

FACELAW

ONLINE LEGAL DIRECTORY

34 PAGES

NO. 7 FEBRUARY 2021



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Powerful
Online
Directory
SEO

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DR. ASHKAN
ANVARI

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Different Programs
Work For
Different People

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YLG YAZDANI
LAW GROUP

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ALI AHMARI
MOGHADDAM

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NARASIMHAN

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Malpractice
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BY
CHARLES
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CHAMBRE DES COMMUNES
CANADA

Ali Ehsassi

Member of Parliament
Willowdale



February 8, 2021

Letter of Appreciation

Dear Messrs. Ahmari-Moghadam & Anvari,

As the Member of Parliament for Willowdale, I would like to take this opportunity to salute you for your efforts in publishing the Facelaw Online Legal Directory.

By providing legal guidance in Farsi and identifying experienced legal professionals that may assist clients navigate the intricacies of the law, you are undoubtedly promoting the welfare of numerous individuals within the Iranian-Canadian community, a development that is bound to be welcome by all.

Thank you for your efforts in promoting greater legal literacy and for highlighting practical information that will enhance prudent decision-making for all of us, while also safeguarding the best interests of individuals confronted by legal challenges. By enhancing our access to legal resources, you are essentially availing all of us of the certainty of granite under our feet, thereby permitting us each to stand taller.

May you thrive in your latest worthy endeavour for many years to come. Your continued success will further the success of others.

Ali C. Ehsassi

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HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA



Majid Jowhari
Member of Parliament
Richmond Hill

October 7, 2020

Letter of Recognition

As the Member of Parliament for Richmond Hill, I would like to thank Ali Ahmari-Moghaddam and Ashkan Anvari for their recent innovation, the Facelaw platform.

Facelaw.ca is a directory of Lawyers, Paralegals, and Immigration Consultants, striving to bring together the best professionals in the legal field in an easy-to-search database making finding the right legal professional simple and efficient. The Facelaw platform also provides access to articles, blogs, and useful information dealing with different areas of the law. There is also a Facelaw Magazine which is available in both English and Farsi and is available to download for free from the website.

I appreciate Ali Ahmari-Moghaddam and Ashkan Anvari's effort and aspiration to make their platform and access to legal professionals easily accessible to more people, and I commend their spirit of innovation and inclusiveness.

Sincerely,

Majid Jowhari, MP
Richmond Hill

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FACELAW.MAGAZINE

FEBRUARY 2021

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WE are a directory of Lawyers, Paralegals and Immigration Consultants, striving to bring together the best professionals in the legal field.

In today's fast paced world, where almost everyone now has the internet in the palm of their hand, finding the relevant information and assistance you require has never been easier.

Finding an experienced lawyer, paralegal or immigration consultant ("Legal Professional") to assist you with your legal matters should be no different. Whether your legal matter is complicated or simple, Facelaw.ca is here to make the initial interaction between the client and Legal Professional just as simple.

Facelaw.ca is a website which connects those looking for a Legal Professional to assist them with a legal matter (or those just wanting to get some preliminary legal advice) with an experienced Legal Professional in the appropriate field of law.

The Legal Professional will help guide you through the complex legal landscape and will provide the appropriate and professional legal advice.

Looking for a Legal Professional that speaks a certain language? Looking for a Legal Professional in a certain city or town? Looking for a Legal Professional who's practice focuses in a specific area of law? Not a problem!

Facelaw.ca will connect you with the right Legal Professional to fit your legal needs quickly and effectively.

Facelaw.ca was created to eliminate the intimidating process of searching for a Legal Professional to provide legal services. Instead of having to call different offices and law firms searching for the right Legal Professional to retain, Facelaw.ca has compiled a searchable database of local Legal Professionals who are committed to serving their clients.

SO stop wasting time making useless calls and reviewing lawyer and law firm websites that provide no real guidance and try Facelaw.ca today!!!

**ABOUT
US**



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▶ Ali Ahmari Moghaddam

We believe that clients should feel welcome and comfortable every time they walk into our office. Our law firm also works hard to make sure that clients are involved in all aspects of their case and takes the time to educate clients about their legal matter so that they are well informed about all aspects of their particular case.

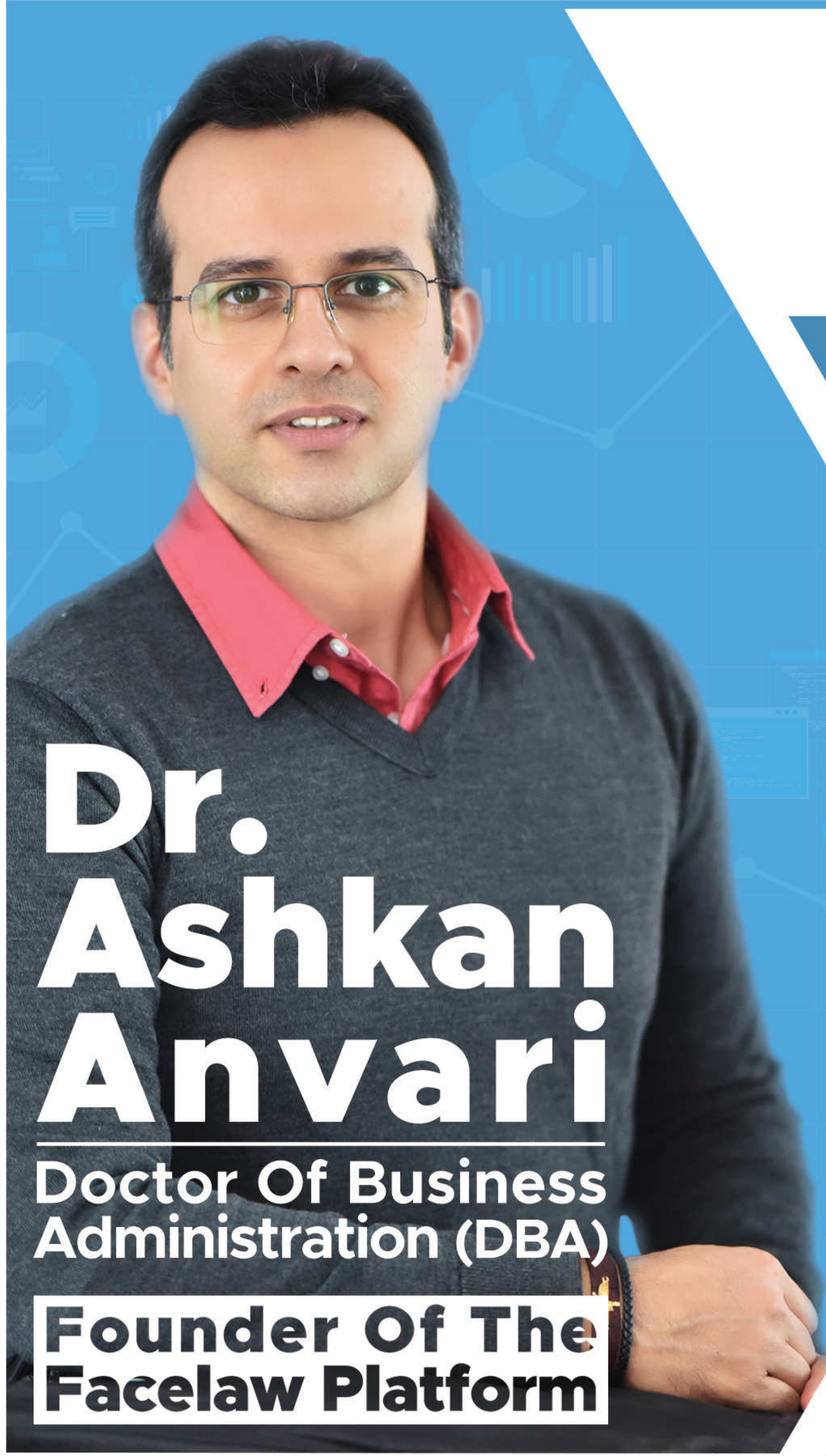
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www.ahmarilawfirm.ca





**Dr.
Ashkan
Anvari**

**Doctor Of Business
Administration (DBA)**

**Founder Of The
Facelaw Platform**



5 Ways A Powerful Online Directory SEO Can Help You Grow Your Business

SEO or search engine optimization is a vital part of digital marketing strategy for businesses.

