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34 PAGES

NO. 37 | AUGUST 2023



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“The judicial structure”
Source:
2021, <www.justice.gc.ca>
Selected article by:
Ali Ahmari Moghaddam



Charles E. Gluckstein

**Elements of a medical
malpractice case**



Afshin Yazdani

**Canada immigration is making
C11 LMIA exemption work
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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.

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► Founder Of
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ADVERTISING ON FACELAW'S social media, including but not limited, the YouTube channel has remarkable advantages, which can be examined as follows:

Showcasing Skills and Expertise

by utilizing Facelaw's YouTube channel, legal professionals can speak to their skills and expertise, provide legal critiques, and also speak about updates on a particular area of law and recent developments regarding case laws.

Increased Audience Reach

YouTube, being one of the largest video sharing platforms globally, enables the legal Professionals to reach a wider audience. This platform allows Facelaw's legal professionals to share their videos from Canada and the United States, establishing online connections with clients globally. As a result, the legal Professionals on Faceaw's directory can effectively utilize its YouTube platform to feature their legal services effectively.



Interaction with Viewers

Through comments, feedback, and responses, the legal professionals engage with their audience on the Facelaw's YouTube channel and attract potential clients. The continuous engagement with viewers through comments also allows the legal professionals to address questions and concerns, and to create a level of trust and reliability.

In summary, using the Facelaw YouTube channel empowers legal professionals in Canada and the United States to leverage unique opportunities for promoting their legal services, increase their audience, and improve interaction with potential clients.

Facelaw's YouTube platform is gaining widespread recognition due to its aggressive utilization of recent technologies and optimization of the its channel through SEO based on a complex set of algorithms, standing out from competitors.



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Ali Ahmari Moghaddam

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- ▶ We take 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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IN:



Facelaw has the technological ability to conduct various seminars for the community in order to increase awareness in the legal field. As well, Facelaw conducts 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 professionals.

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 available on our website for your ease of reference.



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THE JUDICIAL STRUCTURE

How the courts are organized

The federal and provincial and territorial governments are all responsible for the judicial system in Canada. Only the federal government can appoint and pay judges of the superior, or upper level, courts in the provinces. Parliament can also establish a general court of appeal and other courts. It has created the Supreme Court of Canada, the Federal Court and the Federal Court of Appeal, as well as the Tax Court.

Parliament also has exclusive authority over the procedure in courts that try criminal cases. Federal authority for criminal law and procedure ensures fair and consistent treatment of criminal behaviour across the country.

The provinces administer justice in their jurisdictions. This includes organizing and maintaining the civil and criminal provincial courts and civil procedure in those courts.

What do the federal courts do?

The Supreme Court of Canada is Canada's final court of appeal. Its nine judges represent the four major regions of the country. Three of them must be from Quebec, to adequately represent the civil law system.

The Supreme Court has two main functions.

- It hears appeals from decisions of the appeal courts in all the provinces and territories, as well as from the Federal Court of Appeal. Supreme Court judgments are final.
- It decides important questions about the Constitution and controversial or complicated areas of private and public law. The government can also ask the Supreme Court for its opinion on important legal questions.

The federal government also established the Federal Court, the Tax Court and the Federal Court of Appeal.

The Federal Court specializes in areas such as intellectual property, maritime law, federal provincial disputes, and civil cases related to terrorism.

The Tax Court specializes in hearing appeals from tax assessments.

The Federal Court of Appeal reviews the decisions of both these courts. In fact, it is the highest court of the land for about 95 percent of all cases.

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MENU

Provincial and territorial level courts

The court system is roughly the same across Canada. Except for Nunavut, each province has three levels: provincial and territorial, or lower, courts; superior courts; and appeal courts. The Nunavut Court of Justice has a single-level trial court.

Provincial and territorial courts

Provincial courts try most criminal offences, money matters and family matters. In private law cases involving breach of contract or other claims of harm, the courts apply common law principles in nine provinces and the territories. In Quebec, courts apply the Quebec Civil Code. Provincial courts may also include specialized courts, such as youth courts, family courts, and small claims courts. Each provincial government appoints the judges for its own courts.

Provincial and territorial courts

Superior courts are the highest level of courts in a province or territory. They deal with the most serious criminal and civil cases and have the power to review the decisions of the provincial and territorial courts.

Superior courts are divided into two levels: **trial level and appeal level.**

- The trial level courts hear civil and criminal cases. They may be called the Supreme Court, the Court of Queen's Bench, or the Superior Court of Justice.
- The appeal level courts, or Courts of Appeal, hear civil and criminal appeals from the superior trial courts listed above.

