

INVESTOR PROTECTION CLINIC and LIVING LAB

2020 ANNUAL REPORT



SECTION 1. ABOUT US

OUR VISION AND MISSION

The Investor Protection Clinic (IPC), the first clinic of its kind in Canada, provides free legal advice to people who believe their investments were mishandled and who cannot afford a lawyer. The Clinic was founded together with the Canadian Foundation for Advancement of Investor Rights (FAIR Canada), an organization that aims to enhance the rights of Canadian shareholders and individual investors.

As of April 30, 2020, the Clinic has received seed and other funding from the Law Foundation of Ontario, a Cy-prés award from a court-approved settlement in relation to a securities class action and NEO Exchange. The Clinic also receives support from Osgoode alumni and our pro-bono partner law firms and experts. The Clinic is grateful to these organizations and individuals for their support.

The Clinic has two primary purposes:

LEGAL ADVICE AND OUTREACH

Provide legal advice to people who believe they have suffered an investment loss because of someone else's wrongdoing

Develop investor education initiatives and educational resources through community outreach

RESEARCH

Act as a "Living Lab" to collect research data in an anonymized way to inform public policy debates

OUR PEOPLE

Clinic Operations:

The Clinic is managed by Professor Poonam Puri of Osgoode Hall Law School, Adjunct Faculty Member Brigitte Catellier of Osgoode Hall Law School and Administrative Coordinator Ruby Soriano. Professor Puri and Professor Catellier co-direct the Clinic and oversee all clinic activities, including strategic direction, file management, student supervision and seminar instruction.



Poonam Puri

Professor Puri is a Full Professor at Osgoode and Founding Academic Director of the Clinic.



Brigitte Catellier

Professor Catellier is an Adjunct Faculty Member at Osgoode and Co-Director of the Clinic.



Ruby Soriano

Ms. Soriano is the Clinic's Administrative Coordinator.

Clinic Caseworkers:

In 2019-2020, the Clinic was staffed by 12 student caseworkers. The students were paired with supervising lawyers from the Clinic's pro-bono partner law firms and assigned several client files each. Students conducted initial intake interviews with applicants to the Clinic; then, together with their supervising lawyers and the Clinic's co-directors, students assessed the merits of the files and the Clinic's capacity to assist; and, where the Clinic was able to take on a file, students drafted and filed the necessary documents to pursue clients' complaints or claims. Students also participated in various community outreach events focused on investor education in partnership with the Ontario Securities Commission (OSC).

Pro-Bono Partner Law Firms:

In 2019-2020, the Clinic partnered with a number of leading business law firms including:



bakermckenzie.com



bennettjones.com



cmblaw.ca



groiaco.com



kalloghlianmyers.com



rochongenova.com



siskinds.com



tyrllp.com

Referrals:

The Clinic receives referrals from industry stakeholders such as the OSC, the Investment Industry Regulatory Organization of Canada (IIROC), the Ombudsman for Banking Services and Investments (OBSI), and from our pro-bono partner law firms. Individual investors can also contact the Clinic directly.

SECTION 2. ACCOMPLISHMENTS

OUR WORK



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Clinic Staff



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Supervising Firms



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Students



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Intake Interviews



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Files Worked on



11

Files Closed

Investment Complaints Received:

- Suitability of investments
- Inadequate disclosure about products or fees
- Instructions not followed by financial advisors
- Misrepresentations by financial advisors
- Delays in buying or selling securities or transferring funds
- Fraud

Factors Considered in Selecting Files:

- Merits of an applicant's complaint
- Whether a complaint fell within the scope of the Clinic's mandate
- Income and personal assets of an applicant
- Adequate evidence and record keeping of communication
- Expiry of the limitation period
- Learning opportunity for the student caseworkers
- Clinic capacity

File Work Included:

- Preparing demand letters to investment firms
- Submitting complaints to OBSI
- Pursuing civil claims
- Assisting with settlements
- Determining the standard of care required for recommending an investment
- Educating clients on various complaints processes
- Investigating potential avenues for dispute resolution including alternatives to civil litigation.

"I found myself in a position of needing legal assistance at a time when I did not have a lot of financial resources. My experience with the Investor Protection Clinic has been productive in that I received excellent help, information and prompt communication. I feel that all resources pulled together to investigate my case and the outcome was positive. My questions were answered with knowledge and patience."

