

## EDITORS' NOTE

The editors are pleased to present the first issue of Volume 3 of *CJCA*, which we hope will be our last issue delayed by pandemic madness. As the arbitration world returns to normal—or rather settles into its new normal—*CJCA* does as well.

This issue's first article, by Andrea Lee, is a primer on construction adjudication in Canada. This streamlined form of arbitration, spreading fast in the construction disputes sector in Canada, remains unfamiliar to many lawyers outside this specialty practice area. Lee's article is a corrective to this knowledge gap and will be stimulating reading for anyone concerned about the development of more efficient forms of dispute resolution.

In the issue's second article, Jennifer Choi and Justice Thomas Cromwell provide a timely update to a continuing source of confusion and frustration: the extent to which *Canada (Minister of Citizenship and Immigration) v Vavilov* applies to appeals from arbitral awards. The case law since *Vavilov*, including the *Wastech* majority's decision not to resolve the issue, reveals deep ambivalence among our trial and appellate courts, but also some emerging trends.

This issue also includes my first full-length article for *CJCA*. It reviews the Canadian case law interpreting and enforcing multi-tier dispute resolution agreements (also called escalation, step, stepped, or progressive clauses). It discovers that the case law is inconsistent, but mostly because so many multi-tier agreements are poorly drafted. The article provides guidance for parties seeking to draft, enforce, or escape from multi-tier clauses.

The issue is rounded out by two case comments. Christina Birks explains and critiques *79411 USA Inc v Mondofix Inc*, a

Québec case which was the first in that province to confirm that the general principle of confidentiality in arbitration extends to arbitral awards. Finally, Donny Surtani reviews *Gold Pool v Kazakhstan*, a rare decision on state succession to treaties. There, the English Commercial Court considered a challenge by a Canadian investor to an arbitral award ruling that Canada's 1989 bilateral investment treaty with the USSR was not binding on Kazakhstan. With increasing numbers of investor-state arbitrations involving former

Soviet republics, many of them launched by Canadian investors, Canadian lawyers should keep an eye on these developments.

Please consider submitting your own writing to the journal, (information available at <https://cjca.queenslaw.ca/submit>) and do not hesitate to contact us with article ideas, feedback, or suggestions.

*Joshua Karton, Managing Editor*  
joshua.karton@queensu.ca

on behalf of the senior editors:  
*Barry Leon, Executive Editor*  
*Gerald Ghikas, Executive Editor*  
*Janet Walker, Executive Editor*  
*Anthony Daimsis, Case Comments and Developments Editor*

