

OSGOODE

OSGOODE HALL LAW SCHOOL
YORK UNIVERSITY

Professional Development CLE

Don't miss this unique opportunity to get valuable insights from the experts

The Osgoode Short Course in Debtor-Creditor Litigation

Attend this information-packed program and you will:

- Get a thorough overview of the important substantive and procedural issues involved in commercial litigation matters involving recovery of debts
- Learn valuable techniques, strategies and tactics for pursuing all available sources of recovery or for creatively opposing secured creditors
- Be better equipped to choose the most appropriate remedy using realistic cost-benefit analysis
- Hear from top counsel on how to maximize the advantages of the Commercial List and other forums
- Learn new developments and practical tips in receivership proceedings
- Ensure you have an up-to-date knowledge of the impact of receivership laws in this area
- Learn the techniques and hear practical strategies for identifying and dealing with commercial fraud as well as the ethical and professional issues that may accompany it
- Enhance your ability to conduct debtor-creditor litigation with proportionality and a results-oriented perspective

Plus! Don't miss the Optional Workshop:
Fundamentals of Commercial Litigation

Chair

Milton A. Davis, Davis Moldaver LLP



DATE & TIME

May 29, 2014
9:00 a.m. - 4:30 p.m. EDT/EST

OPTIONAL WORKSHOP

May 28, 2014
1:30 p.m. - 4:30 p.m.

LOCATION

Osgoode Professional
Development Centre
1 Dundas St. W., 26th Floor
Toronto, ON

**WEBCAST
AVAILABLE**

Public CLE Seminars

Customized CLE Programs

Skills Training & Certification

ITAW

Professional LLM

Register now at
www.osgoodepd.ca



Osgoode Professional Development has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.

LSUC (ON) CPD: 6.75 CPD Hours (5.25 Substantive, 1.5 Professionalism) for the course, 3.0 CPD Hours (3.0 Substantive, 0.0 Professionalism) for the workshop

YORK
UNIVERSITÉ
UNIVERSITY





The Osgoode Short Course in Debtor-Creditor Litigation

Learn the strategies you need to navigate this complex system of laws and remedies

Few areas of legal practice provoke more cries of “Help!” – from both clients and counsel – as debtor-creditor litigation.

- The context in which such litigation arises – including bankruptcies, receiverships, frauds and conspiracies – tends to be crisis-driven and fraught with expensive pitfalls and professional conundrums
- Controversy over best approaches and ever-evolving caselaw on remedies and damages make this area more challenging than ever before, and even experienced counsel are not always aware of some potentially helpful statutory provisions
- No creditor wants to wait years for the recovery of their money, and an uncollectable judgment is a very expensive piece of paper

Counsel need to know how to steer matters efficiently through the system, and how to maximize the recovery at minimum cost. Those who have a solid grasp of the available procedural tools and the arguments and evidence that play out best before mediators, masters or judges have a winning advantage.

In this *Osgoode Professional Development* short course, some of the best minds and top practitioners in the field will share their knowledge and insights derived from experience. An essential overview for lawyers new to debtor-creditor litigation, it will also challenge more experienced practitioners to rethink commonly-encountered problems in fresh and creative ways.

Register now by visiting www.osgoodepd.ca, calling 416.597.9724 or 1.888.923.3394, emailing opd-registration@osgoode.yorku.ca or faxing 416.597.9736.

Chair

Milton A. Davis, Davis Moldaver LLP

Faculty

The Hon. Justice Fred Myers, Superior Court of Justice (Ontario)

Sarit E. Batner, McCarthy Tétrault LLP

George Benchetrit, Chaitons LLP

Harvey Chaiton, Chaitons LLP

Tom Curry, Lenczner Slaght Royce Smith Griffin LLP

Ronald D. Davis, J.D., Ph.D., Principal ellwoodEvidence.com

Steven L. Graff, Aird & Berlis LLP

Brian H. Greenspan, Greenspan Humphrey Lavine

Monique Jilesen, Lenczner Slaght Royce Smith Griffin LLP

Jacqueline L. King, Shibley Righton LLP

Robert Kofman, Managing Director, Duff & Phelps Canada Restructuring Inc.

