

# SETTING UP/KNOCKING DOWN ASSET PROTECTION STRUCTURES

Where law, professional ethics and forensics meet – do you have the information and strategies you need in this essential area of practice?

A multidisciplinary faculty of experts address creditor-proofing, reviewable transactions, debtor-creditor litigation and key related areas, including:

- How far can the lawyer safely go in setting up an asset protection regime?
- Overview of critical insolvency laws
- Underused remedies in pursuing debtor's assets (and how to use them)
- What Canadian professionals can learn from the US experience
- The state of the art of asset location and recovery in home and foreign jurisdictions, including chasing assets across the 'wired world'

Register today at:

[osgoodepd.ca/asset](http://osgoodepd.ca/asset)

## Program Chairs

**Bob Klotz**  
Klotz Associates

**Steven Weisz**  
Brauti Thorning Zibarras LLP

## Date and Time

**April 23, 2019**  
**9 a.m. – 5:00 p.m. EDT**  
**In Person or Webcast**

**Online Replay:**  
**May 30, 2019**

## Location

**Osgoode Professional  
Development**  
1 Dundas St. West, 26th Floor  
Toronto, ON

# Setting Up/Knocking Down Asset Protection Structures

Debtors have always been interested in effective shields; just as creditors have sought powerful swords.

It has never been more important for corporations and individuals to shield their assets from creditors, and for creditors to bring expertise and creativity to bear on their quest to pursue every possible avenue for recovery. At the same time, professionals advising in this area must be vigilant to ever-present risks to their reputation and integrity while providing effective representation and counsel.

*OsgoodePD's* unique program, **Setting Up/Knocking Down Asset Protection Structures**, will provide you with a tangible edge in acting for either side. Leading corporate lawyers from across North America, commercial litigators, forensic experts, tax lawyers and insolvency lawyers will provide candid and practical insights on the strengths, weaknesses and risks of various strategies.

- The leading and recent law which advisors, business lawyers and commercial litigators must know
- Lessons drawn from the long practical experience of Canadian and U.S. counsel
- Reflections from the Bench on what the Court looks for from counsel in assessing whether an asset protection regime should stand or fall
- Guidance on how counsel can address the substantial ethical and professional issues in this contentious area, so as to best meet client needs without compromising one's integrity and reputation

## Who Should Attend

- Corporate-commercial lawyers who are consulted on asset protection schemes
- Insolvency lawyers
- Commercial litigators
- Tax counsel
- Investment and tax accountants
- Forensic accountants
- Financial planners and advisors

Register today at:

[osgoodepd.ca/asset](http://osgoodepd.ca/asset)

## Agenda

8:30 a.m.

Registration

9:00 a.m.

Chairs' Welcome and Introductory Remarks

9:05 a.m.

Asset Protection: Essential Background Law and Recent Developments for Corporate Lawyers and Litigators

**Chris Burr**

Blake, Cassels & Graydon LLP

This session will highlight key sections of the BIA, CCAA, Criminal Code and other relevant legislation, with leading caselaw. A firm foundation for the exploration of strategic and tactical considerations over the day.

- Protected assets: what's exigible, what isn't?
- Significance of the distinction between fraudulent conveyances and fraud
- The most effective creditors' remedies for challenging asset protection structures

10:00 a.m.

Creditor-Proofing: What's Workable, What's Permissible and What Crosses the Line

**Bob Klotz**

Klotz Associates

In creditor-proofing situations, you must address the triple risks of criminal liability, civil liability and prosecution for professional misconduct, and the varying standards applicable to each. Bob Klotz will assess the difficulties and identify realistic solutions regarding the nature and scope of advice you can safely provide.

- Dealing with pressures from clients, colleagues and referral sources to enter the ‘gray zone’
- Can counsel effect a transaction in a value-free manner? Drawing the line between “mere legal advisor” and “principal actor in the transaction”
- Constructing an ethical safety net to protect yourself
- Where fraud is alleged, how will courts exercise their discretion to protect or withdraw solicitor-client privilege?

**10:45 a.m.**

### Refreshment Break

**11:00 a.m.**

### What’s a Nice Lawyer Like You Doing in a Place Like This? Ethical and Professional Issues in Asset Protection

#### The Honourable Robert A. Blair, Q.C.

Arbitration Place

#### Patricia Donlevy-Rosen

Donlevy-Rosen & Rosen, P.A.