The competition for top rankings in Google is fierce.

According to studies, about 93% of customers search for products, services and jobs online before buying a product or using services.





Finally, about 61% of marketers focus on SEO to grow their organic presence and online visibility.

Here are the top five methods the Facelaw directory follows and can be useful for Facelaw members:

① Increase Online Visibility

Facelaw can help your website increase search rankings and online visibility. According to reports, about 75% of customers never go beyond the third page of search results. This means that if your website does not appear in these search results pages, most of your potential customers may not reach your business. However, an optimized website can even get the top spot of search engines, which may help to create a high online visibility for your business.

② Boost Inbound Traffic

Online directories that rank high in search results can get the most views. About 33% of web traffic comes first and about 91% of visitors visit the websites listed on the first page.

③ Strengthen Participation In Social Networks

Careful keyword research is very important to get the attention of your social media posts. By using popular keywords in your posts on social media, you can ensure that more viewers notice, click, and share your posts. Facelaw online directory can provide you with the latest keywords to generate as many of your social posts as possible. Also, Facelaw online directory can help you optimize images and videos in your posts on social networks. This will help improve customer engagement and grow your business as a trusted entity.

④ Build A Strong Local Presence

Did you know that about 30% of mobile searches are related to a location? Several job search clients rank high near their physical location. This makes online presence very important. With the help of Facelaw online directory, you can increase the local presence of your website and attract more viewers.

⑤ Create Your Brand Image And Identity

Google ranks high in searches for websites that contain relevant content and optimized content. Facelaw online directory can research your popular keywords and create compelling and relevant content that includes those keywords. When customers encounter your content in superior content, they will see your website as a trusted place for informed content or related services.



FACELAW MAGAZINE FACELAW MAGAZINE FACELAW MAGAZINE FACELAW MAGAZINE

FACELAW will also have an online legal magazine as another medium to connect with the public. It is without a doubt that hard cover books have a great deal of intellectual knowledge and value, therefore, it is important to emphasize that Facelaw's goal is not to diminish those books, but rather to provide legal information to the public with greater accessibility.

THE MAGAZINE will employ a list of licensed lawyers, paralegals and immigration consultants in a user-friendly directory for people to find the right professional for their legal needs. Following this, all publications produced by the professionals and relevant legal information that can be of use to the public will be easily accessible within the magazine. The magazine can be accessed through our website as a download both in written and audio form or the printed version the magazine can be delivered to your home and/or workplace.



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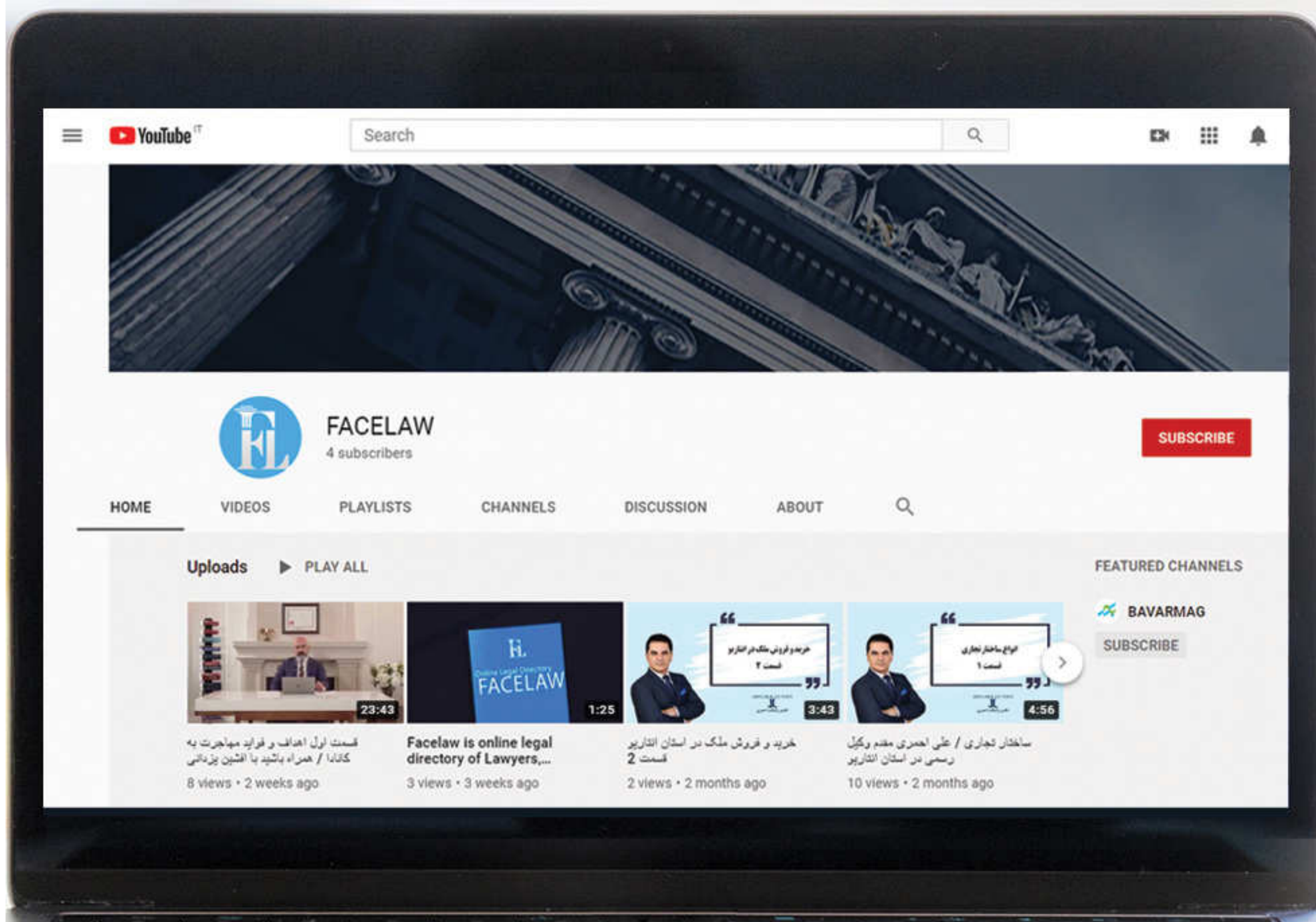


In today's technologically advanced world, social media has become the new phenomenon to connect the world on all levels. The world has technologically moved forward in a way that people no longer just rely on radio or TV to access their favorite program.

Now more than ever, smartphones, tablets, laptops, computers, and any device that connects to the internet have the ability to provide us with the latest information on a given topic within seconds. Likewise, social media platforms, such as internet, TV and radio, are now instrumental for businesses to advertise their services to the public. This process is not only much cheaper than conventional methods of advertising such as radio or TV, but also provides an opportunity for businesses to maintain direct relationship with their audience.

