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Students to get hands-on tax court experience

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Six University of Toronto Faculty of Law students are getting hands-on experience in the Tax Court of Canada.

Pro Bono Students Canada has teamed up with Fraser Milner Casgrain LLP to establish the PBSC/FMC Tax Court of Canada Pilot Project, the first program of its kind in Canada.

Under the supervision of FMC's tax lawyers, students will represent litigants, who can't afford legal services, on a *pro bono* basis in the tax court.

Nikki Gershbain, national director of PBSC, says a law clerk for Tax Court of Canada Chief Justice Gerald Rip who was concerned over the increasing number of unrepresented litigants identified the need for this type of project.

Rip wrote a letter to every law dean in Canada to see if there was anything they could do within the law schools to help address this growing problem. He also raised the issue in a meeting with the Canadian Bar Association's tax court bench and bar committee, of which FMC counsel David Spiro is a member.

Spiro, a graduate of U of T's law school, got in touch with dean Mayo Moran who referred him to PBSC's Gershbain. And the rest is history.

"We just thought it would be a great idea for students who are interested in the world of tax and in the world of litigation to get some real-world experience being on their feet in the courtroom doing some tax trials, and at the same time assisting those who need the assistance of someone who can help navigate their way around the tax litigation jungle," says Spiro.

Gershbain says one objective of the program is to increase access to justice. "I think we have spent a lot of time . . . focusing on providing legal services to low-income people. However, there is also a whole group of middle-income people who cannot afford to pay for legal services and . . . are unable to properly represent themselves in the system."

Twenty-five students applied to the program, of which six were selected in September. Since then the students have received rigorous training from PBSC and FMC on the tax court procedure, preparing for court, and what to expect in the courtroom. Students will also benefit from the wisdom of former Tax Court of Canada chief justice Donald Bowman, who is now counsel at FMC.



Pro Bono Students Canada national director Nikki Gershbain says the new tax court project should increase access to justice for middle-income litigants.

On Oct. 14, the students sat in on hearings with Tax Court Justice Frank Pizzitelli, who debriefed them on the cases in his chambers afterwards. The students also discussed the cases with FMC lawyers.

The next step is to assign the cases, which will take place in November. Gershain says PBSC has notified appellants about the new service and they will contact PBSC to receive *pro bono* representation. The students will present their cases in court in March.

Students will work on cases involving claims of \$25,000 or less. Spiro says students are likely to work on the following types of cases: a dispute between taxpayers and the Canada Revenue Agency over whether certain expenses are considered deductible business expenses; medical disability tax credit cases over whether someone's medical condition qualifies for medical expenses; GST litigation involving small-business owners who have been taxed additional GST; etc.

He says the cases usually involve small-business owners of limited means who can't afford legal services.

Besides helping those in need in the legal system, Gershain says the program could also have an effect on the legal profession at large. "The more that we can create opportunities for students interested in tax law or business law or other more mainstream forms of practice and expose those students to the incredible value and satisfaction that they will get out of making a contribution to the community, the more of an impact we can have on the profession."

FMC also recently started a [tax litigation blog](#) where students can write about their experiences with the program.

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