#### Alex Ilchenko

Pallett Valo LLP

#### Moderator

#### Steven Weisz

Brauti Thorning Zibarras LLP

Building on the previous session, this panel brings U.S. and Canadian expertise to bear on the tough judgment calls to be made in asset protection scenarios where too few clear guideposts exist.

- When is it too late in the day to protect effectively against potential creditor claims?
- The line between prudent planning and fraud – how far can you go, as a matter of professionalism and prudence?

**12:00 p.m.**

### Lunch

**1:00 p.m.**

### Off-Shore Asset Protection Strategies

#### Fraser Hughes

Conyers, Dill & Pearman

#### Keiran Hutchison

EY Cayman Ltd.

#### Howard Rosen

Donlevy-Rosen & Rosen, P.A.

#### Steven Weisz

Brauti Thorning Zibarras LLP

A discussion on strategies for structuring off-shore investments, potential regulatory challenges, and legal disputes that can arise.

**2:00 p.m.**

### Pleadings and Advocacy Workshop

#### Olha Senyshyn

Osgoode Business Clinic

#### Steven Weisz

Brauti Thorning Zibarras LLP

#### Jason Woycheshyn

Bennett Jones LLP

This interactive workshop will address essential skills for planning, preparing and reviewing commercial pleadings and provide practical guidance on effective advocacy in debtor-creditor legal proceedings.

- Persuasive drafting
- Procedural considerations
- Forensic and strategic approaches
- How to be an effective advocate without going too far

**3:05 p.m.**

### Refreshment Break

**3:20 p.m.**

### Chasing Assets Around a Wired World

#### Sandy Boucher

Grant Thornton LLP

#### Jennie Chan

PWC

#### Shayne Kukulowicz

Cassels Brock & Blackwell LLP

#### Howard D. Rosen

Donlevy-Rosen & Rosen, P.A.

#### David Ward

Cassels Brock & Blackwell LLP

A fast-moving, still-evolving area in which corporate clients and their counsel pit their wits and ingenuity against creditors’ litigation counsel and the forensic experts who assist them. Speakers of diverse experience and expertise will share their most timely tips and insights.

- Locating, identifying, freezing and recovering assets
- Safeguarding assets during the course of an investigation
- How to be aggressive without going over the line
- Meeting standards of ethical conduct without invasion of privacy or breach of confidentiality
- Working with counsel in other jurisdictions to facilitate cross-border and international asset tracing
- Harnessing the power of forensic technology tools
- Obtaining evidence for freeze orders in multiple jurisdictions

**5:00 p.m.**

### Program Ends

## Chairs

**Bob Klotz**  
Klotz Associates

**Steven Weisz**  
Brauti Thorning Zibarras LLP

## Faculty Includes

**The Hon. Robert A. Blair, Q.C.**  
Arbitration Place

**Alex Ilchenko**  
Pallett Valo LLP

**Sandy Boucher**  
Grant Thornton LLP

**Shayne Kukulowicz**  
Cassels Brock & Blackwell LLP

**Chris Burr**  
Blake, Cassels & Graydon LLP

**Howard Rosen**  
Donlevy-Rosen & Rosen, P.A.

**Jennie Chan**  
PwC Canada

**Olha Senyshyn**  
Osgoode Business Clinic

**Patricia Donlevy-Rosen**  
Donlevy-Rosen & Rosen, P.A.

**David Ward**  
Cassels Brock & Blackwell LLP

**Fraser Hughes**  
Conyers Dill & Pearman

**Jason Woycheshyn**  
Bennett Jones LLP

**Keiran Hutchison**  
EY Cayman Ltd.

*“The very best legal education conference I have ever been to, and I have practised law for 24 years. Well done!”*

**P. Daniel LeDressay**  
Barrister & Solicitor, Vancouver B.C and past Chair, Bankruptcy and Insolvency Subsection, Canadian Bar Association – B.C.

## Registration Details

**Fee per Delegate**  
**\$895 plus HST**

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://www.osgoodepd.ca/group-discounts) for details. Please inquire about financial assistance.

### 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.

### Cancellations and Substitutions

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



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD Hours: LSO (ON): 6h 55m CPD (4h 40m Substantive; 2h 15m Professionalism).

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca)

 **osgoodepd.ca**    **Osgoode Professional Development**  
 **416.597.9724**    **1 Dundas Street West, Suite 2600**  
 **@OsgoodePD**    **Toronto, ON Canada M5G 1Z3**



## Setting Up/Knocking Down Asset Protection Structures

Register today at:  
[osgoodepd.ca/asset](http://osgoodepd.ca/asset)