FACELAW INTERNET TV

Radio FACELAW



In this regard, Facelaw has launched its online TV and radio, with the objective of providing reliable legal information, prepared by our members who are trained legal professionals. Information will be provided via video, audio and podcasts to the public on a timely basis.

If connecting with legal professionals in divergent fields and learning more about their services is of interest to you, you are encouraged to follow our social media, website, and YouTube channel to have access to our professional programs.

Facelaw is excited to introduce this new medium for legal professionals to educate and connect with their audiences.



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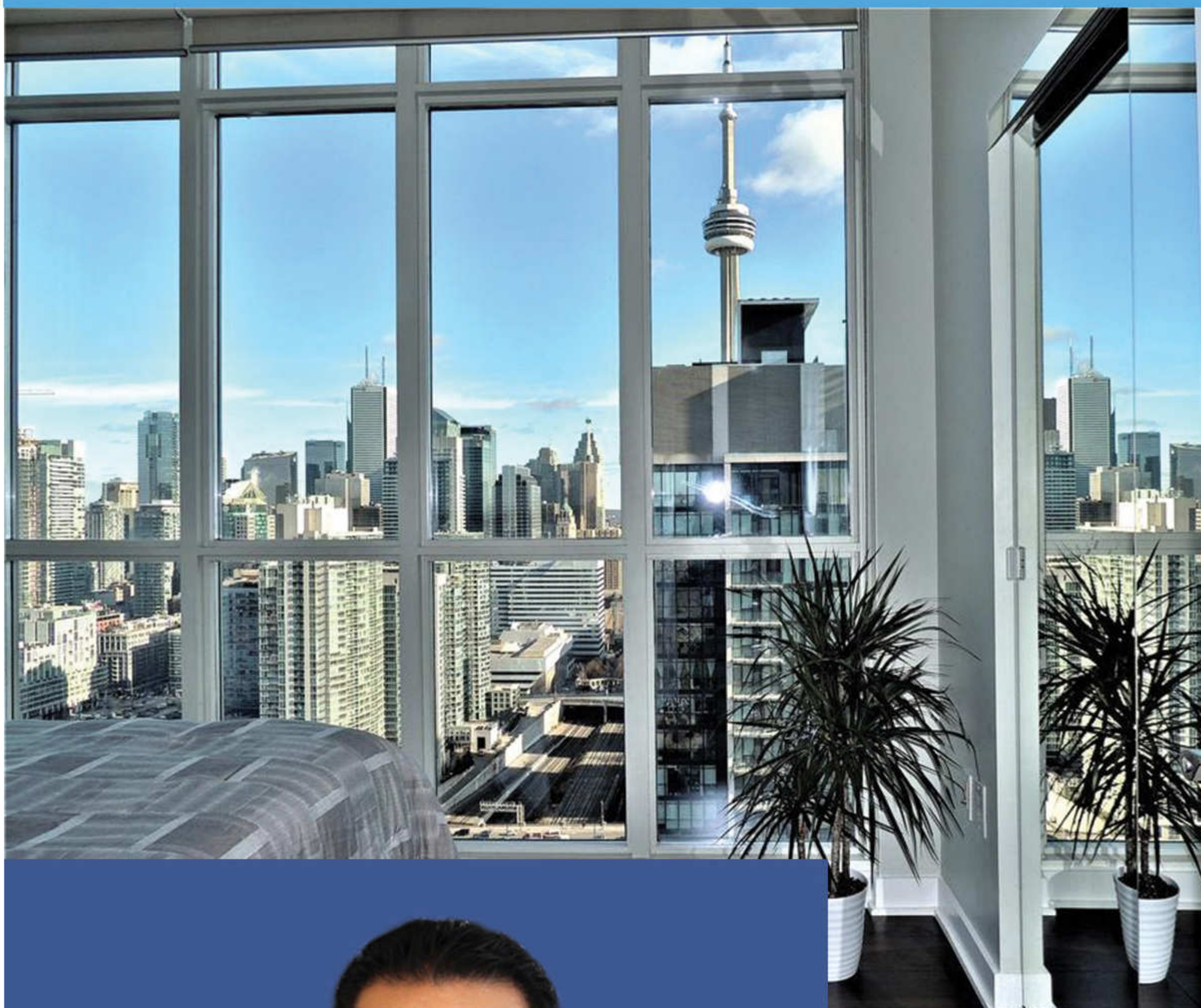
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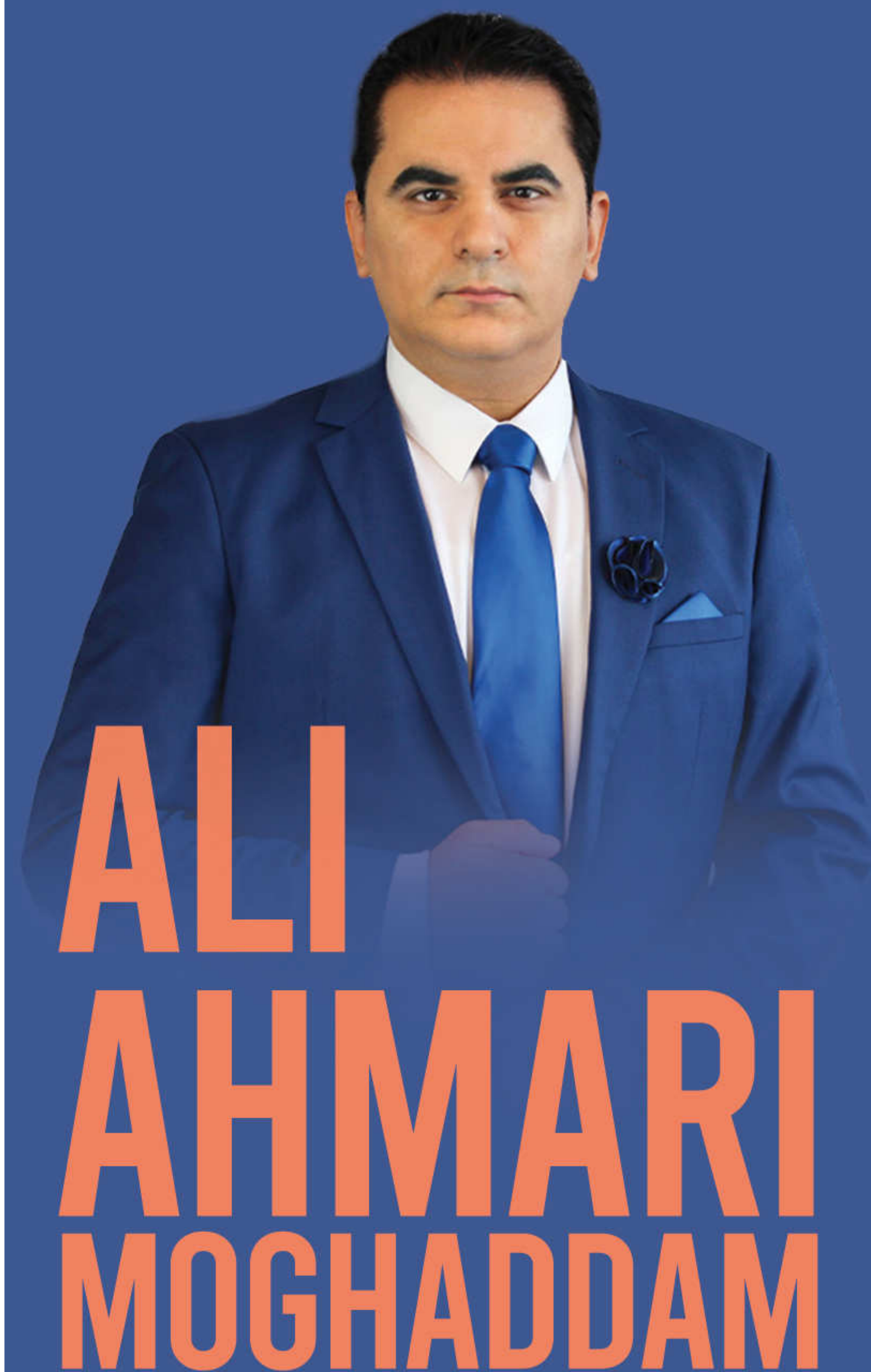
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What is in a Condominium Status Certificate?



