

OSGOODE INVESTOR PROTECTION CLINIC

NEWSLETTER | Fall 2023

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YORK U

A PROMISING START TO OUR SEVENTH YEAR

A new chair, the Supreme Court and TSX headline the IPC's latest success stories

We're jumpstarting the seventh year of Osgoode's Investor Protection Clinic with an exciting announcement – but if you read our headline story, the cat is already out of the bag!

Professor Poonam Puri, IPC's co-founder and academic director, has been named the new [York Research Chair in Corporate Governance, Investor Protection and Financial Markets](#). The prestigious appointment recognizes Poonam's world-class research informed in no small part by the clinic's unique lens on the front lines of investor wrongdoing and protection. Over the next five years as Research Chair, she will continue to shed light on the trends identified by the IPC and to offer recommendations contributing to public policy decisions and regulatory reform.

This transformational news both confirms and will deepen our leading impact in support of Canadian investors and we couldn't be more proud or excited.

This is just one of several big news stories highlighted in this issue of our newsletter. You will read how the IPC is heading to the [Supreme Court of Canada](#) and about our historic appearance at [Toronto Stock Exchange](#).

We're also celebrating the release of our 2023 Annual Report, available for [download](#) or [online](#). Kudos to our summer student caseworkers for raising the bar on this important publication.

Last but not least, we bid welcome to our most diverse class of [student caseworkers](#) yet and farewell to Fred Maefs, assistant director of the IPC since January 2022. After 42 years of legal practice, Fred is retiring. We thank him for his support and mentorship and look forward to his insights as an occasional consultant on select IPC files.

We hope your fall season is off to an equally promising start.



Poonam Puri
Founding Academic Director



Brigitte Catellier
Associate Director



OSGOODE INVESTOR PROTECTION CLINIC and LIVING LAB
2023 ANNUAL REPORT



Discover More About Our Impact!

To learn more about the role and impact of Osgoode's Investor Protection Clinic, read our [2023 Annual Report](#) or visit our [website](#). To join our team as a supervising lawyer or donor, contact the clinic at ipc@osgoode.yorku.ca or 416-736-5538.

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IPC ACADEMIC DIRECTOR AWARDED YORK RESEARCH CHAIR

Data from the clinic will inform Poonam Puri's research in corporate governance, investor protection and financial markets

The co-founder and academic director of Osgoode's Investor Protection Clinic has been named the York Research Chair in Corporate Governance, Investor Protection and Financial Markets. In recognition of her research leadership and international reputation for expertise in corporate governance, investor protection and financial regulation, Professor Poonam Puri was awarded the five-year appointment on July 1.

Inspired by the Investor Protection Clinic

"I'm honoured by this appointment and the opportunity to leverage the work of the IPC to advance the conversation on investor protection," says Puri.

As Research Chair, Puri will have a broad research agenda, focused on corporate accountability and responsibility. One research project, entitled "Digital Disruption, AI and Corporate Responsibility," is a direct result of the clinic's work, in particular the growing number of cryptocurrency scams and DIY investor complaints received by the IPC.

Over the two years ending in April 2023, 17 per cent of the 106 intake interviews conducted by the IPC involved cryptocurrency scams where investors suffered significant losses at the hands of purported bitcoin advisors who disappeared without a trace. The IPC has also assessed 26 complaints involving order execution only platforms since 2020.

These data points will inform Puri's research as the Research Chair; however, she notes that her research agenda is broader than clinic data analysis.

A broad research agenda

"I am going to research and provide insights on how government and regulators can keep pace with technological developments that do not fit neatly into established legal categories. The goal is to encourage technological innovation while ensuring investor protection," she explains.



It's not just crypto and robo-advisors; Puri also intends to research gamification.

"We see apps that give you prizes, prompts and other incentives to invest. With this trend, investing is becoming like a video game, rather than what it is supposed to be – a serious venture where you deploy your hard-earned money and generate returns. Sometimes this can be harmful to people."

Research-informed changes in laws and practice

Puri will shed light on these and other trends as the Research Chair, identifying potential changes to the legal and regulatory frameworks and then disseminating her ideas through scholarly papers, op-eds and white papers and at stakeholder roundtables.

The York Research Chair in Corporate Governance, Investor Protection and Financial Markets is one of 15 new chairs established by York University this year and the 10th cohort since the program's inception in 2015. York Research Chairs are among the most prestigious internal awards available to York researchers.

