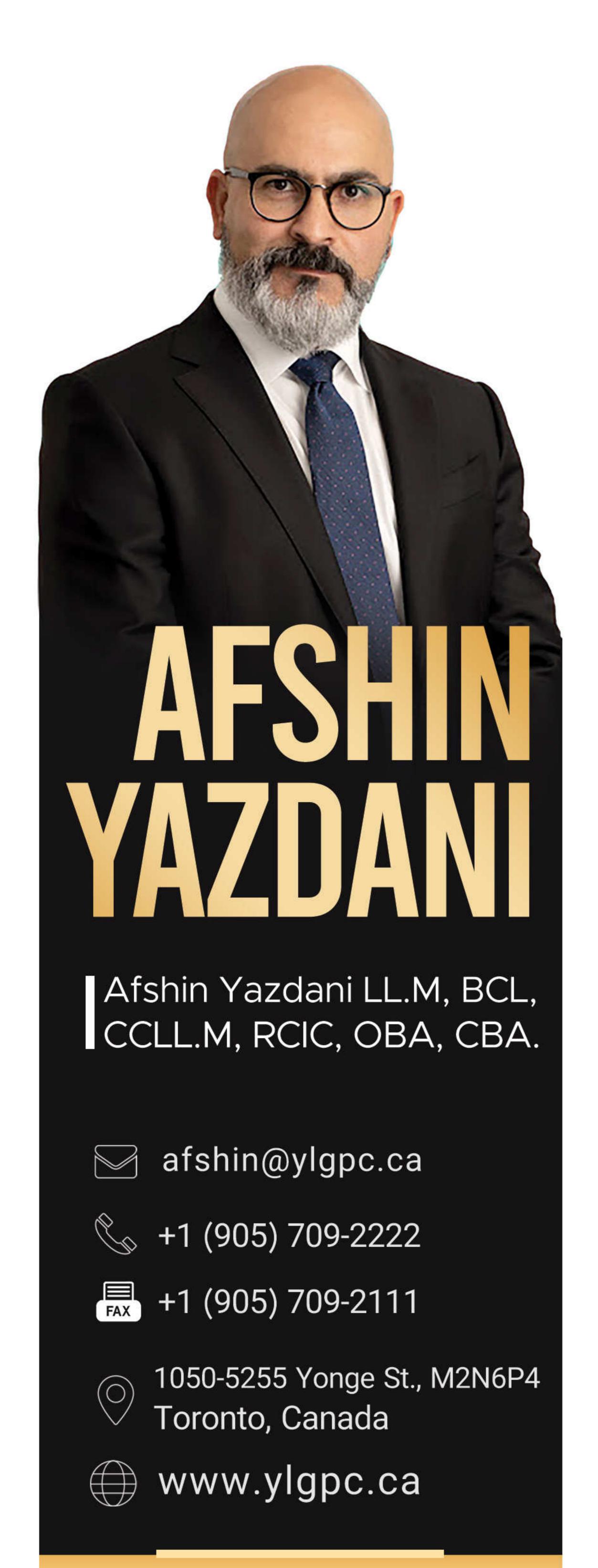
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community and maintains these values at the core of all of its efforts. As a result, Facelaw will have business networking events in which all Facelaw members who are experienced professionals in the legal field will have the opportunity to meet and learn from one another. This will allow them to advance their current expertise and to better serve the public as their legal knowledge will be up to date and expanded.



Identifying Creative Pathways To Permanent Residency



It is a common misconception that in order to immigrate to Canada on a business or entrepreneurial related visa, one must either be of high net worth with a substantial capital, operate a large organization or obtain an angel investor support letter for a start up visa. While this is generally true in the majority of applications, it is not always the case.

In this month's article we will scrutinize a recent case successfully achieved by Barrister and Solicitor Afshin Yazdani, where he demonstrates that being a pioneering immigration lawyer is not only about memorizing law books but requires years of experience, analytical thinking, innovation and a vast understanding of the rules, laws, and policies set out by the IRCC (Immigration, Refugees and Citizenship Canada).