Although the provinces and territories administer superior courts, the federal government appoints and pays the judges.

Administrative boards and tribunals

There are other kinds of disputes that do not need to be dealt with in the courts. Different kinds of administrative tribunals and boards deal with disputes over the interpretation and application of laws and regulations, such as entitlement to employment insurance or disability benefits, refugee claims, and human rights. Administrative tribunals are less formal than courts and are not part of the court system. However, they play an essential role in resolving disputes in Canadian society. Decisions of administrative tribunals may be reviewed in court to ensure that tribunals act fairly and according to the law.

Source: <https://www.justice.gc.ca/eng/csjsjc/just/07.html>

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With the huge amount of information accessible on the internet, some who believe they have been injured through medical malpractice wish to explore pursuing a claim without a lawyer. They may be able to do their own research about what may have happened to them, and how the legal system functions. But research and information are probably not enough to meet the challenges of pursuing a medical malpractice case for most. Although individuals, with some exceptions (including minors and incapable parties), have the right to represent themselves in a lawsuit, it is generally not advisable to do so, particularly when it comes to complex medical malpractice cases.

Elements Of A Medical Malpractice Case

In order for a claimant to be successful in a medical negligence case, there are three key elements that must be proven:

- A breach of the standard of care
- Causation
- Damages

It is important to remember that all three elements must be met for an injured party to be successful in a lawsuit for medical negligence.

The Business Of Medical Malpractice Lawsuits

Proving the case requires opinions from medical experts. These experts must review the applicable medical records, provide opinions, in writing and later in testimony, if needed, that establish a breach of the standard of care, causation, and damages.

The cost of obtaining expert opinions can be significant, and, at times, may outweigh the value of the claim itself. Regrettably, this becomes an important consideration when determining the viability of a particular case, and a reality that injured parties and their families must consider.

LIFE INSURANCE

Seek Legal Advice Before Deciding To Self - Represent

It is not prudent for the injured party to spend tens of thousands of dollars on expert opinions, and to invest many years of their time pursuing a lawsuit if the value of the claim is insufficient to justify that expense.

Given their scientific and complex nature, medical malpractice cases are typically more challenging than other personal injury cases. Further, these cases tend to be vigorously defended by the medical profession with their ample resources. The inherent complexity of these cases also tends to make them long and drawn out, taking many years to bring to conclusion.

Experience is a significant asset when it comes to pursuing and navigating a medical malpractice claim.

Given the complexities involved in a medical malpractice lawsuit, it is advisable to consult with a medical malpractice lawyer and seek legal advice to assist with investigating a potential claim before starting a lawsuit.

Our medical malpractice team includes lawyers with the expertise to litigate these challenging cases along with staff who bring an intimate knowledge of the medical system.

With our extensive trial experience, excellent negotiating skills, and thorough knowledge of the medical practitioner insurance claims process, we can develop and manage your case every step of the way.

To learn more about how our medical malpractice lawyers in Toronto, Ottawa, Barrie or Niagara can assist you, contact us for a free consultation.



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Hossein Niroomand



Hossein Niroomand has been practicing since 2003 and specializes in civil litigation, personal injury, employment, and family law. He is admitted to the Ontario bar representing private individuals and corporations.


Hossein is very well respected within the legal community for his extensive experience negotiating lump sum settlements, as well as mediations, arbitrations and trials. He oversees every step in the progress of your case and you can rest assured that Hossein's experience is at work for you.

He has shown himself to be a worthy advocate in confronting the aggressive tactics of most defense lawyers and putting together strategies to ensure the best possible results for you.

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Refused A Visitor Visa?

How visitor visas are rejected and what you can do about it?



A visitor visa is a document issued by Immigration, Refugees and Citizenship Canada (IRCC) that authorizes a foreign national to enter and remain in the country. A visitor visa has a validity period including a date when it comes into effect and a date when it ceases to have effect. A visitor visa application involves, either by oneself or with the assistance of a licensed immigration representative or lawyer, assembling and submitting various official and supporting documents. An employee of the IRCC known as a visa officer is responsible for deciding it. Visa officers, for the most part, decide visitor visa applications based on an assessment of all of the submitted documents as opposed to conducting an interview. Although, in certain circumstances, such as in questioning the authenticity of documents, an interview may be held. The final decision to either grant or refuse a visitor visa is conveyed to the applicant in the form of a decision letter. In addition, the visa officer records more detailed reasons in the IRCC's electronic database, the Global Case Management System, the relevant portion of which can be acquired.