"During the last year I have received exceptional guidance from the IPC, the student caseworkers and the supervising lawyers. The clinic has patiently mentored me for the best course of action. I wish more people, especially Seniors, were aware that this service exists"

CLIENT FEEDBACK

"After experiencing a significant loss of money as a result of the misappropriation of our investment, we contacted the Investor Protection Clinic. Our entire experience over the course of a year was most helpful. Every interaction was professional, caring, and welcome. The money was not recovered but we were reassured that we had done all we could do which was helpful."

"I was introduced to IPC by my community Legal Aid office. IPC members were very friendly and spent a lot of time trying to gain a deep understanding of my case, which I very much appreciated. I would recommend them to anybody who does not have the financial resources to fight for their rights like me. My IPC case workers constantly followed-up with my case and answered all of my questions with patience, superior professional knowledge and care."

A SAMPLE OF CURRENT CLINIC FILES:

FRAUD

1. Mr. A

Mr. A is a client in his early forties who entered a profit-sharing investment agreement with an individual (Mr. Z) he met at a conference. Mr. Z presented himself as a financial expert to induce Mr. A to invest with him, despite not be registered. There is reason to believe that Mr. Z had been perpetrating a similar scheme on other victims. Mr. Z disregarded Mr. A's instructions around his portfolio and would not close the investment account when requested, resulting in substantial losses. Mr. A approached the Clinic seeking advice. The Clinic assisted Mr. A in writing demand letters to Mr. Z, commencing a civil action and also filing a complaint with the Ontario Securities Commission.

2. Ms. B

Ms. B is a senior woman of colour who lives in supportive housing. Ms. B met an individual (Mr. Y) through her religious group who convinced her to donate to charitable causes, open an investment "loan" account and make real estate investments through his company. Ms. B sought to withdraw some investment funds that she needed for other purposes. She was informed by Mr. Y that she is a partner, as opposed to an investor, in the property and that she would not receive payment until the land was sold. He also informed her that in order to keep her ownership percentage, she must pay the property taxes. The property had not been sold for 10 years, despite a clause in the agreement indicating that it would be sold within two years. Ms. B had invested thousands of dollars and approached the IPC for help. The Clinic assisted Ms. B in successfully negotiating the recovery of half of her investment and is supporting her small claims court action to recover the remainder.

NEGLIGENCE

3. Mr. C

Mr. C is a recent immigrant to Canada in his late fifties. English is his second language and he has little to no investment knowledge. He was recommended a leveraged loan by his advisor. The loan was placed into unsuitable higher risk products which eventually incurred significant losses. The Clinic assisted Mr. C in filing a complaint with OBSI to help him recover his losses on the basis that the leveraged investment strategy was unsuitable for Mr. C.

WINS FOR IPC

4. Ms. D

Ms. D is a 63-year old retiree with no investment knowledge or experience who had investments with an IIROC registered firm. The advisor handling her account placed her investments into very high-risk products, treating it like a gambling account rather than a retirement fund. Further, the advisor completed Ms. D's KYC forms without consultation and failed to update them or re-assess her investments when her financial circumstances took major changes, despite being notified by Ms. D. Through settlement negotiations handled by IPC students and supervising lawyers, Ms. D has been able to regain more than \$100,000 of her almost \$200,000 losses.

5. Ms. F

Ms. F is a recent immigrant to Canada who speaks little English. Ms. F's son helped her to open a bank account with a financial institution. Suddenly and without prior warning or explanation, the institution closed her account and froze her funds, cutting off her access to the almost \$30,000 in her account. The institution insisted on Ms. F signing a release before she could get her funds but refused to let her take a copy of the release to legal counsel before signing. That's when Ms. F. came to the Clinic. The IPC successfully negotiated with the financial institution to recover the full amount that had been frozen.

