



2014/15

ANNUAL REPORT

Parkdale
Community Legal Services

Message from Co-Chairs

Desiree Warner, Andrea Margles and Faisal Bhabha



Andrea Margles



Faisal Bhabha

We have had a busy year, with many challenges as well as many triumphs.

Speaking to our governance challenges, the Board of PCLS was unfairly targeted as taking a stand on transformation in the GTA which was not supported by the evidence of our process and our participation on the GTA Transformation Project Steering Committee. Our AGM was disrupted, but the Board recognized the call from the community for more active participation in governance from the number of nominations received at the recalled AGM in November and decided to put forward a slate of only the incumbent members of the Board, and there was an election of four new members to the Board from the nominations received. Those new Board members have been welcomed and the Board continues to strive to function as an effective team, making decisions on PCLS governance that are in the best interests of our organization.

We would like to thank every member of the Board of Directors for their volunteer service to PCLS. We enjoy the opportunities to work with staff, students and community members to help to effect positive change for the communities of Parkdale and Swansea.

PCLS had hoped that the transformation discussions in the GTA would more closely fit with our priorities

for improving access to justice for clinic clients. With much discussion at our Board committee and among the Board members, we have renewed commitment to key principles to guide our continued participation in transformation discussions. We have posted these on our website and will work on continued transparency and community input.

We want to especially express our gratitude to Professor Shelley Gavigan, Academic Director at PCLS, as her term in that position ends. She is gracious in the face of challenges, has helped to keep our sense of PCLS history in decision-making, and has made many contributions to the organization and the academic program.

We are proud that each of the divisions at Parkdale has been involved in important test case litigation or law reform actions over the past year. We thank the students and staff of PCLS for their energy, expertise, and enthusiasm: they are making a positive difference in access to justice. We also thank our volunteers from the Osgoode Public Interest Requirement program as well as the many community members who come out to support our work.

It has been busy, but as always, a rewarding and satisfying year at PCLS.

Best regards,

Desiree Warner, Andrea Margles, Faisal Bhabha

Andrea Margles stepped down as Co-Chair in March 2015 and was replaced by Faisal Bhabha. Andrea had been co-chair for 5 years, and has contributed more than a decade of work to PCLS. Her work in this role is much appreciated.

Message from the Academic Director



*Professor
Shelley Gavigan*

Parkdale Community Legal Services and Osgoode Hall Law School of York University have enjoyed a long relationship in pursuit of a shared mission: that of serving the Parkdale community and educating law students. Every year since 1971, Osgoode students have come to the Parkdale Community to spend a full academic term working in the Clinic, serving the clients, working in the community, and undertaking academic research designed to support the Clinic's ongoing social justice and law reform activity.

The law students work in groups of five in each of the four Divisions of the Clinic, and they are carefully and supportively taught and supervised by the dedicated staff lawyers, community legal workers, and group administrators of the Clinic and Marvalyn Rowe, our welcoming receptionist.

The students also participate in an academic seminar led by the Academic Director, and they are required to produce a major research paper. In September 2014, the first annual Parkdale Student Research Symposium, *Beyond Precarity: Parkdale Students Reflect on Law and Social Justice* was held at Osgoode Hall Law School, at which nine Parkdale students presented their research papers. It was an excellent event, and we hope the first of many to follow.

In the 2014-2015 academic year, dedicated Parkdale

students worked long hours and generously of their hearts and minds to support the Parkdale community. In so doing, they learned transformative, and often inspirational, lessons about law, life, and social justice from their clients, the community, and the Clinic staff.

The Parkdale Program remains one of the Programs most in demand by students at the Law School, and every year we receive many more applications that we can possibly accommodate.

On behalf of everyone at Osgoode Hall Law School, I thank the Parkdale Community and Parkdale Community Legal Services for its support of our law students, and for helping to launch them into the world and work of social justice.

Best regards,



Shelley

Year in Review: Workers' Rights

This past year was a busy year for the Workers' Rights division, which included noted accomplishments with our partners to increase worker protections, as well as huge victories for our clients, recovering nearly half a million dollars. We would like to congratulate our clients, our allies and our community on these notable achievements.