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When purchasing a condominium unit, requesting and reviewing the status certificate from the condominium corporation is of great importance and should not be overlooked.

A status certificate is a document that speaks to the operation, financial status, and pertinent details of the condominium.

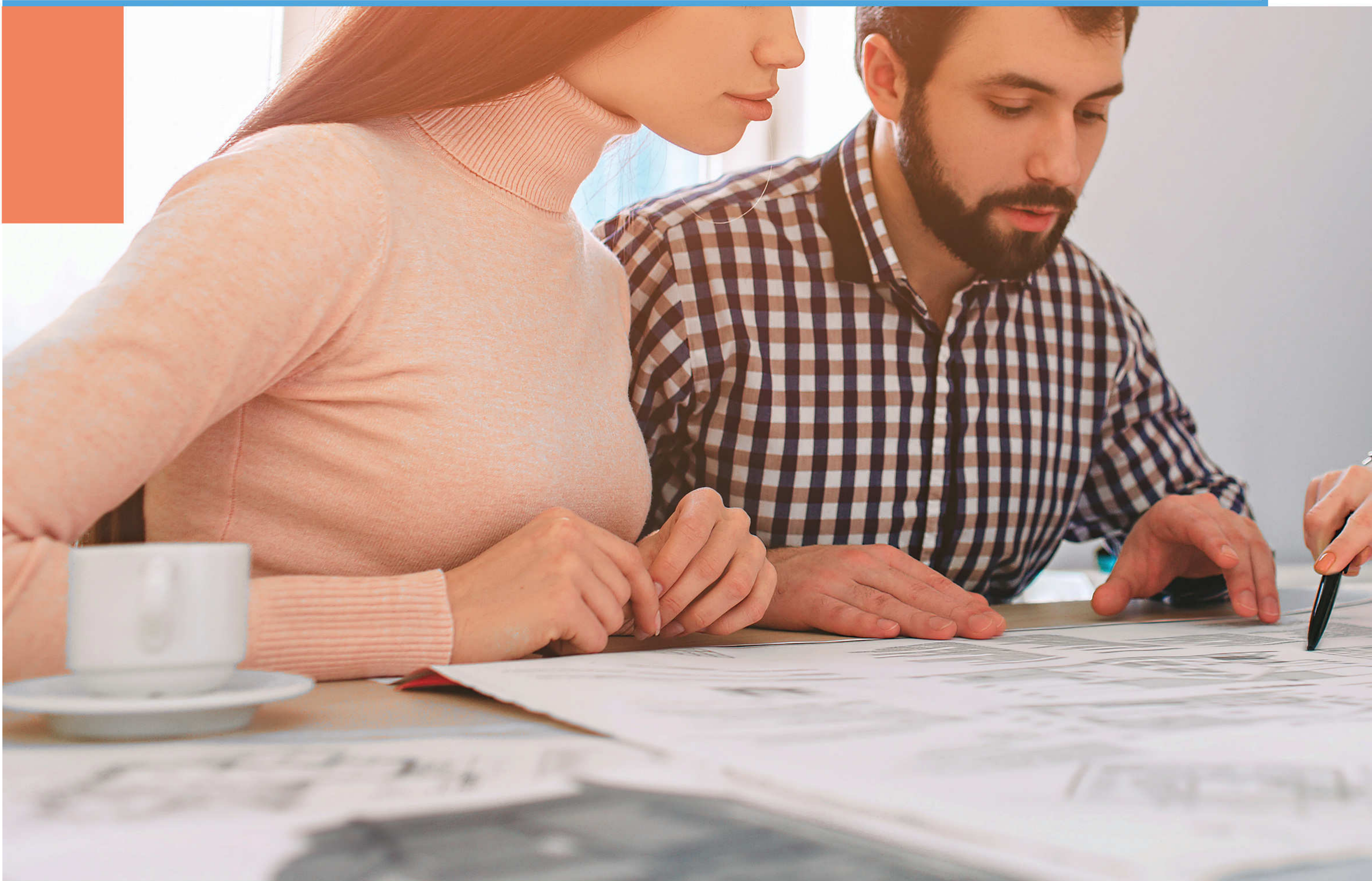
A well-drafted agreement of purchase and sale will generally have a re-sale purchase transaction be conditional upon the purchaser's review of the status certificate.

This is an important step that all purchasers of condominium units should take in order to be well informed about the operation and status of the condominium corporation and the condominium units being purchased prior to fully committing to complete the purchase transaction.

A status certificate encapsulates a number of important details that a purchaser should consider prior to committing to complete the condominium purchase.

Specifically, a status certificate reveals information about the condominium unit as well as the governance and financial status of the condominium corporation, which is useful for purchasers to ensure that they have a complete understanding of their rights and responsibilities upon completion of the purchase transaction.

The explanation below is not an exhaustive list of all the information disclosed in a status certificate, but rather is intended to help provide a general outline of certain areas that are covered.



Additionally, a copy of the current condominium declaration, description, by-laws and rules are typically provided with the status certificate which serves to inform the purchaser early on about many aspects of the condominium corporation, including but not limited to corporate governance, rules applicable to living in the condominium, as well as information relating to agreements and contracts entered into by the condominium corporation.

Also, a statement of the names and addresses for service of the directors and officers of the corporation are provided.

This information is useful for the purchaser to know which individuals to contact if there are any issues related to the condominium corporation.

The declaration and rules on the other hand will outline the rules and regulations applicable to occupants of the condominium unit.

This information will include but is not limited to whether the condominium has any restrictions with respect to pets (including size, type, and number of pets allowed) as well as whether or not short term leasing of units, such as Airbnb rentals are prohibited.

This could potentially be invaluable information to a purchaser looking to purchase the condominium unit as an investment property.

The status certificate also reveals information about the financial well-being of the condominium corporation by providing copies of recent financial documents such as the current budget for the condominium corporation as well as the most recent reserve fund study.

The status certificate will explain the amount that is in the reserve fund and when the last reserve fund study was conducted.



This allows the purchaser to be aware of the funds reserved by the condominium corporation to utilize in case of any necessary repairs to the common elements, emergencies and other situations that would require their financial attention.

The status certificate will also disclose the amount of the monthly common expenses attributable to the units being purchased and whether the common expenses have been paid and kept up to date by the current owner or if there are any arrears in payment.

The status certificate will also reveal if there are any records of any known unauthorized repairs to the unit and if the condominium corporation is conducting a special assessment against the unit.

With respect to legal matters, the status certificate will disclose whether or not the condominium corporation is involved in any ongoing or pending lawsuits with or any parties.

This is useful for the purchaser as they will become aware of the legal dealings and potential financial implications to the condominium and condominium corporation as a whole.

The status certificate will also provide a statement as to whether the Superior Court of Justice has made any orders appointing an inspector or administrator under sections 130 and 131 of the Condominium Act, 1998, S.O. 1998, c. 19 where there are questions or issues about the management and maintenance of the condominium corporation.