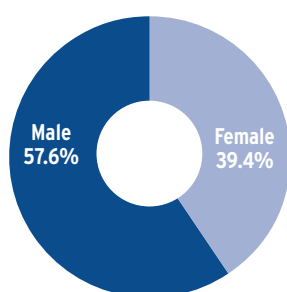
SECTION 3. CLIENT DATA & DEMOGRAPHICS

In addition to serving clients, the Clinic also serves as a research lab that collects data in an anonymized way in order to inform public policy debates about investor protection. As the first legal clinic of its kind in the country, the Clinic is in the unique position to develop a much-needed body of independent data that is currently unavailable in the Canadian capital markets today.

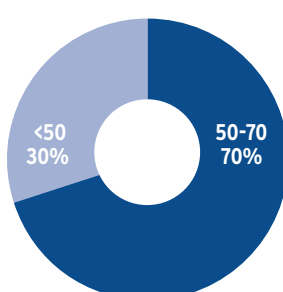
DEMOGRAPHICS OF 2019-2020 CLIENTS

The Clinic's clients in 2019-2020 were diverse in gender, age, cultural background and occupation.

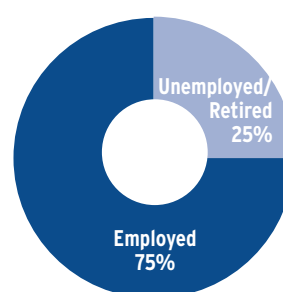
GENDER



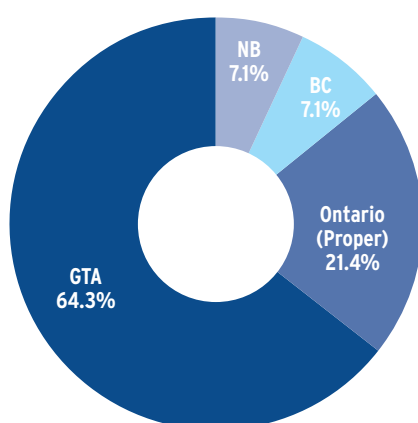
AGE



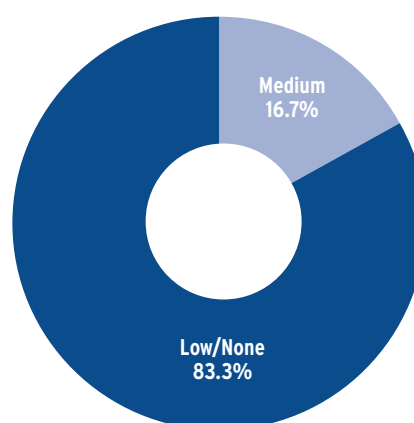
EMPLOYMENT



GEOGRAPHIC AREA

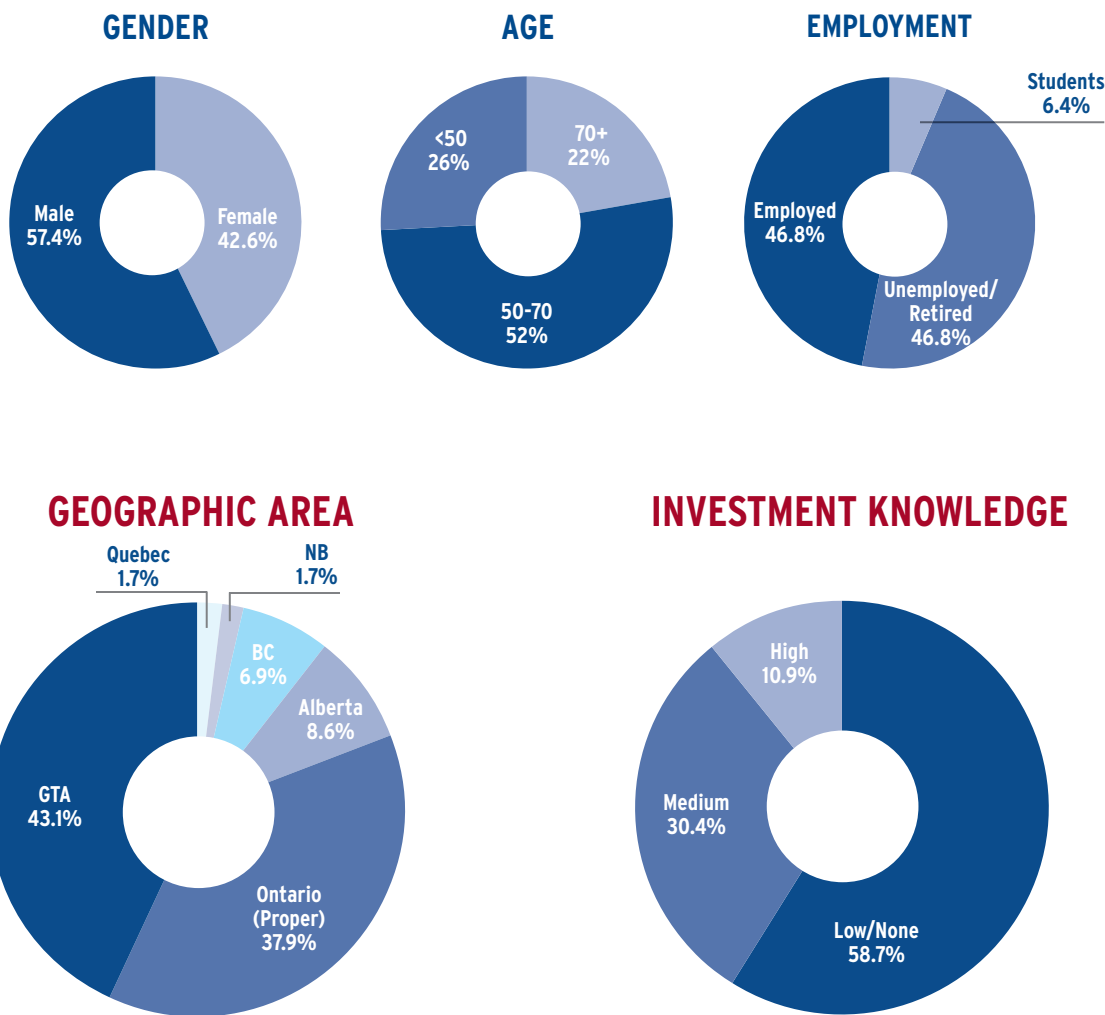


INVESTMENT KNOWLEDGE



DEMOGRAPHICS OF ALL CLIENTS TO DATE

The 2019-2020 demographic data is consistent with the overall client profile of the Clinic during its three years of operations



LANGUAGE	English is a second language for several of our clients. The Clinic uses bilingual caseworkers for translation where necessary and also uses the services of paid translators. In addition to English and French, the Clinic's caseworkers were fluent in seven (7) other languages including Arabic, Farsi, Italian, Russian, Somali and Ukrainian.
CULTURAL & COMMUNITY TIES	In several cases, clients alleged that they were defrauded by a trusted member of their ethnic or cultural community.

SECTION 4. REFLECTIONS AND THEMES

COVID-19 PANDEMIC

Since March 2020, the world has been impacted by the COVID-19 pandemic. Despite this, the IPC continues to operate at full capacity. Meetings are being conducted virtually to protect the health and safety of Clinic caseworkers, supervising lawyers and clients.