Shayne Kukulowicz, Cassels Brock & Blackwell LLP

Francy Kussner, Goodmans LLP

Rod Moran, Director, Group Risk Management, RBC

Agenda

Optional Pre-Conference Workshop
Fundamentals of Commercial Litigation
May 28, 2014 1:30 p.m. - 4:30 p.m.
Note: Workshop not available via webcast.

Milton A. Davis, Davis Moldaver LLP

Ronald D. Davis, J.D., Ph.D., Principal, ellwoodEvidence.com

Steven L. Graff, Aird & Berlis LLP

This workshop provides a general orientation – for plaintiffs’ and defendants’ counsel – to the essentials of litigating commercial disputes, with topics drawn from such areas as:

- Who are the appropriate defendants? — extending (or restricting) liability
- Injunctions and interim relief
- Maximizing the chances for success on motions
- Causes of action including economic torts
- The spectrum of available commercial damages
- Technological aspects of prosecuting and defending commercial cases, including use of technological tools, destruction of evidence, obtaining and using electronic records, and key e-discovery issues
- Evidence and advocacy in proving damages
- Practical tips for maximizing cost awards

Thursday, May 29, 2014

8:30 Registration and Continental Breakfast

9:00 Chair’s Welcome & Introductory Remarks

9:10 Early Warning Signs – What to Do?

Shayne Kukulowicz, Cassels Brock & Blackwell LLP

- Preliminary considerations and assessing danger signals from or concerning the debtor
- Conducting a cost/benefit analysis of essential facts
 - assessing timelines
 - understanding priorities
 - looking ahead to the enforcement strategy
- Choosing the most effective remedy available
 - taking a guarantee or security
 - unpaid supplier rights
- Commencing of proceedings
 - actions, applications and other strategies
 - making demand

9:40 When and How to Use the Commercial List

Tom Curry, Lenczner Slaght Royce Smith Griffin LLP

- Choosing the best alternative options if you don’t qualify
- Navigating the system and getting things done
- The effective use of 9:30 appointments
- Particularly difficult opponents – what to do?
- Recent developments in policy and procedure

10:30 Refreshment Break

10:45 The Essentials of Receiverships: Opportunities, Pitfalls, Best Practices

Robert Kofman, Managing Director, Duff & Phelps Canada Restructuring Inc.

The Hon. Justice Fred Myers, Superior Court of Justice (Ontario)

- When to use them
- Court appointed vs. private appointment
- Bringing the application
- Choosing a receiver and funding the receivership
- Defending and opposing receiverships
- Receiver reports as evidence
- The most pertinent recent law

11:45 Judgments – Pre- and Post- Judgment Strategies

Sarit E. Batner, McCarthy Tétrault LLP

- Addressing the problems in summary judgment procedures
- Is it faster to go to trial?
 - *Citi Cards Canada Inc v. Pleasance*
 - a stumbling block to a sheriff’s sale
 - limitations on financial institutions’ ability to disclose financial data without customer consent
- Collections – effecting recoveries and maximizing the slice
 - seizures, garnishments and other tools

12:30 Luncheon

1:15 Commercial Fraud and Creditors’ Remedies

George Benchetrit, Chaitons LLP

Harvey Chaiton, Chaitons LLP

- Discovering the unlawful activities and using the right tools (including Norwich orders) for gathering relevant evidence
- Freezing the fraud: *ex parte* injunctions, certificates of pending litigation and other mechanisms to avoid a dissipation of assets
- Legal remedies for unlawful asset transfers: what’s available under bankruptcy law and under provincial legislation?
- Identifying/proving a commercial conspiracy
- Extending liability to directors and other individuals via the oppression remedy
- Identifying/dealing with Ponzi schemes

2:15 Refreshment Break

2:30 Ethical and Professional Considerations for Counsel

Brian H. Greenspan, Greenspan Humphrey Lavine

Francy Kussner, Goodmans LLP

- Moving or transferring assets – how to advise the debtor client in a manner consistent with counsel’s ethical and professional responsibilities
- When does the lawyer become part of a conspiracy?
 - practical tips for managing risk
- Dealing with the obstructive or unethical lawyer
- When should police or the OSC be alerted?

