



PROFESSIONAL LLM in
**bankruptcy
and insolvency
law**

DIRECTOR

Stephanie Ben-Ishai

Associate Professor, Osgoode Hall Law School
Affiliated Scholar, Davies Ward Phillips & Vineberg LLP

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Stephanie Ben-Ishai, Associate Professor, Osgoode Hall Law School
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Professor Ben-Ishai is an internationally recognized expert on insolvency, corporate governance and commercial law. A frequent guest speaker, Professor Ben-Ishai has presented her work around the world. She has received the American Bankruptcy Institute Medal of Excellence, SSHRC and Fulbright fellowships. Professor Ben-Ishai has served as an INSOL International Scholar and was awarded the Osgoode Hall Law School Research Fellowship for her insolvency research. Her recent research has also been funded by SSHRC, the Insolvency Institute of Canada, the Schulich Program on Financial Services, the Industry Canada Insolvency Research Initiative, a Borden Ladner Gervais Research Fellowship, and the Foundation for Legal Research. She has served as the editor of leading Canadian and Australian commercial law journals and is an active member of a number of Canadian and international professional, community and academic boards and committees. Professor Ben-Ishai is the author and co-author/co-editor of four books on insolvency and contract law and over 25 articles on insolvency, commercial and corporate law.

FACULTY INCLUDES

Roderick J. Wood, Professor
Faculty of Law, University of Alberta

Thomas Telfer, Professor
Faculty of Law, University of Western Ontario

Peter Farkas, Managing Director
Duff & Phelps Canada Ltd
Fellow of the Insolvency Institute of Canada

Edward Sellers, Partner, Insolvency and Restructuring
Osler, Hoskin & Harcourt LLP

Rupert Chartrand, Retired Senior Partner
Osler, Hoskin & Harcourt LLP
Fellow of the Insolvency Institute of Canada

Stephen J. Lubben, Professor and Harvey Washington
Wiley Chair in Corporate Governance & Business Ethics
School of Law, Seton Hall University

Saul Schwartz, Professor
School of Public Policy and Administration
Carleton University

Robin Schwill, Partner
Davies Ward Phillips & Vineberg LLP

Natasha MacParland, Partner
Davies Ward Phillips & Vineberg LLP



DEGREE REQUIREMENTS

The degree requirements will be satisfied upon the completion of 36 credits. The credits can be obtained by either coursework or a blend of coursework and a Major Research Paper. Please visit www.osgoodepd.ca for required and elective course information.

PROGRAM FORMAT

All courses in this program are offered in an intensive format. Videoconferencing is available for some courses, although attendance in Toronto is required for a portion of the coursework. Note: Faculty, curriculum, course descriptions and degree requirements are subject to change without notice. Please visit the OsgoodePD website for complete details.



Osgoode Professional Development has been approved as an Accredited Provider of Professionalism Content by the LSUC. All OsgoodePD LLM courses are eligible for substantive CPD hours and those containing professionalism hours are noted on the website. Please email cpd@osgoode.yorku.ca for specific information and for CPD/MCLE hours with other regulatory bodies.

The Professional LLM in Bankruptcy and Insolvency Law is a two-year, part-time program designed for bankruptcy and insolvency professionals and those working in related areas who want to develop greater expertise in this dynamic area. This unique LLM program examines the laws, rules, theories and policies that underlie both business and personal bankruptcy and insolvency law in Canada, the United States and internationally.

COURSE DESCRIPTIONS

Required Courses

Perspectives on the Insolvency System [3 credits]

Students will analyze the nature, objects and purposes of bankruptcy, the approaches to bankruptcy that have developed in different countries, and the role that a country's economic structure plays in the development of a bankruptcy system. Further, this course will explore how the bankruptcy process affects both secured and unsecured creditors and rationales for the distinction between various categories of creditors.

Lending, Security and Insolvency Law [6 credits]

The focus of this course is the legal principles and practical aspects of the granting of credit and the taking of security by Canadian financial institutions, having regard to the security provisions in the *Canadian Bank Act* and the personal property security legislation in force in various provinces. The first half of the course deals with the creation, perfection, priorities and enforcement of security interests outside bankruptcy. The second half focuses on the treatment of security interests in bankruptcy, with particular attention paid to the secured creditor's position in the reorganizations of insolvent businesses.

Elective Courses

The Financial Service Industry and the Public Interest [3 credits]

Taking a comparative and transnational approach, students will examine the organization, nature and performance of the financial services industry as well as the standards by which corporations are judged as performing appropriately and successfully. Subjects include: socially responsible investment; the impact of the financial services industry on the environment; and the intersection of the financial services industry and marginalized groups.