In this instance, the client and his family were granted permanent residency through an entre preneurial work visa for an SME (Small to Medium Enterprises) business.

The thought process of being creative created a new, ingenious pathway to permanent residency within the current policies and requirements of various immigration streams based on the complexities of the client's circumstances, hailed as the winner. The impact of SMEs on the global economy is often overlooked, eventhoug this sector accounts for a substantial share of the world's GDP (Gross Domestic Product).

In Canada it is a common believe that large companies provide huge employment opportunities, however SMEs are actually the largest job creators and the strength of country's economy is crucially dependent on it.



Before examining the specifics of the case, it's crucial to understand the significance that SMEs has on the country's economy, as well as the efforts made by the IRCC and the federal government to attract experienced entrepreneurs who wish to own and actively manage a business in Canada.

The IRCC ministry created various entrepreneurship immigration streams, as part of their initiative to sustain and boost the booming business industry through immigration, while also creating new jobs for citizens and permanent residents locally.

With 1.15 million small businesses in the country, on average this sector contributes 55.32% to Canada's entire GDP and 40.8% to the employment sector in all of Canada.

As of 2019, small businesses employed 8.4 million individuals, or 68.8 percent of the total private labour force, according to the Government of Canada's Innovation, Science and Economic Development latest available Small Business Statistics November 2019 edition.

Small businesses generally refers to organizations with 1 to 99 paid employees, where as a mediumsized business has 100 to 499 paid employees and to be considered a large company it must employ 500 or more paid employees.

Other business immigration offering permanent admission to Canada includes the Federal StartUp Visa; Provincial Nominee Entrepreneur, Quebec Immigrant Investor Program (QIIP), Quebec Entrepreneur and Quebec Self Employed Programs.

In the case in point, the client, an Iranian citizen has a bachelor's degree in Computer Science with an IELTS score overall band of six. He has no Canadian relatives for the extra CRS (Comprehensive Ranking System) points, his spouse does not have a tertiary education and neither one had Canadian work experience or a Canadian degree prior to arriving here.

In 2018, he made the decision to immigrate on the basis of exploring business opportunities in Canada after identifying a gap in the market for computer supplies in the lucrative Information Technology (IT) industry nationally.





He subsequently sourced the services of YLG Law Group to assist in streamlining the process to establish a business locally and assist with all immigration related requirements.

In partnership with a Canadian citizen, the client's business was incorporated under the laws of the Province of Ontario in May 2018.

With the intention to create an economic growth infrastructure for the local economy by horning the skills of locals and obtaining domestic IT supplies, a flawless business plan was submitted, together with his application for a temporary work visa.



In October 2018, his one year temporary work permit was approved as an NOC 00 executive management position for his registered company. Subsequently, in November 2018, YLG lodged an open work permit visa for the client's spouse on the basis for her husband's work permit and was approved in October 2018.

The couple was afforded an extension to their work visa in December 2019 by which point the client had successfully established his company.

In March 2021, he entered into the pool to apply for a permanent residency (PR) through the Express Entry program. He was now eligible for PR by account of the 246 extra CRS points (46 and 200 for Canadian Work Experience and Arranged Employment, respectively) that he gained through his work experience as an executive director for his own company.

His overall CRS points accumulated to 576, which was sufficient to receive an ITA (Invitation to Apply) in March 2021. In August 2021, the client's, his spouse and minor son's application for permanent residency was approved and soon they will be eligible to apply for Canadian citizenship.

The above scenario proves categorically the various inventive ways to maximize the different immigration streams, used to gain permanent entrance into Canada. This was only possible through the experience, originality and understanding of immigration laws by Attorney Afshin Yazdani.





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SHIRIN TAGHAVI

Shirin is a Toronto based lawyer & founder of Taghavi Law. She holds a Master of Laws degree from Osgoode Hall Law School, York University, and a Bachelor of Laws from Tehran University.

Shirin is a licensed lawyer in Ontario and after several years of experience in Toronto, opened her own law practice.