Agenda [Cont'd]

3:30 The Creditor's Expectations and the Debtor's Strategies

Milton A. Davis, Davis Moldaver LLP

Monique Jilesen, Lenczner Slaght Royce Smith Griffin LLP

Jacqueline L. King, Shibley Righton LLP

Rod Moran, Director, Group Risk Management, RBC

- The debtor's strategies
 - when to fight and when to negotiate
 - defences that work and creative use of the *BIA*
 - scope of the duty to act reasonably and in good faith
 - the defence of failure to mitigate
- Meeting and/or managing creditors' expectations
 - proportionality and common sense, making and keeping the client happy, acting quickly and charging reasonably

4:30 Course Concludes

"Very good variety of topics covered"

—James Desjardins, Blake, Cassels & Graydon LLP

"The topics chosen were very good and the presenters were all very engaging. Informative and very well-structured"

—Nicole Sigouin, Norton Rose Fulbright Canada LLP



CPD Credits

Osgoode Professional Development has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.

LSUC (ON) CPD: 6.75 CPD Hours (5.25 Substantive, 1.5 Professionalism) for the course, 3.0 CPD Hours (3.0 Substantive, 0.0 Professionalism) for the workshop; **BC/Manitoba/Saskatchewan/NWT/Nunavut/Yukon/Quebec/New Brunswick and PEI:** 6.25 CPD/MCLE credit hours towards professional development requirements (2.75 credit hours for the workshop); **NSBS CPD:** 6.5 credit hours for the course (3.0 credit hours for the workshop); **NY CLE Board (on-site participants only):** 7.0 credit hours for the course (3.0 credit hours for the workshop) in the Area of Professional Practice for transitional and non-transitional lawyers. Also eligible for CLE/Insurance Premium Credits Program offered by the **Law Society of PEI** and for Alberta CPD credit with the **Law Society of Alberta**.

Questions? E-mail: cpd@osgoode.yorku.ca or refer to the program website.

Registration

Please complete all registrant information.

The Osgoode Short Course in Debtor-Creditor Litigation

Course Course Plus Workshop Workshop Only

I will attend: On site Via webcast (single viewer - course only)

Unable to attend? Please contact us to order the Materials/Program Archive.

Name: _____

Title: _____

Firm/Company: _____

Practice Area: _____

Address: _____

City: _____

Prov: _____

Postal Code: _____

Telephone: _____

Fax _____

Email: _____

Add me to your mailing list

Delete me from your mailing list

If you do not wish to be contacted by e-mail, indicate here

Priority Service Code
(from mailing label below)

1 4 0 9 F T

Fee Per Delegate

Course plus Workshop: \$1095 plus 13% HST for a total of \$1237.35; Course Only: \$795 plus 13% HST for a total of \$898.35; Workshop Only: \$400 plus 13% HST for a total of \$452.00.

Fees include attendance, program materials, continental breakfast, lunch and break refreshments (course only). Group discounts are available for both on site and webcast participants. Visit www.osgoodepd.ca for details. Please inquire about financial assistance and CPD credits.

Payment Options

Cheque enclosed (payable to York University — GST# R119306736)

Bill my credit card: VISA Mastercard

Card# _____

Expiry: _____

Signature: _____

Payment amount: \$ _____

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Dates & Times

Thursday, May 29, 2014

9:00 a.m. - 4:30 p.m. EDT/EST

Optional Workshop:

May 28, 2014: 1:30 p.m. - 4:30 p.m.

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

Location

Osgoode Professional Development
Downtown Toronto Conference Centre

1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3

Public CLE Seminars

Customized CLE Programs

Skills Training & Certification

ITAW

Professional LLM



OSGOODE HALL LAW SCHOOL
YORK UNIVERSITY

Professional Development
CLE

4 Convenient Ways to Register

1. **MAIL** your registration form to:
Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3
2. **ONLINE** at
www.osgoodepd.ca
3. **FAX** your registration to
416.597.9736
4. **CALL US** at 416.597.9724
or 1.888.923.3394