Behavioural Economics [3 credits]

Beginning with an overview of behavioural economics and the primary decision-making biases that affect bankruptcy, this course will consider the question of how creditors sometimes take advantage of these biases to lead some people into financial trouble. The course examines how regulation could be better designed to reduce overindebtedness.

Receiverships and Other Remedies in Secured Transactions [3 credits]

This course analyzes the growth and development of secured creditors in Canada, including the objects and purposes of secured credit and whether the current system meets them efficiently and effectively. Students will also examine the remedies that are available to secured creditors in an insolvency, particularly the nature and extent of the receivership remedy and the contrasts between court and privately-appointed receivers. Other remedies available to secured creditors, the responsibilities of secured creditors in enforcement situations, the rights of debtors and guarantors and the supervisory role of the courts over creditors and enforcement will also be explored.

Priorities and Priority Claims in Bankruptcy [3 credits]

The point of departure of this course is the basic insolvency premise that creditors should be treated equally. The *Bankruptcy and Insolvency Act* and other legislative provisions, however, have created exceptions to this premise and, in the non-statutory context, commercial transactions are often structured with a view to creating priority positions for non-debtor parties. What role do priority claims, and anti-preference rules, serve in the bankruptcy process? Are there better ways of achieving the goals that legislative priorities seek to achieve? Looking beyond the *Bankruptcy and Insolvency Act*, students will examine the constitutional issues which arise in respect of governmental priorities and the impact of bankruptcy on various types of claims.

Consumer Bankruptcy Issues & Policies [3 credits]

This course addresses the major issues that are presented by consumer bankruptcies and examines the economic and social reasons underlying the current level of consumer insolvencies and the various approaches that are available to deal with them. Is the Canadian system dealing fairly and effectively with consumer bankruptcies and, if not, why? Community-based and legislative solutions from other jurisdictions will be considered.

Governance Responsibilities in Insolvency [3 credits]

Responsibilities in the corporate governance of businesses that are either on the verge of insolvency or have entered formal insolvency or reorganizational proceedings are the focus of this course. Students will analyze the role of directors and officers and their responsibilities to shareholders and creditors in insolvency or pre-insolvency situations. The course will also consider the duties, responsibilities and obligations of bankruptcy and insolvency administrators, such as receivers, trustees and monitors.

Reorganizations and Restructurings [3 credits]

Students will explore the tensions that exist in an insolvency system between liquidations and reorganizations and the manner in which Canada's insolvency system attempts to achieve a legislatively-mandated balance between the two. This course will provide an in-depth review of reorganizational law and practice in Canada in comparison to the reorganizational systems of Canada's major trading partners.

TUITION AND FEES

The 2013/2014 tuition, which includes both years of the Professional LLM program, is \$21,888.45 for domestic students and \$30,270.00 for international students, plus supplementary fees. Tuition and supplementary fees are payable in six installments throughout the program. A \$15 administrative fee is levied by the Faculty of Graduate Studies each term. Tuition and supplementary fees are set by the York University Board of Governors and are subject to change at any time. Please visit the tuition section on our website for a breakdown of fees and complete details.

Fees include the required course materials. Where assigned, textbooks are provided in hard copy and all other course materials and readings are provided in electronic format only. An additional charge will apply to any shipping of materials outside of Canada. Videoconference participants are required to purchase the necessary hardware and software. Light meals are provided for students attending classes in-person in Toronto.

International Aspects of Bankruptcy & Insolvency [3 credits]

Multinational insolvencies and reorganizations present entirely new and complex legal and business issues. This course considers a number of precedent-setting international insolvencies, such as Nortel and Lehman Brothers, as well as the major international initiatives that are currently underway to create systems for international co-ordination in multinational business failures and reorganizations. Students will also review the position of, and remedies available to, creditors and other stakeholders in the insolvency process who are affected by an insolvency proceeding in another country, with particular emphasis on cross-border insolvency cases involving the United States and Canada.

American Bankruptcy Law [3 credits]


This course will explore the law and policy of the American bankruptcy system as it relates to addressing problems of financially distressed corporations and their creditors and other stakeholders. As much as possible, this course will be comparative in nature.

Major Research Paper [6 credits]

A Major Research Paper (MRP) of approximately 70 pages may be completed on any topic related to bankruptcy and insolvency law, provided appropriate supervision is available. The MRP should go beyond merely describing legal developments to include independent critical analysis of its subject matter. The final paper is marked on a pass/fail basis.

FOR MORE INFORMATION

 admissions-opd@osgoode.yorku.ca

 416.673.4670 or toll free within
Canada at 1.888.923.3394



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