Section 76(2) of the Condominium Act 1998, S.O. 1998, c. 19, states that the condominium corporation has the right to charge the prescribed fee for providing the status certificate (currently \$100.00). Pursuant to section 76(3) of the Condominium Act, the corporation must provide the status certificate within ten (10) days after receiving the request for one.

If for any reasons the status certificate lacks material information, there must be a clear statement in the status certificate indicating that there is no such information available.

Section 76(4) of the Condominium Act, 1998, S.O. 1998, c. 19 codifies this to protect the purchaser by ensuring that all material and relevant information has been provided to a potential purchaser before making the purchase.

Having your lawyer review the status certificate before expiry of the status certificate review condition contained in the agreement of purchase and sale is crucial given the important information that is disclosed in the status certificate.

The general, financial and legal information in the status certificate can help the purchaser decide if they are making an appropriate purchase based on their intended use of the unit(s). More importantly, the review of the status certificate serves as an opportunity for the purchaser to be made fully aware of potential issues and the general aspects of the condominium corporation along with the unit before purchasing it.

Therefore, it is highly recommended that all purchasers of a condominium unit seek the expertise of their lawyer in order to have the status certificate properly reviewed.

For further information regarding the status certificate and the general information required to be contained therein please refer to of the Condominium Act, 1998, S.O. 1998, c. 19, specifically section 76(1).



ONLINE SEMINARS



Facelaw has the technological ability to conduct various seminars for the community in order to increase awareness in the legal field. As well, Facelaw produces private seminars for businesses to educate them in the different areas of law. This has the power to inspire businesses to tackle new projects and to advance their level of knowledge within the law. For these seminars, the speakers will be the direct members of Facelaw who are licensed professionals like that of lawyers, paralegals and immigration consultants.

Depending on the nature of discussion, the seminar may be led by one or more professional.

These seminars will take place in North America. Some will be provided for free and others will require the purchase of a ticket. Facelaw will have all the details including prices, dates, and topics of discussion among other details available on our website for your ease of reference.





Facelaw provides the opportunity for the public to read about the member's legal experience, their desired field of law and their current contact information.

This unique feature will allow people to learn more about the background and professional work of the members who have joined Facelaw.

Within the seminars, you will have a direct connection with the speakers by having the ability to ask questions during the seminars. The speakers will also provide their contact information so that you can contact them for further legal information and clarification. In doing so, Facelaw will provide a special discount to those who attend the seminars. Please visit our website for further details regarding the discounts. The highlights of each seminar will be displayed on Facelaw's website so that the public can determine if the topics, location, professionals among other details are of interest to them.

Facelaw values education and 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.





AFSHIN YAZDANI

YLG – Yazdani Law Group is a leading Toronto law firm practicing primarily in the area of immigration, business and Property law for Canada.

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He is the founder of Yazdani & Associates Immigration Firm as well as YLG – Yazdani Law Group.

He studied a professional Master's degree in Canadian Common Law at York University, graduated from Osgoode Hall Law School in 2016. He obtained his Certificate of Qualification from the National Committee on Accreditation (NCA).

Helping our clients cross borders for over 15 years. We are a full-service Canadian immigration and business law firm. Mr. Yazdani began his career as a lawyer & a law professor in Iran in 2004. He became a legal advisor and a law professor in Dubai in 2008.

He previously studied an Immigration Consultant Program at Lasalle College in Montreal as well as Civil Law and International Law. He became a member of "ICCRC (Immigration Consultants of Canada Regulatory Council)" in 2016. He was called to the Ontario Bar in 2019 and has been practicing Canada immigration law since establishing his immigration firm in Toronto. Mr. Yazdani is the only lawyer in Canada with an immigration consultant diploma and three law degrees. His high-profile and celebrated cases have attracted international attention, and he is frequently consulted as an immigration expert by televisions, journalists, government and non-governmental organizations (NGOs) on matters pertaining to immigration law and policy. He recently was a television host in a bi-weekly show known as "Canadian Immigration from Law's Point of View".

He is the author of several articles on matters pertaining to Public International Law, Dubai Property, Arbitration Law, and Canada Immigration Law.



Canada is welcoming 401,000 new permanent residents this year, and many of those who immigrate will be entrepreneurs, innovators or owners of established businesses.

While the doors may be open, there are several different routes to a successful permanent residency (PR) application — some are more complicated and take longer, and some are better for people connected to business.

It helps to understand the differences.

For those seeking or planning to immigrate and for lawyers who help and advise them, it's important to recognize the different pathways to a successful application result and to know about which ones are more straightforward.

Many of the best pathways to PR are the ones designed for business owners and entrepreneurs.

It's a win-win situation. Canadians benefit from businesses that become established and create jobs in Canada and the immigration system recognizes this.

Even within the system though, there are various routes and some of these will inevitably be more suitable for prospective immigrants than others, depending on the skills and investment they are bringing.

One of the most expeditious pathways for business people is through the federal Intra-company Transfer (ICT) program.

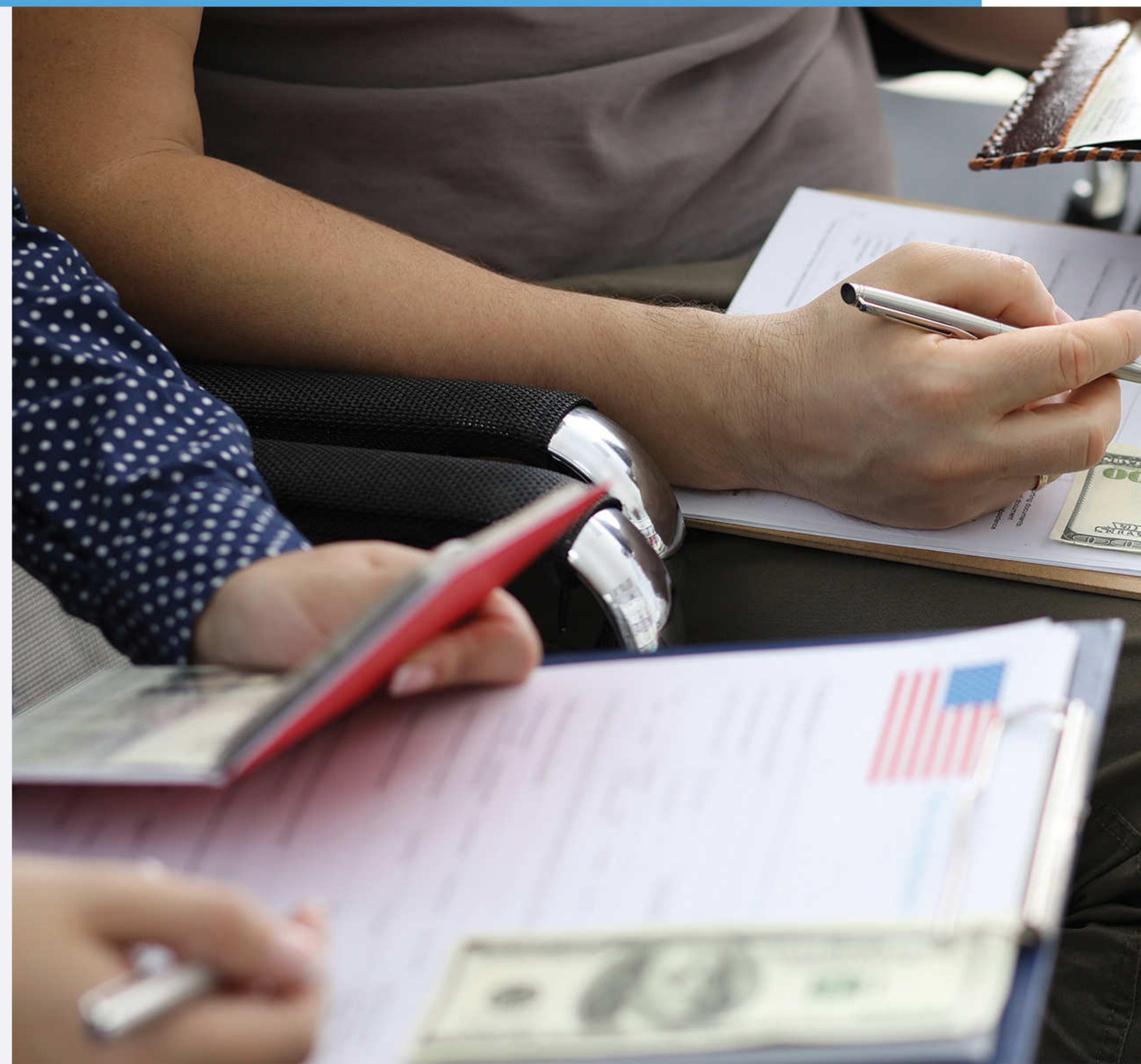
It allows those who work for companies that have branches, affiliates or subsidiaries in Canada to work for the same company here as they do abroad.

