

2012

Title Page

Title Page

Follow this and additional works at: <https://scholarlycommons.law.case.edu/cuslj>



Part of the [International Law Commons](#)

Recommended Citation

Title Page, *Title Page*, 37 Can.-U.S. L.J. [i] (2012)

Available at: <https://scholarlycommons.law.case.edu/cuslj/vol37/iss1/12>

This Front Matter is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.



Canada·United States
LAW INSTITUTE

Canada-
United
States
Law Journal

Volume 37, Issue 1
Spring 2012



SCHOOL OF LAW

CASE WESTERN RESERVE
UNIVERSITY

Western  Law

**Cite as:
CAN.-U.S. L.J.**

The *Canada-United States Law Journal* (ISSN 0163-6391) is published by the Case Western Reserve University School of Law twice annually on behalf of the Canada-United States Law Institute. Annual subscription rates are \$66.00 per volume (\$68.00 foreign). Single issues are \$34.00 each (plus shipping & handling). Subscriptions are payable in advance. Subscriptions are renewed automatically unless timely notice of cancellation is received. Back volumes may be purchased by contacting William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14290 or online through HeinOnline at <http://www.heinonline.org>. The *Journal* is indexed in the *Index to Legal Periodicals* and is available on *Westlaw*[™] and *LEXIS*[™]. The *Journal's* policy requires that, unless a claim for non-receipt of a journal is received within three months after the mailing date, the *Journal* cannot be held responsible for supplying that issue without charge.

Address all correspondence and submissions to the *Canada-United States Law Journal*, 11075 East Boulevard, Cleveland, Ohio 44106.

In addition to articles and discussions compiled from the transcripts of the Canada-United States Law Institute's Annual Conference, the *Journal* also welcomes the submission of articles on topics in international and comparative law, especially those that relate to Canada-United States issues and relations. Submissions and manuscripts should be submitted in duplicate and should conform to the *Chicago Manual of Style* (16th ed.). Footnotes should conform to *The Bluebook: A Uniform System of Citation* (19th ed.). Unpublished manuscripts are the property of the *Journal* and cannot be returned to the author.

For all photocopy or republication requests, please contact Copyright Clearance Center, Inc. by mail: 222 Rosewood Drive, Danvers, MA 01923, by phone: (978) 646-2600, by fax: (978) 646-8600, by e-mail: infoat@copyright.com, or online: <http://www.copyright.com>.

The opinions expressed are those of the respective authors and do not necessarily reflect those of the *Canada-United States Law Journal*, the Canada-United States Law Institute, Case Western Reserve University School of Law, or The University of Western Ontario Faculty of Law.

The *Journal* is printed by Darby Printing Company, 6215 Purdue Drive, Atlanta, Georgia 30336.

This issue went to press in August 2012.

CANADA-UNITED STATES LAW JOURNAL

2011-2012 and 2012-2013 Editorial Board

Co-Editors-in-Chief

Elizabeth A. Minton
Jessica E. Rubin

Co-Managing Editors

John K. Sawyer
Tyler B. Talbert

Publication Editor

Stuart C. Sparker

Production Editor

Keith Edmund White

Articles Editor

Kelsey Kaneshiro Marand

Articles Review Committee

Megan L. Bender
Benjamin Skomsky

Canadian Corresponding Editors

Sheliza Pyarali

Executive Editors

Brett Bauer
Megan L. Bender
Lauren J. Dalton
Jordan Graham

Chini Lin
Christine Madjar
Katherine Lee
Moscarino

Monique Ozanne
Scott D. Robinson
Ramnik Samrao
Benjamin Skomsky

Associate Editors

Ruchi Asher
Joseph M. Berndt
John D. Black
Avrohom J. Bulua
Amy M. Garrison
Samantha C. Geaney

