

EDITORS' NOTE

Like so many things in 2020, this issue of the *Canadian Journal of Commercial Arbitration* was delayed due to the COVID-19 pandemic. The arbitration world has not been spared the disruptions presented by the pandemic, but the rapid shift to remote everything has upsides as well—and not just that we have all become proficient in the arts of lighting design and waist-up dressing.

Arbitration practitioners love to tout the flexibility of arbitral procedure; this past year, that flexibility was tested under emergency conditions, and we seem, collectively, to have passed the test. It is an open question to what extent hearings and other events will revert to physical in-person meetings once the pandemic recedes enough for people to travel and gather indoors again. However, the pandemic has pushed all of us up the technological learning curve and convinced many skeptics that remote hearings are a viable option—and, in some instances, a preferable one. A likely consequence of the pandemic is a durable rise in remote case management conferences and hearings, and in hybrid hearings with some participants (especially witnesses) joining remotely.

In the end, though, the lasting impacts of the pandemic year(s) may be felt more outside of arbitral proceedings. We have all seen the explosion of webinars, virtual conferences, and training workshops over the past year, which have brought the world's leading experts into all our home offices. The potentially democratizing effects of widely-available, mostly-free training, expert commentary on new developments, and networking events should not be underestimated. A global arbitration conversation, which anyone can join for the cost of a broadband internet connection, could have a hugely beneficial impact on younger practitioners, especially from developing states.

Moreover, anything that makes arbitration accessible beyond the handful of leading arbitration seats and venues will benefit lawyers, arbitrators, and parties not only in the Global South, but

also across Canada. A remote market for arbitration venues is, inherently, a global market. Canada's Arbitration Place has, seemingly overnight, become a global leader in providing virtual and hybrid hearing services around the world. Also, over the last decade, Canadians have increasingly been able to pursue careers in international arbitration without leaving Canada; we hope and expect that a lasting effect of the pandemic will be to deepen and entrench that trend.

This issue contains several contributions which showcase *CJCA's* scope and its capacity to speak to a range of readers on a range of topics relating to arbitration. The two principal articles tackle subjects of theoretical depth that also have clear and immediate practical implications. Gerry Ghikas considers non-signatories and the range of approaches taken by Canadian courts to binding apparent third parties to arbitration agreements, while Sean Stephenson and Benjamin Jarvis explore the requirements for a "reasoned" international arbitral award under Canadian law, finding that a fairly consistent approach has emerged.

A variety of shorter pieces round out this issue. A recent developments review of the new *BC Arbitration Act* is presented by Jonathan Eades and Tina Cicchetti, two of the architects of that *Act*. Amy Schmitz contemplates the controversial Supreme Court of Canada decision in *Uber v Heller* from an American point of view, posing and answering the question of how *Uber* would have been decided by a US court. Anna Katyk invites readers to take a (physical or virtual) trip to Vienna or Hong Kong for the Vis Moot. And finally, Janet Walker reviews the second edition of *Take the Witness: Cross-Examination in International Arbitration* (Lawrence W Newman and Timothy G Nelson, eds, Juris, 2019).

We hope that you will enjoy the efforts of our authors and the diversity of perspectives they bring to this second issue of *CJCA*. If you have written or are interested in writing on any topic within *CJCA's* scope, please consider submitting your own

work to the journal (information available at <https://cjca.queenslaw.ca/submission>), and do not hesitate to contact us with article ideas, feedback, or suggestions.

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