Some broad grounds of refusal that might be invoked by the IRCC include:

“ Purpose of Visit – Reasons for visiting Canada can range from family reunification – such as visiting a sibling who had become a Canadian Permanent Resident a long time ago – to business trips – such as visiting existing or prospective business colleagues. Proof of a valid purpose can be confirmed by appropriate documentation; for example, by way of supporting letters from the persons that the applicant intends to visit.

“ Intention – An applicant must prove that they will leave Canada at the end of their period of authorized stay. A visa officer may conclude that the applicant’s intention is to stay in Canada illegally. Factors considered include family, social and economic ties to Canada and to one’s country of residence. A family tie can be shown by the existence of close family members living there; an economic tie, by one’s employment there demonstrated by way of an employment letter.

“ Inadmissibility – An applicant may be refused based on criminal inadmissibility, such as if they have a record of criminal convictions, or due to medical inadmissibility, such as if they have a medical condition that is designated as a danger to public health.

Applicants have the following available Options if they receive a refusal:

- “ Improving the application and reapplying; or
- “ Appealing (referred to in legal terminology as judicial review).



Reapplying may be a good option, for instance, if the visa officer misunderstood the applicant’s information or documents (such as documents related to the areas of consideration outlined above); and this defect can be fixed by clarifying the misunderstanding. However, if the Immigration and Refugee Protection Regulations, SOR/2002-227, s. 179(b) (“IRPR”). (<https://canlii.ca/t/55zdz>) IRCC continues a pattern of rejecting the applications despite sufficient evidence, and the visa officer’s refusal is unreasonable or not in accordance with rules of procedural fairness, judicial review may be the more appropriate procedure.

Judicial review is started by filing an application with the Federal Court. There is a limitation period within which an application must be filed, beginning at the date of refusal, and ending depending on if the matter arises inside or outside Canada. An application is perfected by filing an applicant’s record; afterwards, the Court decides whether to grant leave. If leave is granted, a hearing is scheduled. At the court date, both sides contest whether the refusal was reasonable and whether the process in which the decision was reached was procedurally fair. The most that can be achieved is to have the refusal decision quashed and the application sent back by a different visa officer to redecide it. Judicial review takes an average of a year.


Azimi Law has a track record of helping applicants obtain visitor visas after an initial refusal. At a first meeting, we can help you review the options open to you. We also offer legal representation in pursuing these legal pathways.



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The Law Office of Dr. Naser Abedi was established in 2001 as a law firm operating from the Greater Toronto Area, Ontario, Canada and primarily practicing Family Law, Immigration Law, Business Law, and Wills and Power of Attorney. Our firm maintains many affiliates in other key areas of law, as well.


Our firm prides itself on its track record of expertise, dedication, and ethical responsibility. Our clients are very satisfied with their experience at our law firm, because we pay attention to the needs of our clients and provide friendly, honest, compassionate, and trustworthy legal representation. Nothing demonstrates this more than the fact that a great quantity of our clients are based on repeat representation and referrals from past clients.


When you choose our practice to handle your legal dilemma, you can rest assured that we will commit our years of education, experience, and excellence to your legal matter and maintain communication with you throughout the process. Contact us today and let us take the worry out of your legal issue.

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Refused a Work Permit

Reasons Work Permits Are Refused And How You Can Change It?

A work permit is a document issued by Immigration, Refugees and Citizenship Canada (IRCC) that authorizes a foreign national to enter and remain in the country for the purpose of working for an eligible Canadian employer. A work permit has a validity period, being a range within which the authorization is effective. A generic work permit specifies what particular employer the applicant may work for, for what period of time and in what location. A spousal open work permit is where the applicant has a spouse who either works or is an international student in Canada and it would allow the applicant to work for any employer in Canada. A start up business visa is where the applicant has a plan to start a new business in Canada, either has a favorable Labour Market Impact Assessment or is exempt from one, and has a commitment certificate and letter of support from a designated entity such as a venture capital fund, angel investor group or business incubator. An application for a work permit involves putting together and submitting official forms and supporting documents. It is up to each applicant if they want to do that themselves or seek qualified assistance.

IRCC employees called visa officers decide such applications. Usually, the decision process only involves an examination of the submitted documents. The case law states, however, that in certain circumstances, such as if the visa officer is questioning the applicant's credibility, then the visa officer should extend an interview or procedural fairness letter notifying the applicant of the concerns and giving an opportunity to respond to such concerns.

At the end of the processing, a decision letter is mailed out to the applicant telling them if their application has been granted or not. In addition, the visa officer records more detailed reasons in the IRCC's electronic database, the Global Case Management System, the relevant portion of which may be accessed.