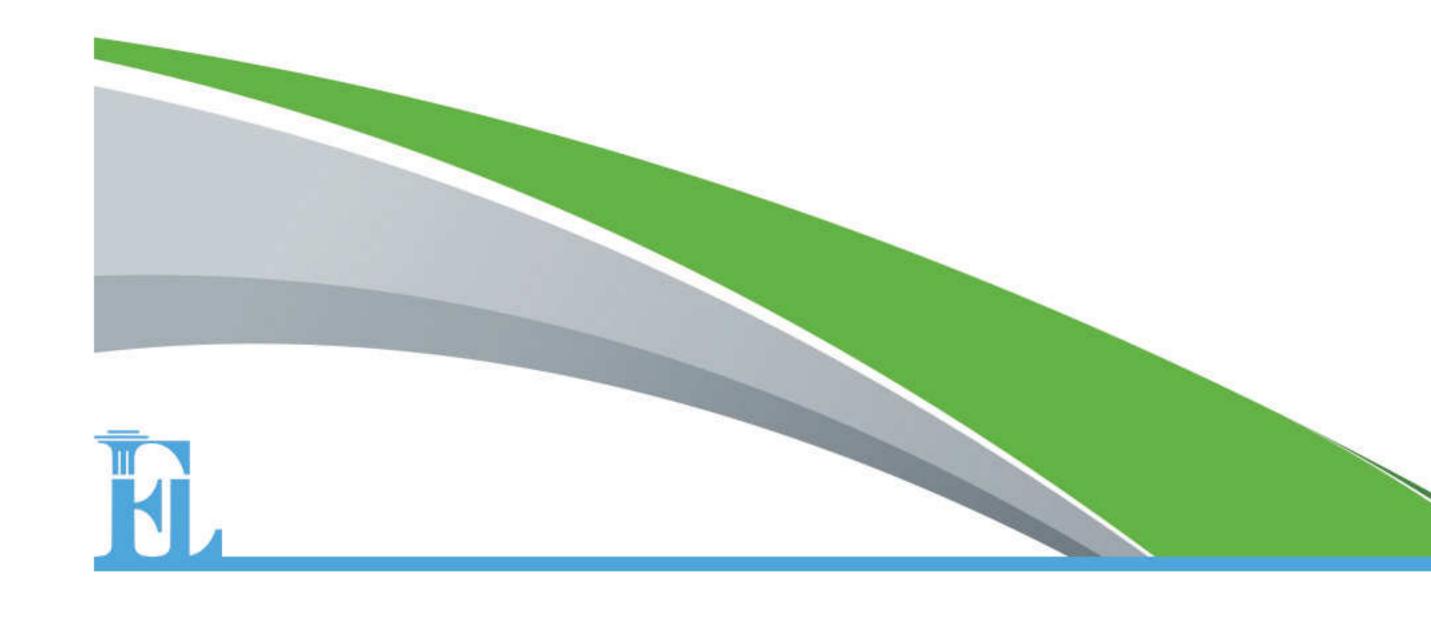
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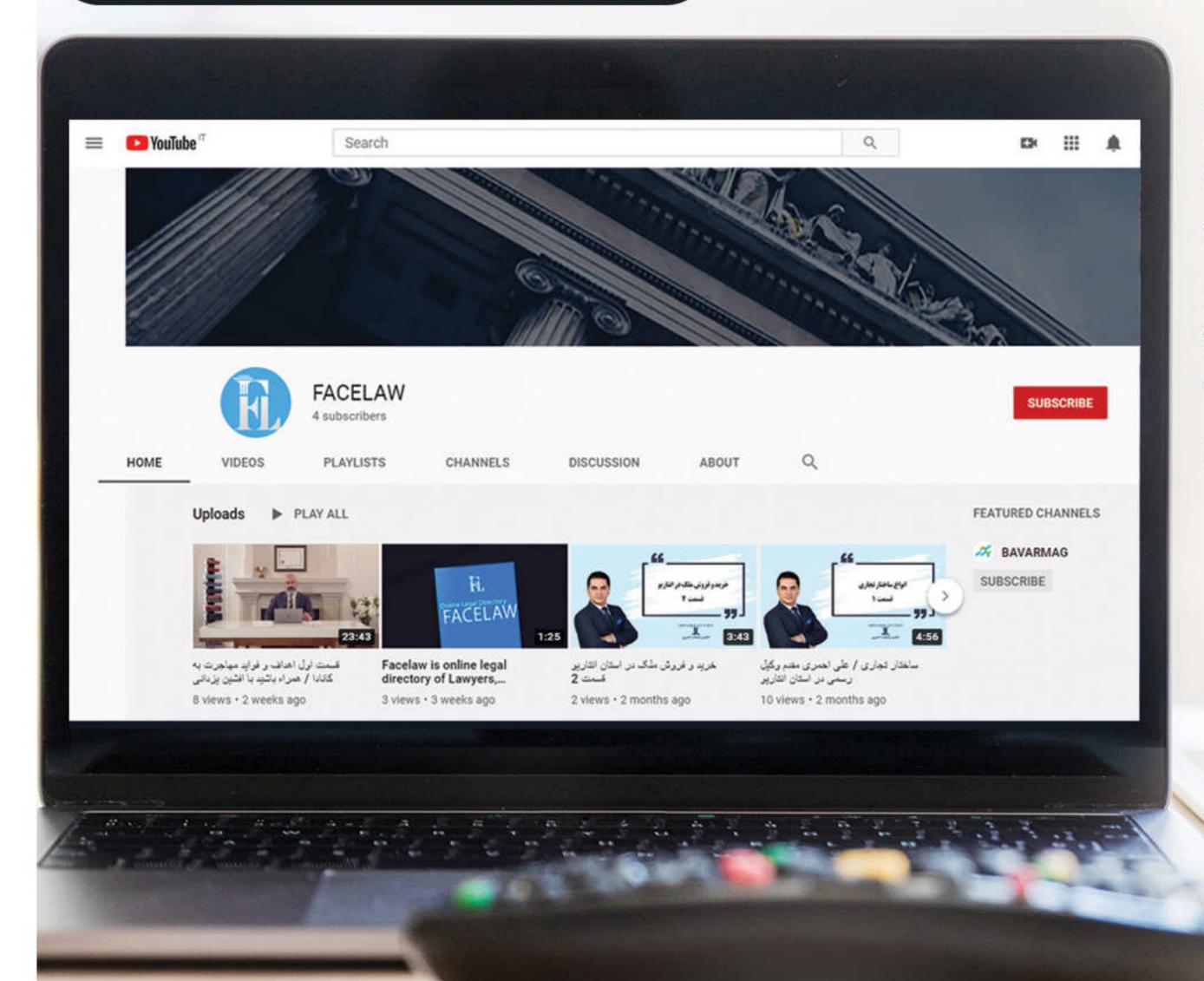
In today's technologically advanced world, social media has become the new phenomenon to connect the world on all levels. The world has technologically moved forward in a way that people no longer just rely on radio or TV to access their favorite program.