With our ally, the Workers' Action Centre (WAC), we were successful in pushing for a review of the Employment Standards Act. In February of this year, the provincial government announced the **Changing Workplaces Review**. In order to frame the public policy debate for this review, PCLS wrote a comprehensive report, *Still Working on the Edge: Building decent jobs from the ground up*, with close to 100 recommendations. We were successful in securing a 4-part Star series profiling our recommendations for legislative reform.

We launched the **\$15 and Fairness** campaign on April 15th to build a grounded approach to support our key demands to improve wages and working conditions. This province-wide campaign brings together health providers, anti-poverty groups, unions, community organizations, legal clinics and students.



\$15 and Fairness builds on the successful **Campaign to Raise the Minimum Wage** of 2014. That campaign was able to change the conversation on decent wages by building participation in the campaign across the province. After a four-year minimum wage freeze, the government was forced to increase the minimum wage in 2014. While the new \$11 minimum wage will help, it is still not enough. We continue to press for a minimum wage that brings workers 10% above the low income measure and index annually by the cost of living.

We work in alliance with the **Caregivers' Action Centre** (CAC); an organization of current and former Live-in Caregivers. PCLS assists the CAC in providing information about workers' rights to caregivers at monthly meetings and policy support with government meetings. We mobilized through the summer and fall of 2014 to push for improvements under the Caregiver Program. The new Caregiver Program announced in November 2014 poses many challenges to caregivers.



This is what success looks like!

Migrant Workers' Alliance for Change launched a campaign this year to improve protection for migrant workers from recruiter fees and employer violations. Through the *Stronger Workplaces for a Stronger Economy Act* we were able to expand the *Employment Protection for Foreign Nationals Act* (EPFNA). Starting on November 20, 2015, all migrant workers under temporary foreign worker programs will have additional protections.

In November 2014, we were successful in winning changes to the *Employment Standards Act* that improve protections for people in precarious work. The *Stronger Workplaces for a Stronger Economy Act* makes several important changes to the laws governing working conditions for people in Ontario, including better provisions to curb wage theft, increased protections for temp agency workers, and pegging the minimum wage to annual increases in the cost of living.

PCLS and partners have completed the second of our five-year SSHRC Partnership Grant, **Closing the Employment Standards Enforcement Gap**. This research program brings together community and academic researchers to conduct research aimed at improving enforcement of employment standards (ES) among people in precarious work. This research will improve our understanding of labour market regulation in Ontario by mapping violations of ES, employer practices and workers' experiences of violations and policy practices.

We are working with other union and community organizations in the Good Jobs for All Coalition to address recent changes to Employment Insurance and win improved access to effective employment insurance.

Year	Files opened	Files completed	Amount recovered
2011-2012	93	64	\$280,232.53
2012-2013	100	78	\$436,523.00
2013-2014	93	91	\$448,576.79
2014-2015	119	112	\$461,546.21

Legal Work for Our Clients

We continue to make great impact with our legal case work. In the last year, we recovered \$461,546.21 in unpaid wages, wrongful dismissal compensations, human rights damages, and other workers' entitlements. This is the fourth straight year that we increased the amount recovered. Despite completing more files last year than in the previous three years, we also managed to open more files than in the previous three years.

How are we achieving increasingly successful results for workers?

- **We reject outdated legal notions.** We do not accept that more generous severance packages are reserved for senior-level employees. We always insist on fair severance packages for our workers.
- **We are determined.** We pursue all available enforcement mechanisms to collect workers' wages.
- **We push (and push).** Doctrine of common employer, deemed work, negative inference against employers who fail to keep records, extraordinarily damages for extraordinarily bad employer behaviour, tests for family status accommodation, null and void termination clauses... We push for favourable legal interpretations, and often get them.
- **We get organized.** Led by our Grop Administrator Raúl Cano Arana, we strive to keep an efficient work flow, which allows us effectively serve our clients.

Year in Review: Immigration

Our division has had a particularly busy year. We have gone to Ottawa as an intervenor at the Supreme Court and have continued work in issues of family reunification.

