

CFRED's 34th Corporate and Finance Law Seminar:

**THE BP OIL SPILL SETTLEMENT AND THE PARADOX OF
PUBLIC LITIGATION**

by

Prof. Samuel Issacharoff

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Chaired by: **Prof. Robin Huang**, *Faculty of Law, CUHK*

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The CUHK Graduate Law Centre, 2/F Bank of America Tower, 12 Harcourt Road, Central

The streamlined administrative program that BP set up to pay claims arising out of the Deepwater Horizon oil spill—the Gulf Coast Claims Facility (GCCF)—promised a significant transaction-cost savings over litigation in the public court system. At least in theory, that savings should have worked to the benefit of BP and claimants alike, freeing up money to fund claimants’ recoveries that otherwise would have gone to lawyers and other litigation costs. But a comparison of the GCCF to the class action settlement that replaced it reveals that the class settlement will result in greater payments to claimants. Paradoxically, the dispute resolution system with the higher built-in transaction costs appears to offer the parties a superior result. This Article offers some hypotheses for why this might be the case. The central claim is that claimants did better under the higher-cost class action settlement because it allowed them to offer the defendant something it valued—a greater degree of finality than the GCCF could ever provide—in exchange for a “peace premium.” And this Article analyzes some of the features of the public system of class action litigation that enable parties to obtain a greater degree of closure than a purely private dispute resolution system like the GCCF, while at the same time providing guarantees of transparency, consistency, and equitable treatment of absentees.

All are welcome!

Admission is free of charge!

Please join us by registering your interest [here](#) by 6 February 2017.

ABOUT THE SPEAKER:



Prof. Samuel Issacharoff

Prof. Samuel Issacharoff is the Reiss Professor of Constitutional Law at New York University School of Law. His research deals with issues in civil procedure (especially complex litigation and class actions), law and economics, constitutional law, particularly with regard to voting rights and electoral systems, and employment law. He is one of the pioneers in the law of the political process and one of the co-authors of the seminal Law of Democracy casebook. His work on procedure includes serving as the Reporter for the Project on Aggregate Litigation of the American Law Institute.

Prof. Issacharoff is a 1983 graduate of the Yale Law School. After clerking, he spent the early part of his career as a voting rights lawyer. He then began his teaching career at the University of Texas in 1989, where he held the Joseph D. Jamail Centennial Chair in Law. In 1999, he moved to Columbia Law School, where he was the Harold R. Medina Professor of Procedural Jurisprudence, before joining the NYU faculty in 2005. He is the author of more than 100 books, articles and other academic works. Prof. Issacharoff is a Fellow of the American Academy of Arts and Sciences.