"This [appointment] is great news for Professor Puri, for Osgoode and for York," says Osgoode Dean Trevor Farrow.

"It's a strong testament to Professor Puri's longstanding commitment to excellence in her scholarship and to her standing in the domestic and international academic community."

OSGOODE'S IPC HEADS TO THE SUPREME COURT

The clinic was granted intervener status in a practice-changing fraud and bankruptcy case

Osgoode's Investor Protection Clinic has been granted intervener status in a precedent-setting case before the Supreme Court of Canada.

The case involves a bankrupt B.C. couple that was ordered to repay \$5.5 million to investors and another \$13.5 million in administrative penalties after the British Columbia Securities Commission ruled they had orchestrated an elaborate market manipulation scheme causing millions of dollars in investor losses. The Commission was backed by the B.C. Supreme Court, which found that Thalbinder Singh Poonian and Shailu Poonian could not be released from their debt under the Bankruptcy and Insolvency Act because sanctions resulting from fraudulent activity are exempt from bankruptcy proceedings.

But the B.C. court's decision ran contrary to an earlier Alberta Court of Appeal case that declared financial penalties for fraud do not survive bankruptcy.

A Canada and Investor Protection Clinic first

“The question of whether or not debt from all fraudulent activity can be wiped out in bankruptcy calls for a single national answer,”

says Stephen Aylward, a partner at Stockwoods LLP, which is representing the IPC as an intervener in the case.

This is the first time Canada's top court has considered the scope of the fraud exception under the bankruptcy act and the first time Osgoode's Investor Protection Clinic has engaged in a case before the Supreme Court.

Aylward encouraged the Investor Protection Clinic to apply for intervener status to ensure the retail investor's voice was well represented.

“It was an easy yes,” IPC Academic Director Poonam Puri says of the request. “This was an opportunity to engage in the law in a way we haven't before and to offer our unique perspective from the front lines. We want to make sure that it remains challenging for people who commit fraud to walk away from their obligations to their victims.”



Stephen Aylward

Tracing legislative history

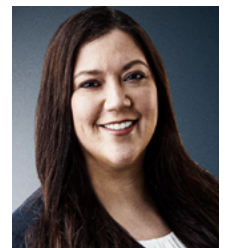
IPC student caseworkers Emma Kirwin and Mathieu Hergett-Rozier helped to draft the motion for leave to intervene. Their contributions included another Canadian first: The pair traced back to the 12th century the legislative history of the statute and the field of bankruptcy law, shedding new light on why the law is structured the way it is and what it was meant to accomplish.



Mathieu Hergett-Rozier

“We've been given research assignments with a certain degree of direction before but this involved applying our legal research skills in a more independent way, which I really appreciated,” explains Hergett-Rozier.

When the motion was approved in September, four additional student caseworkers – Ayisha Malik, Azka Anees Alex Qanbery and Abilash Sathyakumar – helped Aylward and his associate, Karen Bernofsky, prepare a written brief (available on the Supreme Court of Canada website by November 30) summarizing the IPC's position.



Karen Bernofsky

Impact at the highest level

With the entire IPC team watching, the lawyers will make their case in a five-minute virtual presentation to the Supreme Court on December 6. Aylward expects the court's decision will likely take six to eight months.

He says it will be worth the wait.

“This is a game changing case and an opportunity for us all to have an impact at the highest level and to shape how the Bankruptcy and Insolvency Act is interpreted for generations.”



THE MARKET IS OPEN!

Celebrating its sixth anniversary, Osgoode's IPC opened Toronto Stock Exchange

Osgoode's Investor Protection Clinic made history on Friday, September 29 by opening the market at Toronto Stock Exchange (TSX) and celebrating six years of operation.

IPC directors Poonam Puri and Brigitte Catellier and Osgoode Dean Trevor Farrow heralded the iconic moment, a TSX tradition for more than 20 years, alongside the clinic's current and former students, supervising lawyers and partners. The event took place at the TMX Market Centre in the heart of downtown Toronto's financial district and was broadcast live on BNN Bloomberg TV.

“What a fitting way to celebrate both the clinic’s anniversary and the commitment we share with TMX Group to preserve market integrity and protect the public’s interest,”

says Puri, IPC’s co-founder and academic director.