COVID-19 has impacted the capacity of courts, regulatory agencies and self-regulatory organizations to process and deal with investor complaints and actions. For example, effective March 16, 2020, the Ontario government suspended the 2-year limitation period on civil and criminal matters until such time as the emergency is formally at an end. Several other Canadian provinces have followed suit including Alberta, British Columbia and Quebec.

REFLECTION

While clients are likely to experience some delays in receiving responses from advisors and firms about their concerns during the height of the COVID-19 lockdown, and while flexibility in advisor firm operations was essential during those pivotal early months, we underscore the need for advisors and firms to ensure that they are meeting their core legal obligations to their clients including know your client, know your product and suitability of investments. We encourage advisors and firms to use COVID-19 as an opportunity to review client portfolios and have discussions about objectives, time horizons and risk tolerances.

RISKS OF LEVERAGED INVESTMENTS

In 2019-2020, the IPC assisted a number of clients whose advisors had inappropriately recommended taking out loans for the purpose of investing. These investors did not fully appreciate (nor did the advisors highlight) the risks involved with leveraging their investments through loans, particularly in an environment where investment returns may be volatile and insufficient to pay the interest on the loan. In fact, in some instances the advisor completed the loan applications and mis-stated income and assets so as to get the loan approved. Most of the investors who came to the IPC for assistance were prompted to do so because they had defaulted on their loan and the lending institution had commenced legal action to collect on the principal and interest.