Colleen M. Koehler
Katlyn Kraus
Cassandra Lee
McFadden
Steven J. Paille

Jonathan Preece
Shivankar Sharma
Geoffrey G. Taylor

Senior Strategic Advisor

Sarah M. Antonucci

Faculty Advisors

Chios Carmody

Michael P. Scharf

David R. Kocan

Academic Centers and Law Journals Assistant Director
Nancy M. Pratt

International Research Librarian
Andrew Dorchak

CANADA-UNITED STATES LAW INSTITUTE

Lawrence E. Mitchell
Dean
Case Western Reserve University
School of Law

W. Iain Scott
Dean
The University of Western Ontario
Faculty of Law

United States Director
Michael P. Scharf
Professor of Law
Case Western Reserve University
School of Law

Canadian Director
Chios Carmody
Professor of Law
The University of Western Ontario
Faculty of Law

Managing Director
David R. Kocan
Case Western Reserve University
School of Law

Academic Centers and Law Journals
Nancy M. Pratt
Assistant Director
Case Western Reserve University
School of Law

Executive Committee and Advisory Board

Co-Chair

Hon. James S. Peterson, P.C.
Counsel
Fasken Martineau
Toronto, Ontario

Co-Chair

Hon. James J. Blanchard
Partner, Co-Chair,
Government Affairs Practice
Group
DLA Piper LLP (US)
Washington, D.C.

Executive Committee

Donald B. Cameron, Jr.
Practice Group Leader
International Trade
Morris, Manning, and Martin LLP
Washington, D.C.

R. Richard Newcomb
Chair, International Trade Practice
Group
DLA Piper LLP (US)
Washington, D.C.

Richard O. Cunningham
Senior International Trade
Partner
Steptoe & Johnson LLP
Washington, D.C.

Davis R. Robinson
Senior Managing Director
Brock Capital Group LLC
Fmr. Legal Adviser to the
United States
Department of State
Washington, D.C.

Lawrence L. Herman
Counsel
Cassels Brock & Blackwell LLP
Toronto, ON

J. Michael Robinson, Q.C.
Counsel
Fasken Martineau DuMoulin LLP
Toronto, ON
Adjunct Faculty Member,
The University of Western Ontario
Faculty of Law,
London, Ontario

Selma M. Lussenburg
Chair, Board of Directors
Ontario Capital Growth
Corporation
Toronto, ON

James P. McIlroy
Counsel on Public Policy
McIlroy & McIlroy Inc.
Toronto, ON

Advisory Board

Baxter, The Honorable
Randolph**

*United States Bankruptcy Judge
United States Bankruptcy Court
for the Northern District of Ohio
Cleveland, Ohio*

Boyle, Timothy E.
*Vice President and Chief
Counsel-Competition and Trade
Regulation
Eaton Corporation
Cleveland, Ohio*

Crane, David
*Syndicated Columnist
Toronto, Ontario*

Cunningham, Richard O.
*Senior International Trade
Partner
Steptoe & Johnson LLP
Washington, D.C.*

de Boer, Stephen
*Director General
Environment Canada
Climate Change International
Gatineau, Quebec*

Durbin, Paul
*Senior Counsel
Miller Canfield
New York, New York*

Gordon, Richard
*Professor of Law
Case Western Reserve University
School of Law
Cleveland, Ohio*

Graham, Hon. William C., P.C.,
Q.C.
*Chancellor, Trinity College,
University of Toronto
Chair of the Atlantic Council of
Canada
Co-Vice Chair of the Canadian
International Council
Toronto, Ontario*

Groetzinger, Jon
*Visiting Professor of Law
Director of China Legal
Programs
Case Western Reserve University
School of Law
Cleveland, Ohio*

Johnson, Jon R.
*Solo Practitioner
Toronto, Ontario*

Kramer, Michael
*Dickinson Wright PLLC
Detroit, Michigan*

Laird, Ian A.
*Special Legal Consultant
Crowell & Moring
Washington, D.C.*

LeCroy, Jessica
*Senior Advisor
Bennett Jones LLP
Toronto, Ontario*

McCarney, Rosemary
*President & CEO
Plan International Canada
Toronto, Ontario*

Meyer, Paul A.
Counsel
Towers Watson
Arlington, Virginia

Petras, Stephen J., Jr.
Partner
International Team Leader
Baker & Hostetler LLP
Cleveland, Ohio