We also welcomed a new Community Legal Worker, Jamyang Nyima, a familiar face to students and clients for his years working as the clinic's Tibetan interpreter. We appreciate his years of service to the clinic and welcome him to his new, expanded role.

Landmark Intervention

This winter, the division went to Ottawa to participate in **Kanthasamy v Canada** before the Supreme Court of Canada. This case is about how the courts should exercise their humanitarian discretion. It has the potential to fight the misconception that applicants are somehow "queue jumpers" and that humanitarian and compassionate decision-making should only occur in very serious situations of "undue or underserved" hardship.

PCLS filed a motion to intervene in this case based on our over 40 years of experience representing clients on humanitarian and compassionate (H&C) applications. It was the first time that PCLS has sought intervenor status at the Supreme Court in its own name. We were joined there by five other important intervening organizations: the Canadian Council for Refugees, the Barbara Schlifer Commemorative Clinic, the Canadian Centre for Victims of Torture,



Immigration Division, Winter 2015

the Canadian Association of Refugee Lawyers, and Justice for Children and Youth. Our factum dealt with the fettering of discretion and the standard of review. We are now awaiting a decision, but we were encouraged to see that the Court was very receptive to the arguments of Mr. Kanthasamy's counsel, PCLS, and the other interveners.

This case could have an enormous impact on the way that humanitarian and compassionate applications are processed and consequently on the lives of so many struggling through the immigration system.

Tibetan Family Reunification

We also continued our work to reunify Tibetan families. We are pleased to report that there were a number of successful files this year, including a family with four children who were reunited in Canada after a separation of six years. We also saw a single mother finally reunited with her son after a separation of over three years. Just recently, with the diligent work by a

number of students, a man was reunited with his wife and her son (see picture below).

We have been struggling with one issue in particular this year: members of refugee families from Tibet are sometimes being rejected because they are accused of lying to immigration about their family. One case involved a twelve year old boy who only learned that his father is not his biological father as a result of a DNA test requested by Canadian officials to establish paternity. Because this child had initially claimed to be the son of our client (a Protected Person in Canada) the Canadian High Commission in New Delhi advised him that his application may now be refused! This case highlights the enormous unfairness of this kind of approach because this child had no idea that his father was in fact not his biological father. How could he be lying about something that he could not have known?

We will continue to do whatever we can with these cases because we believe the decision-making is based on a misunderstanding the *Immigration and Refugee Protection Act* and a deep misunderstanding Tibetan culture.

Other Successes

We also had a positive decision from the Federal Court that brings new hope for a common-law couple from Eritrea. The couple were initially rejected because the visa officer said that it was unbelievable that a family would allow their daughter to live under their roof with a man to whom she was not married. The Court found that the officer had no basis upon which to make this decision. The couple will now be able to provide additional proof of their common-law relationship and will hopefully be reunited in Canada soon.

Success! Granted permanent resident status in Canada.

L to R
Student Andrea Vitopoulous; Clients Samdup Gyaltzen, Tenzin Norlha, and Dhechen Chodon; Student Anca Radu and Community Legal Worker Jamyang Nyima



Year in Review: Housing

This past year was a particularly busy year both for case work and our community work. We saw a huge number of clients, and supported a growing tenant organization movement in the neighbourhood. Our fight is to ensure there is a place in Parkdale for all of us.

The fight against Akelius

PCLS is representing thirty-five tenants of the housing giant Akelius, owner of four mid-rise buildings in Parkdale, in an ongoing group application to the Landlord and Tenant Board about the removal of their live-in superintendents. We have been successful in arguing against consecutive motions by the landlord's counsel to have the application dismissed. We are currently awaiting new hearing dates.

The tenant committee at 188 Jameson, one of the five Akelius buildings in Parkdale, recently beat back an above guideline rent increase by half through their organizing and negotiation with the landlord.

Another building, 190 Jameson, was purchased by Akelius in spring 2015. PCLS is partnered with University of Toronto's Neighbourhood Change research project and will be surveying the building to begin to gather data on tenant displacement, reductions in service, and other concerns.