TMX Group, which operates TSX and TSX Venture Exchange, hosts the market open ceremonies as a way of generating exposure for its almost 3,500 listed companies and important stakeholder initiatives like Osgoode’s Investor Protection Clinic.

“It was an honour to have representatives from the IPC with us to signal the start of a new trading day and salute the great work they’re doing to help inform and protect investors,” says Cheryl Graden, a two-time Osgoode grad and TMX Group’s chief legal and enterprise corporate affairs



officer and corporate secretary. “The clinic’s pro bono work is fulfilling an important investor need and helping to ensure that our capital markets remain accessible, equitable and inclusive.”

The Investor Protection Clinic and TMX Group are aligned in advancing investor protection in Canadian capital markets, she adds.

“Making markets better is at the heart of what TMX does, but it’s not something we can do alone. We applaud the work the IPC does to help strengthen market integrity and ensure access to justice for all investors.”



WELCOME TO OUR 2023/24 STUDENT CASEWORKERS

An “exceptionally diverse” incoming class

The IPC welcomed 12 student caseworkers to the clinic in September. Selected from a record-setting 77 applicants, this outstanding team of lawyers-in-training will work with the clinic’s directors and supervising lawyers to meet the growing need for pro bono legal advice from those who believe their investments were mishandled and who cannot afford a lawyer.

“This year’s class includes an exceptionally diverse group of students who are already leveraging their unique backgrounds and experiences to assist our clients,”

says Brigitte Catellier, IPC’s associate director.

The caseworkers include an entrepreneur, a Canadian chess champion, a graduate of the London School of Economics, the presidents of the Osgoode Securities Law Association and the Osgoode Charity Law Association, and several whose families have fallen victim to investment scams.

Here’s what our students say about their most compelling attributes:

“My pre-law academic background focused on critically examining public policy from a philosophical perspective. I aim to combine my training in policy and legal analysis to better assist vulnerable members of the community.”

— **Azka Anees**



“My background in business and strategy equips me with a unique ability to understand my client’s perspective and offer strategic legal guidance and comprehensive support to investors.”

— **Diana Damiani**



“I started working at a family law firm when I was 19. In helping clients through some of the toughest periods of their lives, I learned the importance of sympathy, managing expectations and how to create and foster trust in the lawyer-client relationship.”

— **Muzammil Chatha**



“Informed by my experiences working with refugees at the Halifax Refugee Clinic, I try to take a patient and compassionate approach to client interactions that recognizes they are often dealing with an immense degree of stress and trauma.”

— **Mathieu Hergett-Rozier**



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“I have extensive experience working as an office administrator in the real estate industry, which has informed my ability to connect with clients and dedicate myself to helping them achieve their resolution goals.”

— **Josephine Hu**



“I am a first-generation law student who has learned the value of hard work and perseverance from my immigrant parents. My experience working at TD Canada Trust also provided me with valuable industry knowledge that I can leverage within the clinic.”

— **Alex Qanbery**



“I have a start-up background and a Bachelor of Arts in History and English Language and Literature that allows me to apply a humanities lens to investor protection. Having a background in both business and humanities allows me to bring an untraditional perspective to the clinic.”

— **Emma Kirwin**



“I am a first-generation Canadian with parents who fled the Sri Lankan civil war. The adversities they faced gives me a unique lens into understanding many of the clients we serve, including immigrants, those for whom English is not a first language and those with a lack of financial literacy.”

— **Abilash Sathyakumar**



“What distinguishes me from my peers is my profound interest in contract law. At the IPC, I aspire to observe the influence that contracts wield on recent trends of online investments and understand how clients navigate these complex legal constructs.”

— **Ayisha Malik**



“My success with mooting has not only strengthened my ability to be an oral advocate; it has translated into a high degree of critical thinking when deciding the best way to convey a position and represent a client.”

— **Angelie Vivekanand**



“In my journey to becoming a four-time Canadian chess champion, I have seen numerous parallels between chess and life. I strive to inject creativity into my ‘Occam’s razor’ philosophy of life by drawing analogies between chess and the task at hand in order to simplify it in my mind and accomplish it.”

— **Zane Nasir**



“Before law school, I had the opportunity to work in both the investment industry and capital markets. These professional experiences, coupled with witnessing my family fall victim to an investment scam, have shaped me into a compassionate and empathetic client advocate.”

— **Jialin Zheng**