REFLECTION

Advisors should have full and frank conversations with clients about leveraged investment strategies, highlighting the risks involved and the costs of borrowing. Advisors should explicitly let clients know that the principal and interest on the loan are due regardless of the performance of the investments, that is that the loan will have to be paid even if the investment ends up having losses. Leveraged investment strategies are not for all

clients and based on the files the Clinic has been involved with, advisors should do a much more rigorous suitability assessment. Looking forward, the Clinic is of the view that regulators should evaluate investment loans and consider imposing specific obligations on advisors when recommending investment loans.

RELIANCE ON THE OMBUDSMAN FOR BANKING SERVICES AND INVESTMENTS

Similar to our findings in previous years, many of our active files have resulted in a complaint to OBSI, with suitability of investments being a top issue. However, while the OBSI complaint process is free and accessible for most clients, its decisions do not have binding authority.

REFLECTION

We continue to believe that OBSI recommendations should be binding. With rising demand for Clinic services and limited free and effective mechanisms for seeking redress and compensation, retail investors need an ombuds service that can issue binding decisions. Along the same vein, consideration should be given to IIROC arbitration being made free for retail investors below certain financial thresholds.

LACK OF KNOWLEDGE

Similar to our findings in previous years, most of the IPC's clients had low to medium knowledge about the capital markets and placed their trust in financial advisors to handle their investments wisely. In most cases, this trust was based on referrals and investors did not perform any further diligence, such as checking to see that the advisor was registered with a regulatory body, checking the advisor's disciplinary history and seeking a second opinion. Our clients rarely understand the information on the documents provided to them and do not always comprehend the risks or characteristics of investment products even after signing documents that expressly indicate such things.

REFLECTION

Regulators and SROs should continue to prioritize retail investor outreach and education, including providing information about how to check if an advisor is registered or has a disciplinary history. Continuing to provide information and outreach in many languages and through various media is important. Through these channels, investors should be encouraged to perform due diligence on their advisors prior to investing and be alert to red flags about fraudulent investment activities that are too good to be true. Recognizing that clients may not understand what they are signing, advisors should take the time to discuss key aspects of the proposed investment with clients before getting their signatures and taking their funds.

SECTION 5. TIPS FOR INVESTORS

1



CHECK YOUR ADVISOR'S REGISTRATION & DISCIPLINARY HISTORY

Regulators maintain databases of individuals and firms that are registered with them. It is critical for investors to confirm that their advisor is registered because otherwise, their ability to submit a complaint to the regulator at a later point will be more difficult. Investors can also check if their advisor has been subject to disciplinary proceedings. A list of links to regulator databases is set out below.

Canadian Securities Administrators:

<https://www.securities-administrators.ca/investortools.aspx?id=1128>

Investment Industry Regulatory Organization of Canada:

<https://www.iiroc.ca/industry/Pages/Dealers-We-Regulate.aspx>

Mutual Fund Dealers Association of Canada:

<https://mfda.ca/members/directory-of-members/>

2



UNDERSTAND YOUR INVESTMENT PRODUCTS

Investors should be encouraged to ask questions about financial products that are proposed by their advisors. Relevant questions include: What is the likelihood of losing a portion of the amount invested? Is the investment liquid and the investment can be sold at any time in the open market? What does the fine print in the contract say? These are reasonable questions that investors should not be afraid to ask their advisors.

3



MAINTAIN NOTES & RECORDS

Evidence supporting an investor's claim is critical to a successful outcome. Investors should maintain copies of any and all forms they sign and keep notes of any conversations they have with their advisor. For example, when meeting with a representative to discuss retirement options, investors should record the date, topic of meeting and a summary of the advice received. As well, investors should regularly review any account statements and trade confirmations. Investors should email or write to their representative right away if they do not understand or have not authorized something and note their representative's response.

4



TAKE ACTION IMMEDIATELY

Limitation periods prevent investors from bringing claims for compensation. The limitation period for civil claims in court is generally two years after the date on which the claim was or ought to have been discovered. IIROC arbitrations and OBSI mediations have six year limitation periods. That said, time is of the essence and investors should seek recourse as soon as they sense that their investments have been mishandled.