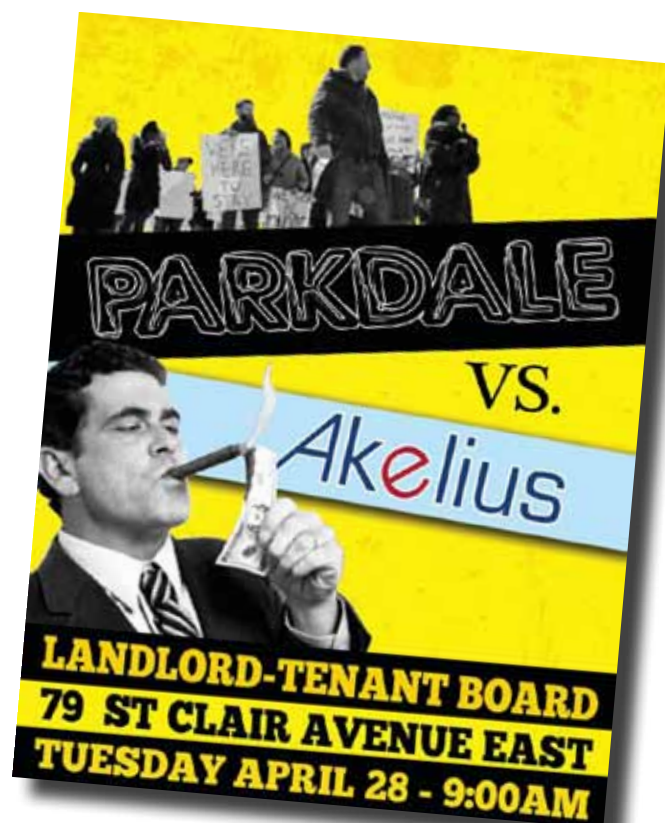
Triller Avenue

We have been very active in supporting tenants in two buildings on Triller Avenue that are owned by a notorious slumlord. The building is almost entirely inhabited by Hungarian Roma refugees. PCLS has assisted the tenants in complaining to the City of Toronto Municipal

Licensing Standards. We are now helping tenants build a group application for rent abatement.

TCHC absence from Unit Policy

We are supporting a committee of Chinese seniors living at the 20 West Lodge Avenue TCHC building to challenge TCHC's Absence from Unit Policy. The tenants believe that the policy, which allows the housing provider to revoke a tenant's RGI subsidy if they are absent from their unit for more than 90 days, unfairly restricts their ability to travel to their home country to fulfill family responsibilities. Tenants are circulating information and a petition to challenge the policy.





Supporting Roma Arrivals

Our Housing and Immigration Divisions are supporting a nascent committee of Roma refugees from the Hungarian city of Miskolc to organize a public event to raise awareness about the mass eviction of the Numbered Street Roma neighbourhood in their home city.

Evolving Legal Services Research Project

We are involved in a pilot project for an empirical study on the effectiveness of Public Legal Education and Information (“PLEI”). The study aims to increase our knowledge concerning where PLEI is relied on as a primary form of legal services delivery as well as where PLEI is used in conjunction with other legal services along a continuum. The study will provide a wealth of qualitative and quantitative data on the factors or characteristics that contribute to PLEI’s effectiveness in supporting positive outcomes in a range of circumstances. The Principal Investigator is Dr. Lesley Jacobs, Professor of Law & Society and Political Science at York University. Dr. Jacobs also holds the titles of Executive Director at the Canadian Forum on Civil Justice and Director of the Institute for Social Research. Dr. Jacobs is collaborating with Commu-

nity Legal Education Ontario (“CLEO”) on the project.

The Parkdale Tenants Association (PTA) “Freeze the Rent” Campaign

The goal of this campaign is to stabilize rents and bring back “real” rent control by eliminating “vacancy decontrol” and bringing back a rent registry (thus amending the RTA against fierce opposition from developers and landlords and the Provincial Government’s ruling party, which they bankroll significantly). So far the HR Group has assisted the PTA in organizing marches, demos and rallies and information meetings; organize information meetings in buildings about rent control; maintain several platforms and websites in support of this campaign; organize and distribute “Freeze the Rent” decals; research on the political economy of rent control and the implications of a housing support program; and organize a political lobby campaign in support of Rent Control.