Reasons for why a work permit may be refused encompass not only general reasons that can apply to refusals of all other temporary resident visas (such as insufficient funds or not satisfying the visa officer the applicant would leave Canada after the period of authorized stay), but also reasons that are specific to the type of work permit category.

“For a generic work permit, the visa officer may doubt that the applicant possesses appropriate qualifications and experience for the proposed work role. Alternatively, the visa officer may doubt whether the job offer is valid. (These concerns may be alleviated by providing with the application materials, in the first instance, evidence of one’s qualifications such as a copy of a diploma or transcript, and, in the second instance, a copy of the employment contract).



For a start up business visa, if the applicant had been relying on an exemption from a Labour Market Impact Assessment (such as if their business would provide a significant social, cultural or economic benefit to Canada), the visa officer may challenge whether the exemption applies. Alternatively, the visa officer may question whether the applicant has sufficient funds based on the low income cut off levels that apply to this category.

Applicants have the following available Options if they receive a refusal:

Reapplying may be a good option, for instance, if the problem identified by the visa officer is simple and involves an absent document that can be easily provided the next time. However, if the visa officer’s refusal is unreasonable or not in accordance with rules of procedural fairness, judicial review may be the better course.



Judicial review is commenced by way of an application to the Federal Court. There is a limitation period within which an application must be filed, starting from the date of refusal, and ending depending on whether the matter arose inside or outside Canada. An application record is filed and the Court decides whether to grant leave. If leave is granted, a hearing is conducted. At the hearing, the applicant’s counsel and IRCC’s counsel argue about whether the visa refusal was reasonable or not and whether the IRCC’s processing adhered to principles of procedural fairness. The best case scenario is that the judge would set aside the refusal decision and send the application back to another visa officer to reconsider it. Judicial review usually takes one year.

Azimi Law has experience assisting applicants pursue legal remedies of work permit refusals. In a consultation, we thoroughly review the case and outline the different options and their advantages and disadvantages. We also offer representation in challenging the refusal.

“For a spousal open work permit, the visa officer may question the genuineness of the relationship. (Evidence of genuineness may include a marriage certificate, records of communications, photographs of the couple, joint property or children). Another reason for refusal is if there is a lack of proof that the spouse either works or is a student. (Evidence for these points is, if the spouse works, a copy of the spouse’s work permit or pay stubs, or, if the spouse is a student, an enrolment letter or receipt of tuition fee payment).



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“ Canada Immigration is making C11 LMIA Exemption Work Permit More Difficult For Temporary Workers

The IRCC updated the eligibility criteria for temporary workers

The guideline made it very clear that the IRCC's officers should be aware that C11 category, the foreign national is both employer and employee, therefore they must meet the requirements for both roles. In terms of being an employer, the Canadian business must provide a standard job offer and employment agreement, the business article and minimum of having 51% business ownership via company share certificates, a business plan that will create or maintain significant cultural, social or economic benefit under Canadian interest, and shows the presence of the owner of the business is temporary basis and the temporary nature of their stay. To support the idea of creating benefits for Canada, letters of support from related Canadian organizations, such as local or regional economic development organizations or chambers of commerce are also important. For example, a lawyer can provide supporting evidence from the provincial law society, a travel agency can provide supporting evidence from the provincial tourism authority.

Applicants seeking to operate their own business in Canada as a self employed person or as an entrepreneur must demonstrate that

- The work is on a temporary or seasonal basis and that they have plans to leave Canada at the expiry date of their work permit,
- They will be engaging in genuine business activities and
- The work will generate significant economic, social or cultural benefits, or opportunities for Canadian citizens or permanent residents in which defined in C10 guideline.

the work is on a temporary or seasonal basis and that they have plans to leave Canada at the expiry date of their work permit

In terms of the first element, the guideline defines new instruction. While again the focus is on self employment business in structure, some examples of seasonal businesses with temporary in nature are bed and breakfast operators, gold miners and wildlife guides. The guideline provides a solution also for Year round businesses and makes those businesses also eligible under C11 if the applicant provides more evidence that the intention is to remain for a temporary period and as per the transitional plan, the business owner will hire someone to manage the business after start up.

Workers will be engaging in Genuine business activities

In terms of engaging in genuine business activities, the offer of employment must meet all of the following conditions:

- Be made by a Canadian operation that is “actively engaged” in the business.
- Be consistent with the reasonable employment needs of the business.
- Have termed the employer as reasonably able to fulfill
- Be from a Canadian business with a compliance certificate.