Petry, S. Richard II
Senior Counsel – International
(retired)
Eaton Corporation
Pepper Pike, Ohio

Piraino, Thomas A., Jr.
Vice President, General Counsel
& Secretary
Parker-Hannifin Corporation
Cleveland, Ohio

Robinson, Davis R.
Senior Managing Director
Richard C. Breeden & Co. LLC
Fmr. Legal Adviser to the
United States
Department of State
Washington, D.C.

Sands, Christopher
Senior Fellow
Hudson Institute
Washington, D.C.

Vernon, M. Catherine
Vice President and General
Counsel
Formica Corporation
Cincinnati, Ohio

*Note: **Indicates Honorary Advisory Board Member*

2011-2012 Student Committee

Executive Student Directors and Senior Research Fellows

Sarah M. Antonucci

Steven J. Paille

Matthew A. Hemme

John K. Sawyer

Elizabeth A. Minton

Keith E. White

On behalf of the Canada-United States Law Institute, the *Journal* gratefully acknowledges support from the Government of Canada, and the Department of Foreign Affairs International Trade Canada. The *Journal* offers a special debt of gratitude for the ongoing support provided by the Consulate General of Canada in Detroit, Michigan, Consul General Roy Norton, and Political, Economic Relations, and Public Affairs Manager George Costaris.

EDITOR'S NOTES

Volume Thirty-Seven, Number One of the *Canada-United States Law Journal* contains articles written by academics, professionals, and students regarding environmental, economic, and social comparisons and discussions between the United States and Canada. Additionally, this issue includes the Bench Brief and the winning student briefs of the 2012 Niagara International Moot Court Competition. We extend a sincere thank you to each contributing author for his or her insightful and exceptional scholarship.

The publication of this issue could not have taken place without the assistance of a wonderful group of people. First, we extend thanks to the *Journal's* academic advisor, David Kocan, for his guidance and advice. David has been very supportive of the *Journal* and we are beyond appreciative of his open-door policy for all things *Journal*-related. We also wish to thank Chios Carmody for his continued support and enthusiasm at The University of Western Ontario Faculty of Law.

We must thank the *Journal* editorial members for their hard work. The Executive and Associate Editors have worked diligently for months editing, finding strong supporting authorities, and footnoting. These are time-consuming tasks, and each editor has performed admirably his or her duty in bringing this issue to publication. The *Journal* could not be published without the tireless work of the editorial members. The Executive Board members, Stuart Sparker and Keith White, were instrumental through their positive cooperation in compiling this issue. Likewise, Sheliza Pyrali, the Canadian Corresponding Editor, was invaluable at Western Ontario and successfully expanded the Western staff's involvement in the *Journal's* publication.

Special thanks are due to Kelsey Marand and Katlyn Kraus who went above and beyond the call of editorial duty. These individuals willingly performed more than their share of assignments and contributed to the excellent work product in front of you. Thank you all for your attention to detail and for keeping us company in the office.

Additionally, we would like to acknowledge our research librarian, Andrew Dorchak. He is truly a research genius and our staff would be lost without him.

Lastly, and with our biggest thank you of all, we would like to recognize the Managing Editors, John Sawyer and Tyler Talbert. John has been an unfailing support throughout this entire process. His willingness to assume added duties despite his many other non-*Journal* related responsibilities is much appreciated. Jack, thank you for your dedication, friendship, and tolerating my many frenzied emails, text messages, and phone calls. Tyler ultimately provided the final push in helping to publish this issue and without him, it would not have been possible.

We would also like to thank our family and friends for their support and patience during the publication process. We cannot imagine completing this issue without their encouragement and understanding.

On behalf of the entire *Canada-United States Law Journal*, we appreciate your continued support and readership. Thank you.

Elizabeth A. Minton
Jessica E. Rubin
Co-Editors-in-Chief