METCAP

Many PTA members live in METCAP buildings. Assist the PTA in organizing against METCAP’s fraudulent rent notices, tenant harassment and bad maintenance.

The Rupert Community Inc. Rooming House Zoning Campaign

Contest the City of Toronto’s new amalgamated Zoning By-Law for failure to deal with zoning regulations which discriminate against rooming house tenants. Appeal the Consolidated Zoning By-Law at the OMB (violation of Human Rights and Charter Rights). Input into the City of Toronto’s “Rooming House Review”. File a complaint with the Ontario Human Rights Tribunal.



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Year in Review: Social Assistance, Violence and Health (SAVAH)



The SAVA division continued to be very busy with Ontario Disability Support Program (ODSP) appeals, especially as the province increased the number of medical reviews, where recipients essentially must re-apply for ODSP benefits. In 2014 we won or successfully settled 45 ODSP appeals, an 83% success rate. In 2015 so far we have won or settled 35 ODSP appeals, resulting in a success rate of 95%!

Following our successful intervention in the **Surdivall** case, where the Court of Appeal confirmed that the Social Benefits Tribunal (SBT) has jurisdiction to hear appeals of overpayments of Ontario Works or ODSP benefits, we have continued to assist clients to fight unfair overpayments. In 2014, we won an appeal involving an overpayment of over \$60,000. Unfortunately, the province has been granted a reconsideration of this decision, so this case is going back to the SBT for a new hearing. We have a number of other overpayment appeal cases involving issues of administrative errors of caseworkers or lack of accommodation of disability that led to unfair overpayments.

In 2015 we also worked with the Income Security Advocacy Office to intervene into OPSEU's Charter of Rights and Freedoms case regarding serious problems caused by the new provincial computer system brought into manage social assistance programs. This computer system, known as SAMS, caused a

OUR ODSP APPEAL SUCCESS RATE

83% 2014 95% 2015*

host of problems for recipients, including delayed or reduced income benefits. Our intervention focused on the right of social assistance recipients to use the Charter to address problems in how these programs are administered, and the scope of these rights in relation to how social assistance programs are run. This case was ultimately dismissed by the court, but it was an important avenue to raise public awareness of the impact of these problems, and to pressure the province to work quickly to address them.

We continue our participation in the province-wide **ODSP Action Coalition**. In February the Coalition distributed Respect for Families Action Toolkit as part of a campaign to highlight the shortcomings of ODSP. This campaign is part of the Coalition's six month call to action to put pressure on the province to implement reforms that help, not hinder, the lives of people who live on ODSP. The ODSP Action Coalition is extending its campaign to save the Work-Related Benefit. Individuals and groups from across Ontario are

* As of June 2015



expressing their concern that removing the \$100 per month support that people on ODSP receive from the Work-Related Benefit is punitive and will have a negative impact on their incomes and their ability to sustain employment.

Supporting Survivors of Violence

We continue to represent survivors of violence, particularly women and children victims of domestic violence, in applications to the Criminal Injuries Compensation Board (CICB). In 2014 we were successful in winning an award of \$18,000 in a case involving spousal abuse.

We aim to address issues of violence through our community work. This past year we facilitated trainings on CICB for the Toronto Public Library and other service providers. The **Parkdale Anti-Violence Education (PAVE) Working Group** has held information and networking events in the community. This past September we organized with Parkdale women to attend Take Back The Night. This included a workshop on navigating the criminal justice system, an educational talk on sexual-assault and activism. In commemoration of December 6 National Day of Remembrance and Action on Violence Against Women, we held our second annual story-telling event at Parkdale Project Read. Most recently, we held a community lunch on International Women's Day to celebrate the resilience of women, both internationally and locally.

The **Women's Justice Telling Group** met weekly at PCLS and in community spaces to use story-telling as a means of responding to injustice, to increase the participation of women in organizing around issues of violence, and to make global connections with other grassroots campaigns working to address issues of violence against women and children. They organized a contingent of women to attend community events centred around women in order to connect isolated women with community resources.