To assess the decision maker must consider the business start date, type of business, number of employees, Canada Revenue Agency business number, a copy of any business licenses or permits, business website, job bank advertisement, letters of intent or contracts, the work will generate significant economic, social or cultural benefits The third criteria have two levels of legal test: (a) Whether the benefit is significant (b) Whether the benefit is economic, social, or cultural As per the IRCC’s operation manual for a work permit under C10 guideline, while the decision maker must provide a rationale and details for applying paragraph R205(a) in the Application notes, each factor of this legal test must be proved by the related supporting document.

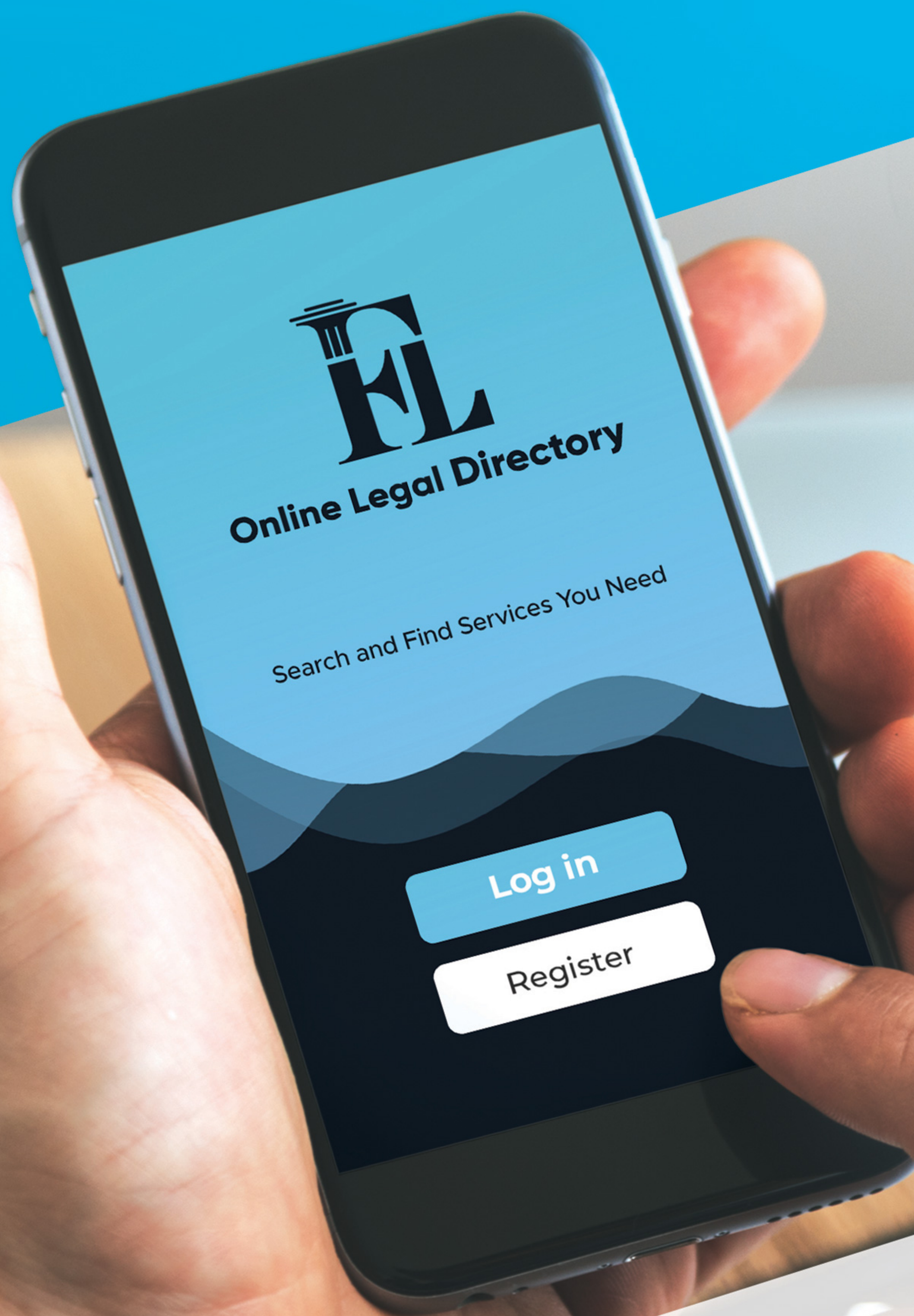


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NO 37 . AUGUST 2023
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