

# THE ANNUAL UPDATE IN CORPORATE INSOLVENCY AND RESTRUCTURING

Are you up-to-date on the recent and significant developments in insolvency law?



Eligible CPD Hours – LSO (ON):  
6h 40m CPD

(5h 40m Substantive; 30m  
Professionalism; 30m EDI)

Recent, significant developments in insolvency law reflect the growing complexity of the field. Are you up-to-date?

In one intensive day, you will get a comprehensive overview of the most important developments from expert faculty, as well as insights into the practical implications of new case law and new kinds of insolvencies, including:

- Mass tort liability and restructuring: critical implications for all industries
- Critical insolvency rulings relating to environmental liability, including *Redwater* and construction liens in *Guarantee Company of North America v. RBC*
- The “Retail Apocalypse” and its effect on commercial lessors, employees, and competitors on an international scale
- The *Quadriga* cryptocurrency bankruptcy: a new frontier

**SPECIAL GUEST PANELIST:** Hear from **Hon. Justice Glenn Hainey** of the Toronto Commercial List

## Program Chairs

**Scott A. Bomhof**  
Torys LLP

**Larry Ellis**  
Cassels Brock & Blackwell LLP

## Date and Time

**Friday, October 4, 2019**  
**9:00 a.m. to 5 p.m.**  
In Person or Webcast

**Thursday, December 12, 2019**  
Online Replay

## Location

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

Register today at:

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



# THE ANNUAL UPDATE IN Corporate Insolvency and Restructuring

While the number of businesses filing for bankruptcy or seeking creditor protection continues to climb, the legal issues impacting the field are becoming more complex and sophisticated.

Whether you represent creditors or debtors, a current and complete understanding of the latest insolvency and restructuring issues is critical in order to get the best results for your client.

Developed by leading corporate insolvency practitioners and industry experts, this one-day *OsgoodePD Annual Update in Corporate Insolvency and Restructuring* provides insight and shares practical solutions on how to address emerging legal and financial issues. You'll come away from the program with the latest information and tactics to competently address new and emerging developments.

## Join the discussion about the latest issues, including:

- The interplay of environmental regulations and obligations in bankruptcies and insolvencies: understanding the implications of the *Redwater Energy* decision
- Developments in restructuring options flowing from mass tort liability cases, and industry-wide implications in tobacco, health care products and consumer products
- When cryptocurrency investments go wrong: the Quadriga CCAA restructuring/bankruptcy case study and strategies for dealing with digital assets
- Construction lien priority in insolvencies: an analysis of recent court decisions on deemed trusts, and a possible roadmap to the path forward
- Lessons learned from high-profile cross-border retail insolvencies and the impact on commercial lessors and suppliers
- Tips from the Commercial List Bench, including discussion of the Commercial List's Diversity and Inclusion Initiative

## Who Should Attend

- Bankruptcy and Insolvency lawyers
- Insolvency Professionals
- Corporate counsel
- Commercial lawyers
- Civil litigators
- Environmental lawyers

## Agenda

**8:30 a.m.**  
**Registration**

**9:00 a.m.**

**Chairs' Welcome and Introductory Remarks**

**9:05 a.m.**

**Tips from the Bench and Insolvency Bar on Commercial List Practice**

**Scott A. Bomhof**

Torys LLP

**Larry Ellis**

Cassels Brock & Blackwell LLP

**The Hon. Justice Glenn A. Hainey**

Ontario Superior Court of Justice

Featuring the Hon. Justice Glenn Hainey, this engaging opening panel of leading insolvency and restructuring practitioners will share best practices, tips and lessons learned on how to be the best advocate for your clients when appearing before the Commercial List Court. The panel will also offer a preview of the Commercial List's new Diversity and Inclusion Initiative and outline its potential impact.

This session is accredited for 30 minutes of EDI Professionalism with the LSO. There will be ample time for questions and discussion.