Seniors

As part of its clinic wide mandate to ensure better access to services for seniors, we continued to facilitate Public Legal Education (PLE) workshops for seniors in the community. We also updated the Income Support Programs Guide for Seniors that accompanies our PLE's and is distributed in the Parkdale community. We look forward to working with seniors in Parkdale to translate these documents in multiple languages this coming year.

Mental Health

We have continued our involvement in workshops on the rights of persons involved in Ontario's mental health system, including an overview of legislation related to Ontario's mental health system. We prepared a submission to LAO's Mental Health Strategy and looks forward to a response on how LAO will implement some of the recommendations gathered by members of Community Legal Clinics. Please contact Peggy-Gail if you are interested in reviewing a copy of the submission.

PDAC (Psychiatric Disabilities Anti-Violence Coalition) continues to meet as a network to share resources and information on behalf of persons with a psychiatric disability. This year we received funding from the City of Toronto to conduct focus groups and work with persons who had a psychiatric disability to examine diverse forms of violence, including systemic. We look forward to launching this report in October.

Awards 2014-2015



Beryl-Ann Mark

The Dorothy Leatch Community Award

Beryl-Ann has been an active Parkdale community member for 21 years and mother to Khalil 21, Shaniqua 18, Lakeisha 7, Alliyah 6 and Dontey 2. She has a passion for community work and used her knowledge and experiences to help others navigate complicated systems, particularly mothers. After her youngest child was born she wanted to give back meaningfully to her community and show her children that they can do anything they put their mind to, so eighteen years ago she attended Parkdale Project Read as a literacy student and became involved in the community.

The Dorothy Leatch Community Award was created in memory of the late Dorothy Leatch, the clinic's receptionist for over thirty years. The prize honours a Parkdale resident who has made an outstanding contribution to the community.



Learn more:
empowermentcouncil.ca

The Empowerment Council (CAMH)

The Community Partner Award

The Empowerment Council (EC) of CAMH is a not for profit corporation, responsible to its own members and Board of Directors located within our clinic's catchment. The EC's membership, board and staff are all current or former clients of mental health and addiction services. The EC advocates on a systemic level on behalf of CAMH clients and provided information and education to clients, mental health and addiction service providers, students, members of the public and other. The EC uses outreach and community development by the means in which the EC consults clients for priorities and direction and seeks to involve clients in decision making.



Simon Wallace

The Fred Zemans Prize in Poverty Law (Parkdale)

As a Parkdale student Simon Wallace demonstrated commitment to the best practices of community and anti-poverty lawyering, including a deep appreciation of the importance of connecting casework and community work, and a special dedication to community organizing. In the words of his supervisors in the Housing Rights Division, Simon was "a well rounded student on all fronts," a diligent, energetic, and excellent advocate. Simon exemplified the best qualities of leadership by example, collegiality and generosity of spirit.

The Zemans Prize was created to honour the contributions of Professor Fred Zemans, founding Clinic Director of Parkdale Community Legal Services. The prize is awarded to a student who has performed at a high level of excellence in all aspects of the Program - legal work, community work, and academic work.

Thank you, Board, Staff and Students 2014-2015

Board

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Amar Bhatia
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Namgyal Dolker
David Gellman
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beth long
Andrea Margles
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Shelley Gavigan, Academic Director

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John No (Workers' Rights)
Cynthia Pay (SAVAH)
Toni Schweitzer (Immigration)
Geri Sadoway (Immigration)

Community Legal Workers

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Naomi Ives Peak (Cross-divisional)
Amarna Moscote (Cross-divisional)
Jamyang Nyima (Immigration)
Bart Poesiat (Housing Rights)
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Marvalyn Rowe
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Besrat Solomon

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Brendan Jowett
Anna Kalinichenko

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Brandon Brown
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Kyle Elliot
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Ali Esnaashari
Tyler Fram
Parmbir Gill
Natalie Gilliard
Júlian Gomez Biagi
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