Business Immigrants: Different Programs Work For Different People



The **ICT** program can save time in the immigration process because it's a pathway that's exempt from a review called the Labour Market Impact Assessment (LMIA) that is otherwise required when jobs are offered to foreign nationals who want to live and work temporarily in Canada.

The **LMIA** looks at whether there someone already in Canada who could do and be offered the job; under ICT, the company can hire the arriving person when they meet certain requirements.



ICT is not open to everyone. Applicants need to meet certain qualifications, including having worked for at least 12 months during the last three years at an overseas company that meets Canada's specifications. The program is open to executives, senior managers and people with specialized knowledge or skills who are transferred to Canada by their companies.

The advantages are that under this type of transfer it takes less time to process a work permit. A federal policy called the Global Skills Strategy offers processing for those who qualify within two weeks (although this may take longer right now because of COVID-19).



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LMIA Application Process





Work permits can be issued for long periods and they are straightforward to renew. Another advantage for applicants is that they can also apply for admission for spouses and family. Fees are relatively low and there is no minimum investment required, and because applicants are bringing managerial or other skills to their company's work, they don't have to meet the fluency requirements for Canada's official languages in the same way that other categories demand.

The ICT program has advantages for companies too. Struggling businesses or those that are changing their products or services can still bring in qualified employees, and a business can look at bringing several international workers at a time to meet its needs.

For a prospective immigrant's standpoint, the biggest advantage is that an ICT admission can be a step toward being invited to apply for permanent residence.

ICT transferees are eligible to be considered in the Canadian Experience Class under Express Entry after working in Canada for one year; during that time they can learn more about Canada, become acclimatized, improve their English and/or French and even get used to the weather.

Another pathway for business owners and entrepreneurs is to start up a company in Canada and apply for permanent residence under the Start-up Visa Program. After you have applied for PR, you can even secure a work permit to get your business going before your PR is even fully processed.

The advantage of the Start-up Visa Program is that it is not a stepping-stone in the PR process — startup applicants can come to Canada on a work permit at the same time as having their PR application processed. The work permit is also LMIA-exempt and has fast processing times.

There are a few disadvantages in coming to Canada to work for one's own startup under this program. Only the person essential to the startup can come on a work permit to start the business. Owner/workers can also get into tricky relationships with partners and investors, which may complicate their process.

Startup applicants need to invest in their new companies and the work permits granted can be shorter than the ICT permits. Applicants also are liable and obligated to their business and the process of keeping a business going in Canada, both before and after permanent residency is obtained — is at a level of responsibility much higher than under ICT.

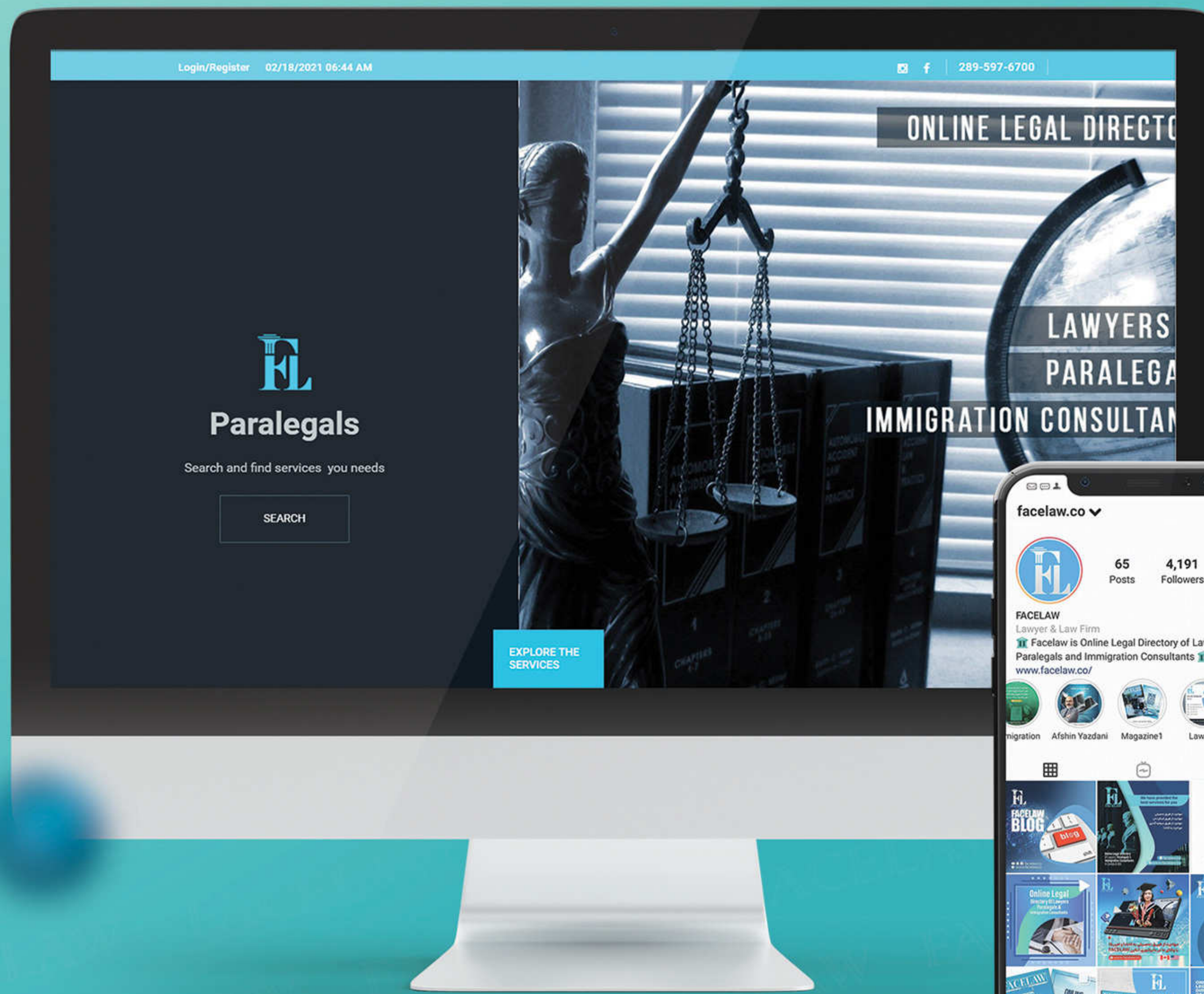
Prospective business immigrants should also consider various provincial entrepreneurship programs — Ontario, Saskatchewan and British Columbia, for example, all offer pathways.