SECTION 6. INVESTOR EDUCATION AND MEDIA

COMMUNITY OUTREACH

This year IPC caseworkers made presentations alongside the OSC to PROBUS retiree social clubs around the Greater Toronto Area. These presentations focused on fraud prevention and making informed financial decisions. Unfortunately, due to the global pandemic caused by COVID-19 many of the IPC's planned events were cancelled.



EVENT #1: **OSC IN THE COMMUNITY**

Location: Probus Club in North York

Date: October 23, 2019

Caseworkers: Tyler and Jessie

About this event:

IPC caseworkers presented to over 100 club members on investor protection.



EVENT #2: **LAUNCH OF IPC YEAR 3**

Location: Osgoode Hall Law School

Date: October 24, 2019

Caseworkers: The IPC Team

About this event: The IPC is celebrating the launch of year 3 and its 2nd year anniversary.



EVENT #3:

OSC IN THE COMMUNITY

Location: Fenelon Falls Probus Club

Date: January 21, 2020

Caseworkers: Marco and Ashley

About this event: IPC caseworkers presented to community members about fraud prevention and making informed financial decision.

IPC VIDEO PROJECT:

The Law Foundation of Ontario granted the IPC funding to produce a video series in furtherance of the Clinic's investor education objectives. IPC caseworkers used this funding to produce four short videos, with two more videos to be completed in the 2020-2021 term. The video series is expected to be released on the IPC's YouTube channel in 2020-2021.

SOCIAL MEDIA

IPC caseworkers are responsible for operating the Clinic's social media accounts. The IPC has sought to expand its social media presence in 2019-2020 by creating a LinkedIn and Twitter page.

Follow us on:

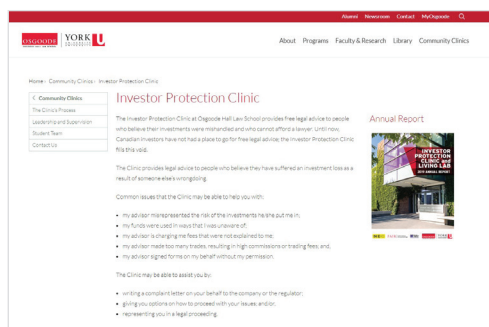


@OsgoodeIPC

<https://twitter.com/osgoodeipc?lang=en>



<https://www.linkedin.com/company/11847793>



Visit our website

<https://www.osgoode.yorku.ca/community-clinics/investor-protection-clinic/>

SECTION 7. GUEST LECTURES & INDUSTRY PROFESSIONALS

DEBORAH LECKMAN

Role at the IPC

Deborah Leckman has been integral to the success of the IPC as a pro-bono advisor. She has generously participated in weekly clinic team meetings in an advisory role. Through her deep expertise on the client-advisor relationship and her sophisticated knowledge of securities regulation, she has provided assistance, support and recommendations to caseworkers as they navigate their files.

Biography

Ms. Leckman is a senior investment professional with over 30 years of experience in the pension fund and retail wealth industries. Ms. Leckman recently completed a six-year term as Commissioner, Director and Adjudicator at the OSC. In January 2019, Deborah Leckman was appointed to the OPRust Board of Trustees by the Government of Ontario



"Working with the IPC has been a rewarding experience. I was very impressed with the students' knowledge of investor protection issues, their professionalism and their commitment."

MALCOLM GILROY

Role at the IPC

Malcolm Gilroy has participated in the training and development of IPC caseworkers since the IPC opened its doors in 2017. This year, Malcolm led an insightful seminar for caseworkers entitled "Understanding Risk Management Processes in Portfolio Management" during the intensive training sessions in August and September. Malcolm has also generously assisted in a pro-bono capacity with financial evaluations and damage assessments of IPC files. Malcolm's guidance and financial analyses have been instrumental to the Clinic's success in achieving meaningful results for clients.

Biography

Malcolm is a seasoned executive in the financial services industry, having held senior management positions in North America, Europe and Africa. Malcolm is currently working on assignments in Nigeria and East Africa. He resides in Toronto and is the Chair of the Investment Committee for Logan Wealth Management. He sits on the boards of directors for The Jane Goodall Institute, Global and Lupus Canada.