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The blog is sectioned into different legal topics in which information is provided from different professionals. Facelaw strives to provide you with a wholesome perspective so that you can be guided by different professionals in order to make the best possible decisions involving your legal matters. In doing so, if you have questions you can directly contact the professionals with the information provided on Facelaw. The professionals can help answer your legal questions and guide you in the right direction with respect to your legal matter.

Facelaw has provided an easy access search function that with a simple keyword search you can locate useful information on the legal topic you require information about. We are grateful that we have connected with these professionals to compile valuable resources to share with the public to ensure that you are provided quick and accurate guidance and information.



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Ross Mirian, Esq is the managing lawyer at Mirian Law Firm. He is a member of the State Bar of California and the Law Society of Ontario.

Ross practices in the field of personal injury representing injured victims. He has handled and successfully resolved a number of serious personal injury cases involving catastrophic injuries, death, brain injury, fractures, orthopedic injuries, chronic pain syndrome, car accidents, long term disability, slip and fall, dog bite and psychological disability.

Furthermore, Ross also acts on behalf of clients with real estate transactions.

Mr. Mirian takes a personal interest in all of the firm's cases to ensure the highest standards of service and excellence are consistently met.

Prior to establishing Mirian Law Firm, Ross Mirian worked at a large personal injury law firm in Ontario.

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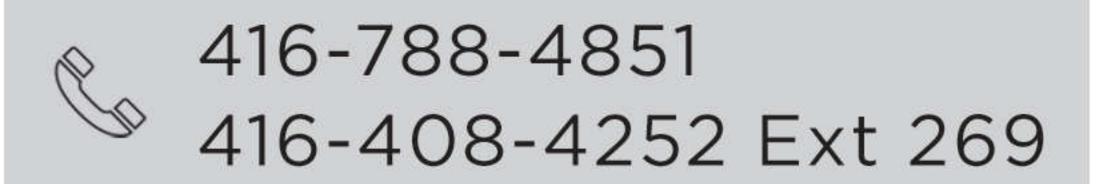




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LTD Insurance Companies Denying Long COVID Claims

As vaccines slowly return some normalcy to a world living under a cloud of coronavirus, long COVID threatens to be the next healthcare crisis, and it could have a profound effect on long term disability claims.



Long COVID could very well be the fibromyalgia of the next decade. We are starting to see instances where people who have been trying to get benefits for several months seek legal advice because their insurance companies refuse to look at their claims. I anticipate that this is going to be a massive battleground as people fight for their rights.

Many have been functioning on the assumption that if COVID-19 does not kill you, you will eventually get better, but that is not always the case. There is a tendency to view COVID as the bad flu. It is not. It is a different disease with another mechanism. After more than a year of dealing with the COVID crisis, there is growing evidence of the after effects still suffered by so called "long haulers."

People suffering months after a positive test

Researchers at the British Medical Journal found that about 10 percent of those tested positive for the coronavirus continue to suffer months later. They state post acute COVID-19 symptoms vary widely, and even a mild case may be associated with long term symptoms, such as low grade fever, cough and fatigue.

About 1.4 million Canadians have tested positive for COVID, which means if researchers are correct, there may be 140,000 long haulers still suffering from the disease. The numbers could be much higher since it only includes people who have tested positive for the virus. Many others may have caught a mild case of COVID but were not tested.

And even though they may have seemingly recovered, there could still be lingering long term effects. What is even more frightening is that others are dragging themselves through their lives and suffering. But because this cluster of symptoms is so ill defined, they do not realize that they are long haulers.

More long COVID cases may come to light when people return to the job from a remote workplace environment. People go back to the active workforce with commuting and all the stresses associated with an office. If you are functioning at less than maximum efficiency while working from home every day, it might take longer for some of these deficiencies to become evident.



Three categories of COVID patients

There are three categories of COVID: asymptomatic people, those who have had minor symptoms, and hospitalized. From anecdotal evidence, it appears that many long haulers may be young and in previously good health. Science has learned much about the virus, but many questions remain. For some, it does permanent damage. It could do permanent damage, but some might not even realize it.

Some people who have been dealing with health issues due to the coronavirus have been able to rely on emergency government funding. But what is happening now is that things such as Employment Insurance have run out, and people are hitting the long term disability (LTD) wall. Most LTD policies have a four to a six month waiting period before they kick in. We are now starting to see more cases where claims are being denied. It is going to be a big fight.

Insurance companies expect a claimant to document the history of their claim, which is one of the problems with the virus. An insurer will ask for a positive COVID test, but not everyone who caught the virus got one. Insurers also demand medical paperwork to back up a claim.



Establishing a good paper trail

Establishing a good paper trail with your family physician is essential. But many family physicians have not seen patients in a year and a half.