**10:20 a.m.**  
**Refreshment Break**

**10:35 a.m.**

**Environmental Regulations and Obligations: Implications of *Redwater Energy***

**Tom Cumming**

Gowling WLG

**Steven Weisz**

Brauti Thorning LLP

The recent ruling from the Supreme Court of Canada in *Redwater Energy* has far-reaching implications. It has

also served as the catalyst requiring an examination of the effect of bankruptcy on environmental regulatory obligations, and the interaction between federal bankruptcy laws and provincial environmental regulations. Counsel including those involved in the proceedings will discuss the implications and ramifications of *Redwater Energy*, such as:

- Impact to the ‘polluter pays’ principle
- Debt and financing consequences to energy industry
- Interaction of regulatory bodies with bankruptcy and insolvency law
- Effect of high level of abandonment and reclamation obligations (ARO) and licensee liability ratings on company asset value, stock prices and ability to finance operations
- Considerations for corporate board members

**12:00 p.m.**

**Lunch**

**1:00 p.m.**

### High-Profile Insolvencies: Cross-border Cases in the Retail Industry

**David Bish**

Torys LLP

**Jane Dietrich**

Cassels Brock & Blackwell LLP

**Robert Feinstein**

Pachulski Stang Ziehl & Jones LLP

There has recently been an upsurge of high-profile retail insolvencies in the U.S. and Canada, including Sears, Payless, Gymboree, Toys “R” Us and Target Canada, among many others.

An expert panel involved in some of these proceedings will discuss the impact of what has been dubbed the “Retail Apocalypse”, and provide insight on:

- The impact of corporate insolvencies on other interested parties such as commercial lessors, employees and suppliers;

- Strategies for dealing with high-profile insolvencies, including media relations and coordinating among various interested parties
- Differences between U.S. and Canadian practice
- Lessons learned from other jurisdictions outside of North America
- Strategies for navigating the different judicial systems and legal cultures

**1:50 p.m.**

### Deemed Trusts: Recent Decisions on Construction Lien Priority in Insolvencies

**Sam Babe**

Aird & Berlis LLP

**Brad Newton**

BDO Canada Limited

**Daniel Resnick**

Koskie Minsky LLP

The relationship between the federal bankruptcy and insolvency regime and provincial regulations and law continues to evolve.

On the heels of several court rulings, including the Ontario Court of Appeal’s recent decision in *The Guarantee Company of North America v. Royal Bank of Canada* this relationship was viewed through the prism of construction lien priorities. The panel, including counsel involved in the case, will analyze the volatile issue of deemed trusts in bankruptcy and its importance to all insolvency professionals.

**2:50 p.m.**

**Refreshment Break**

**3:05 p.m.**

### Mini Case Study: Quadriga Fintech Solutions Digital Assets in Insolvencies

**Gregory Azeff**

Miller Thomson LLP

**Sharon S. Hamilton**

Senior Vice-President, Ernst & Young Inc.

The emergence and increased prevalence of owning digital assets and cryptocurrencies has complex and significant implications in insolvency. The recent *Quadriga* CCAA proceedings – and subsequent bankruptcy – highlights the challenges and concerns financial institutions and all stakeholders must grapple with when handling cryptocurrency.

Practitioners who were directly involved in the *Quadriga* proceedings, including the court-appointed monitor, will provide insight on lessons learned and share best practices on what happens when a cryptocurrency exchange goes bankrupt. You will walk through the process and discuss strategies for understanding and dealing with:

- Origin of funds
- Access and encryption
- Ownership of funds
- Role of third party processors

**3:55 p.m.**

### Restructuring Options in Mass Tort Liability Cases

**Scott A. Bomhof**

Torys LLP

**Marc Duchesne**

Borden Ladner Gervais LLP

**Robert I. Thornton**

Thornton Grout Finnigan LLP

**Mitch Vininsky**

KSV Advisory Inc.

Mass tort liability cases come with a host of potential insolvency and restructuring issues to navigate. The panel will look at general considerations and drill down deeper into the ongoing tobacco litigation in Canada, as well as cases involving defendants from a variety of industries including pelvic mesh devices, asbestos, consumer products, mefloquine, and nursing homes.

**4:45 p.m. Program Adjourns**

# Chairs

Scott A. Bomhof  
Torys LLP

Larry Ellis  
Cassels Brock &  
Blackwell LLP

# Faculty Includes

Gregory Azeff  
Miller Thomson LLP

The Hon. Justice  
Glenn A. Hainey  
Ontario Superior Court  
of Justice

Sam Babe  
Aird & Berlis LLP

Sharon S. Hamilton  
Senior Vice-President,  
Ernst & Young Inc.

David Bish  
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Tom Cumming,  
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Robert Feinstein  
Pachulski Stang Ziehl &  
Jones LLP

Mitch Vininsky  
KSV Advisory Inc.

Steven Weisz  
Brauti Thorning LLP KSV

*“All speakers were of a high quality.”*

*“(The materials were) very useful – something I expect to refer to repeatedly.”*

# Registration Details

## Fee per Delegate

**\$695 plus HST**

**Newly-Licensed (2016 – 2019): \$347.50 + 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.



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