"I am honoured to be of service to a team of such bright and committed young people who are filling a void, helping people unable to afford legal counsel get representation in an environment in which they are unfamiliar. It is understandable that people are often reluctant or unable to challenge the adverse outcome of advice that may have gone against their interests. This is a field of great complexity, occupied by powerful players. It is encouraging to see the care and dedication with which this group is addressing this need."

CHRISTOPHER MCKENNA

Role at the IPC

Christopher McKenna has been involved with IPC since its inception. Once again, Chris participated in the training of the caseworkers and he was a supervising lawyer on many significant Clinic files. Chris' training seminar entitled "Understanding the First Steps in the Client Process" dealt with the Rules of Professional Conduct, managing conflicts, adverse costs, limitation periods and managing client expectations.

Biography

Christopher McKenna is a lawyer at Bennett Jones LLP and is responsible for the overall operation and administration of the Toronto Student Program, including the recruitment and development of Summer and Articling Students. Christopher is also a member of National Association of Law Placement (NALP) and is currently a member of the OCI Advisory Committee.



"Assisting with the excellent law students at the Osgoode IPC has been an extremely fulfilling experience these last three years. The dedication, legal analysis and judgment these students have shown in their work and client service is a testament to their sound legal education and their profound appreciation for the role young advocates have in promoting access to justice."

STUDENT CASEWORKERS

Year 3 (2019-2020):



Anxhela Adhamidhis



Jessie Armour



Ashley Beaulieu



Marco Castelli



Crystal Gao



David Heppenstall



Shengjie (Victoria) Li



Tyler Lin



Aryan Pour-Bahreini



Thomas Prentice



Luigi Rulli



Maxwell Schwartz-Label

Student Testimonials

"The Investor Protection Clinic allowed me to couple hands on, experiential learning in a dynamic field of law with the opportunity to meaningfully serve my city and my community. I learned how to interact with clients professionally and navigate the complex regulatory environment of the financial services industry in a practical setting. I have no doubt the skills I've learned and the relationships I've forged at the IPC will continue to serve me well throughout my career."

"Working at the Investor Protection Clinic provided unique insight into the issues facing retail investors in navigating the regulatory framework to recover an investment loss. I believe my experience at the Clinic has positioned me extremely well for a corporate and securities law career, which often lacks the retail investor perspective."

STUDENT CASEWORKERS

Year 4 (2020-2021):

Student Testimonial

"The Investor Protection Clinic provided me with a strong legal foundation in securities litigation. The Clinic was my first opportunity to transform legal research and theory into practical results for clients. The Clinic also introduced me to the real-world realities of litigation that cannot be learned from textbooks. These realities include working with opposing counsel, finding mutually agreeable settlements and that dispute resolution may come down to a party making a business decision to settle rather than a strictly legal decision. The lessons I learned at the Clinic continue to influence how I approach my clients' files in practice."



Nolan Abboud



Andrew Christian Airhart



Puneet Aujla



Madeleine Beaudry



Corey Dicker



Yevgeniya Huggins



Sabrina Nazareth-Jackson



Byungjin (Jin) Lee*



Cameron Teschuk*



Amrit Toor



Warren Urquhart



Yi (Jessica) Zhang

*IPC summer caseworker

SECTION 8. LOOKING AHEAD

How can you get involved?

The IPC is a free, student-run legal service and we are always looking for donations and support. If you are interested in donating, please email us at ipc@osgoode.yorku.ca!

The IPC is looking for industry professionals to lead seminars to give our caseworkers a competitive edge. Please reach out to us at ipc@osgoode.yorku.ca if you would like to get involved!

Spread the word! We appreciate the referrals and the promotion of our services.

Interested in our services?

- Do you believe that your investments have been mishandled? Have you been a victim of fraud? Reach out to us, IPC wants to hear from you!
- If you believe you could benefit from our services, apply online:
<https://www.osgoode.yorku.ca/community-clinics/investor-protection-clinic/the-clinics-process/>



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INVESTOR
PROTECTION
CLINIC

OSGOODE
OSGOODE HALL LAW SCHOOL

The Law
Foundation
of Ontario
Advancing access to justice

YORK
UNIVERSITÉ
UNIVERSITY



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