The point is that for the business-minded, there is more than one pathway to immigrate to Canada. It's not one size fits all — but it's likely that one program will be best for you.





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B

L

O

G

&
ARTICLE
FACELAW



In this section of Facelaw you can access useful legal information, and articles you may wish to read that have been published by our members, comprised of lawyers, paralegals and immigration consultants.

The intent of Facelaw is to provide a platform to educate the public and to provide a medium for legal needs to be properly addressed pursuant to the laws of Ontario.

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 their 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. 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 proper guidance and information for all your legal needs.





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‘Gluckstein Lawyers’ Supreme Court Win Benefits Client,

Medical Malpractice Profession

Written By: Jan Marin,
Personal Injury Lawyer



Gluckstein Lawyers is pleased to report a significant medical malpractice victory in the Supreme Court of Canada on January 18, 2021, following 10 years of representation and court battles.

Not only does this win mean a brighter future for our client, but it sets an important precedent for every person who has been injured or may be injured by medical negligence.

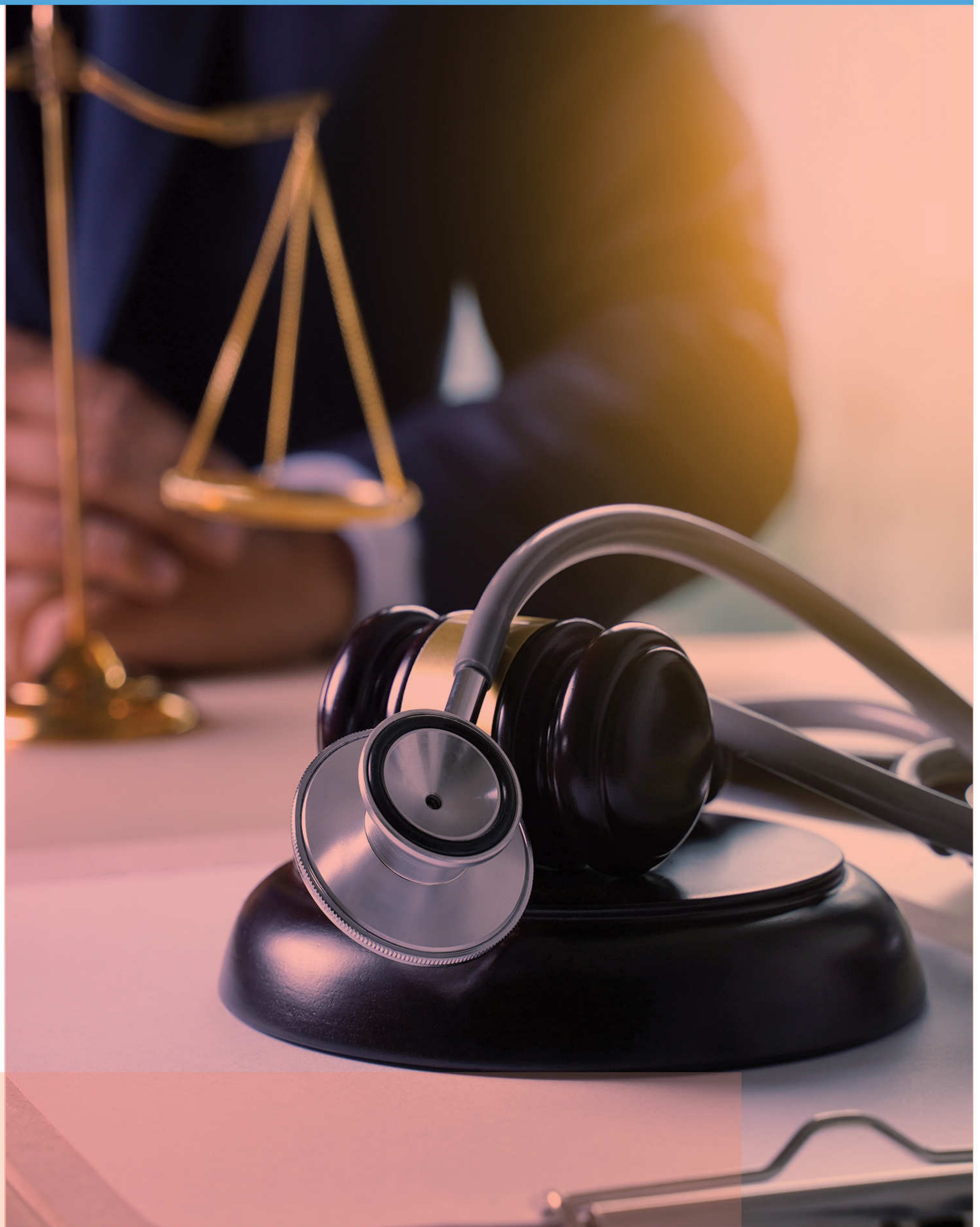
Our client, Karen Armstrong sued her surgeon following an operation that resulted in injury to her left ureter that damaged her left kidney and led to its removal.

At trial, Gluckstein Lawyers was successful and obtained a substantial judgment against Dr. Ward. Dr. Ward appealed the trial decision.

A three-judge panel of the Ontario Court of Appeal heard the case.

A majority of that court, two judges to one, allowed the appeal and dismissed Ms. Armstrong's case.

In allowing Dr. Ward's appeal, we felt that the Ontario Court of Appeal had not only erred in allowing the appeal but had articulated reasons for allowing the appeal that could have created significant obstacles to proof of claims for other victims of medical malpractice.



Victory Reaffirmed

In granting our appeal, and reaffirming Ms. Armstrong's victory at trial, the Supreme Court of Canada unanimously adopted the perfectly articulated reasons of the dissenting judge in the Ontario Court of Appeal – Madam Justice van Rensburg.

Victims of medical negligence face significant hurdles in proving their cases – both on standard of care and causation. Had the majority opinion of the Ontario Court of Appeal prevailed, that bar would have been even raised even higher. Many meritorious medical malpractice claims may have faced insurmountable obstacles in proving liability.

The road to success has not been easy. It has been a roller-coaster for me, my co-counsel Ryan Breedon, and of course, our client Ms. Armstrong.

This case has demonstrated to me the importance of our senior jurists having the courage to write dissenting opinions in the face of disagreement.

Notable findings

Of the many important findings of Madam Justice van Rensburg, two are most notable.

She recognizes that in many medical malpractice cases, determining **“what happened,”** causation, is necessary in order to properly identify and address the standard of care issues.

Second, the decision reinforces previous jurisprudence that the plaintiff in a medical malpractice case is not required to disprove every possible theory that might be advanced by the defendant, and surely is not required to address theories that were not advanced in the evidence at trial.

If advancing an alternative theory of causation, the defendant must support that theory with evidence presented at the trial.

Achieving justice for Ms. Armstrong has been a long and hard-fought battle – but a rewarding one for our client and for medical malpractice law more broadly.

As lawyers, we need to be willing to fight these battles.

I'm fortunate to work with a firm that is willing to support our clients to go to whatever lengths necessary in order to obtain justice.

Taking a case all the way to the Supreme Court requires a significant commitment of time, energy and funds. Credit is also due in large measure to the advocacy skills of Ryan Breedon.

As Lawyers,
We Need To
Be Willing
To Fight
These Battles.



Justice Was Done

Not to be understated is the person behind the case.