Another hurdle is a lack of a clinical definition for long COVID. The underlying problem is that many of these symptoms do not show up on diagnostic testing. There is no test to find something abnormal. Doctors have not gotten together to come up with a clinical definition for long COVID. It has not reached the attention that it deserves. We need to get a clinical definition of long COVID, and we need to educate the medical community to start making a diagnosis.

Insurance companies have a responsibility to the long haulers they insure

You buy insurance to save yourself from precisely this type of stress. You have been paying into this policy religiously so that you have peace of mind knowing that your family will not be financially ruined if the worst happens. Then the worst happens, and the insurance company says, 'Prove it.'

It is fair to say that this is new enough that lawyers are feeling their way too. However, the problem is too big to be dismissed because there is insufficient medical evidence to support a claim. It is essential that people facing this reach out to a lawyer who has experience representing people with disability claims someone with the skills to deal with chronic pain cases and invisible disabilities.

Contact us today.





Maryam Jamshidian

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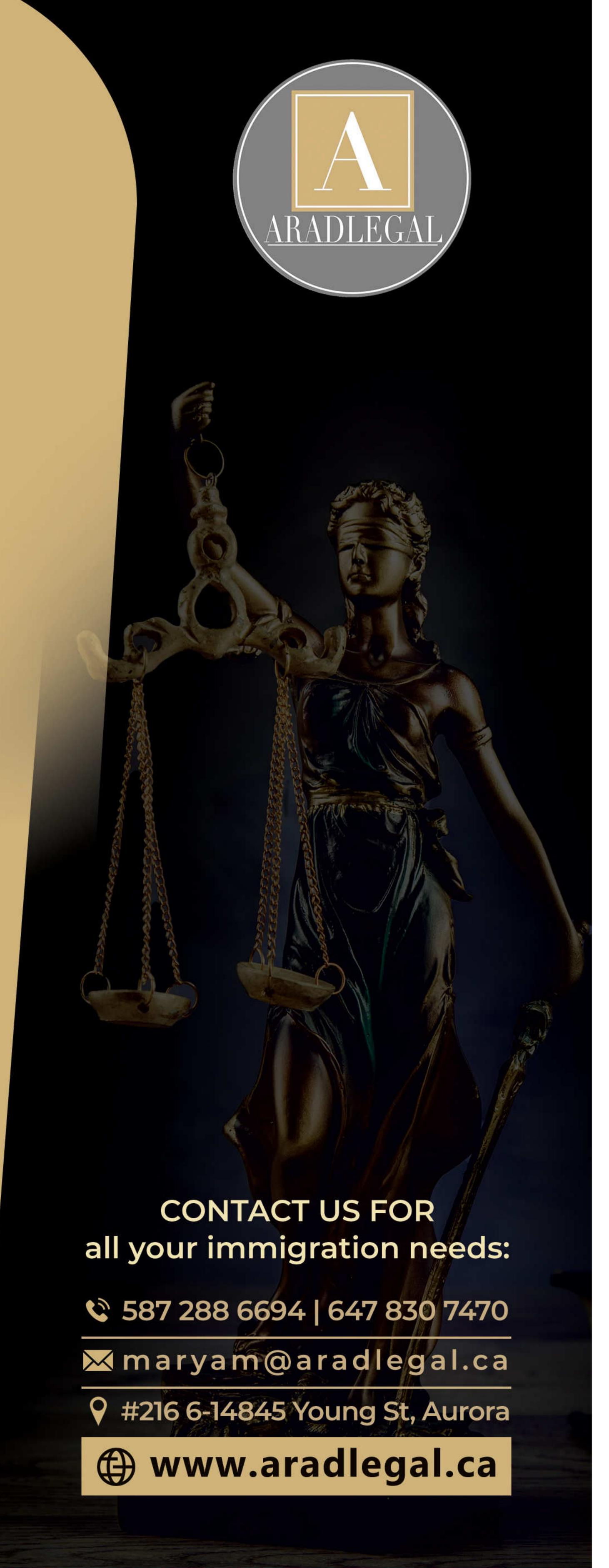
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