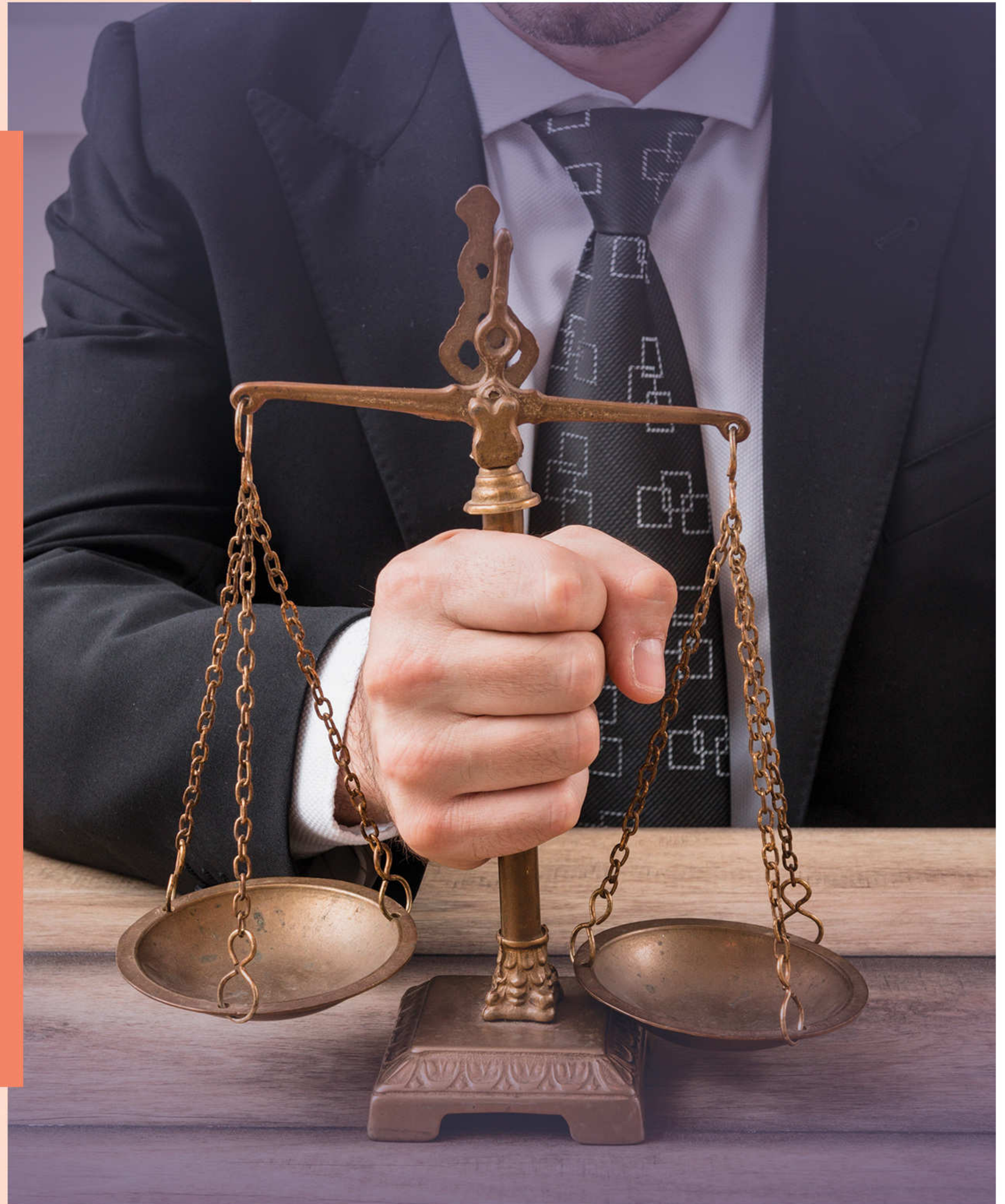
I have known Ms. Armstrong for 10 years. It is easy to see the legal and professional import of a Supreme Court decision, but we cannot lose sight of the person behind the claim.

Calling her to tell her the news was the best feeling. Justice was done.

Medical malpractice can be a challenging area of law.

It's complex, it's expensive and counsel for the defendants are skilled and experienced.

It is vital to have lawyers who understand the medicine, have the resources to level the playing field, and importantly, are willing to see the case through, all the way to the Supreme Court, if necessary.



Here at Gluckstein Lawyers we are incredibly proud of the decision in *Armstrong v. Ward*. We served our client and the law. It doesn't get any better than that.





PROFESSIONAL CORPORATION



ROSS MIRIAN, ESQ

Ross Mirian, Esq. Ross Mirian 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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Construction Lien in Ontario

The **Construction Lien Act** (“Act”) in Ontario was enacted to protect contractors, trades, and/or service providers/material suppliers. The person and/or entity that supplies the services and/or materials (“Contractors”) in Ontario for an improvement to a property can file a lien against the premises that the said person and/or entity has improved for the price of those services and/or materials. Furthermore, under the Act, the party that is paying a contractor (“Party commissioning the improvements”) is entitled to **holdback** ten percent (10%) of the total amount of service and/or material provided for a period of sixty (60) days in order to ensure that no liens are registered against the property by third-party contractors and/or sub-contractors (“Subcontractors”).

Holdback

Holdback is a provision for subcontractors who have no contract with the Party commissioning the improvements for the property. Often time, these subcontractors may have agreements and contracts with the contractor in charge of the improvements for the property. Usually, Party commissioning the improvements has no obligation to pay any money to these third-party contractors and/or subcontractors, however, there is a statutory requirement that the Party commissioning the improvements for the property to be responsible for 10% of the amount due and owing to subcontractors even if there is no contract between them. It is common for contractors to tell the Party commissioning the improvements for the property that they have no right to hold back any money as it is not explicitly stated in their contract, however, this is not correct. The Act stipulates that the 10% holdback is valid even if it is not explicitly stated in the contract between the Party that commissioned the improvements for the property and the contractor.

Registration of Lien

A **construction lien** is a charge or security on a property that can be registered on title to the property by any contractor and/or subcontractor that has done work on the property. Contractors and subcontractors have sixty (60) days to register a lien and one hundred fifty (150) days from the date of substantial completion or the date of last supply of materials or services, to start a court action.

The Act provides that a preserved or perfected lien and certificate of action may be deleted from the title by the registration of a release of the lien by the lien claimant, by a court order discharging the lien and/or action, or by a court order vacating the lien and/or action.



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These registered liens would create complexities for owners of the property when refinancing, and it will also have a negative impact on the property owner's credit score. The unpaid lien will stay on the property owner's credit report for ten (10) years after it is filed. Even after paying the lien, a record of it may stay on the property owner's credit history for up to seven (7) years.

To reiterate, the Act is designed to protect contractors and/or subcontractors by providing them with an avenue to register an interest against the property, which effectively disallows a property owner from remortgaging, selling, or otherwise using their property without removing the lien. An important point of consideration that the property owner will be responsible for the lien even if it was a tenant or leasee that is the party commissioning the improvements for the property.

Holdback

As per the Act, **substantial completion** is the stage when a construction project is deemed sufficiently completed to the point where the premise can be used for its intended purpose. The date of substantial completion is extremely important as it determines the date that a contractor is no longer fully liable for a delayed completion or for minor incomplete details. Furthermore, contractors and subcontractors or tradesmen have one hundred fifty (150) days from the date of substantial completion to proceed with any court action. After substantial completion, the property owner resumes responsibility for the property, i.e., security, utilities, etc. This determination is normally made by the engineer, architect, construction manager, the owner, and/or the owner's designated representative.



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