



The International Arbitration Club of New York

The International Arbitration Club of New York's Twelfth Annual Smit-Lowenfeld Prize Awarded to Caline Mouawad and Jessica Beess und Chrostin

New York, January 27, 2023— The International Arbitration Club of New York (“IACNY”) announced on January 26, 2023 that Caline Mouawad and Jessica Beess und Chrostin are the recipients of the 2023 Smit-Lowenfeld Prize for best article in the field of international arbitration published in 2021. The prize is being awarded for the article entitled “The Illegality Objection in Investor-State Arbitration,” which was published in *Arbitration International* (Vol. 37, No. 1). The article methodically reviews investment awards that involved an illegality objection. While corruption in investment arbitration has been heavily analyzed, the authors explore the diverse range of objections based on illegal investor conduct other than corruption in investor-state arbitration by examining the analytical framework tribunals apply and the evolving and competing applicable legal standards. The article also identifies established principles and emerging trends to help investment tribunals create a more uniform approach to the illegality objection in future cases.

The prize was presented to Ms. Mouawad and Ms. Beess und Chrostin on January 26, 2023. In making the award, Lawrence W. Newman, Presiding Member of the IACNY and Of Counsel at Baker McKenzie, said: “This is an important article on a heretofore unexplored area of investment treaty arbitration scholarship—the responses of arbitration tribunals to assertions by host countries that claimant investors obtained their investments in violation of local law.”

The winning article was chosen by an IACNY selection committee chaired by Rory O. Millson, a retired partner at Cravath, Swaine & Moore LLP, who said: “This comprehensive analysis provides insight into the illegality objection other than corruption in investor-state arbitration and may even offer some guidance to arbitrators addressing corruption claims.”

The International Arbitration Club of New York considers articles submitted directly to the competition by the authors or their peers, as well as articles chosen through the Club’s survey of articles appearing in leading international journals. The winning article is chosen from those gathered through a two-phase winnowing process, involving close scrutiny by members of the IACNY.

The selection committee for the prize also included Andrew J. Finn (Sullivan & Cromwell LLP partner); Lea Haber Kuck (Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates retired partner); Fredrick E. Sherman (Jones Day consultant); and Richard F. Ziegler (AcumenADR LLC arbitrator and mediator).

Caline Mouawad said: “Our hope was that this article would benefit the stellar International Arbitration community—counsel and arbitrators alike—who are facing and

addressing such interesting legal issues and providing the case law for this analysis. To be recognized for this prize—and to join the ranks of the prior recipients who are such an accomplished group of practitioners and academics—is a terrific honor. As a NY practitioner, it is especially meaningful to be honored by our peers and our community.”

Jessica Beess und Chrostin said: “I am honored and grateful to receive this year’s Smit-Lowenfeld Prize with my co-author and esteemed practitioner and arbitrator, Caline Mouawad. Allegations of investor-illegality are increasingly frequent in investor-state arbitration, and raise important questions about the ISDS system more broadly. Caline and I worked many days and nights to undertake a deep dive into the world of alleged investor-illegality and hope that our work will prove useful to the field. I am delighted to be sharing this honor with Caline, and sincerely thank the International Arbitration Club of New York for this humbling recognition.”

This is the twelfth year the IACNY has awarded this prize, selecting one article annually. Prior honorees include Kathleen Claussen for her article “The International Claims Trade”; Julien Chaisse and Cristen Bauer for their article “Cybersecurity and the Protection of Digital Assets: Assessing the Role of International Investment Law and Arbitration”; Soterios Loizou for his article “Revisiting the ‘Content-of-Laws’ Enquiry in International Arbitration”; Simon Batifort and J. Benton Heath for their article “The New Debate on the Interpretation of MFN Clauses in Investment Treaties: Putting the Brakes on Multilateralization”; E. Alexandra Dosman and Grant Hanessian for their article “Songs of Innocence and Experience: Ten Years of Emergency Arbitration”; Aloysius Llamzon and Anthony Sinclair for their article “Investor Wrongdoing in Investment Arbitration: Standards Governing Issues of Corruption, Fraud, Misrepresentation and Other Investor Misconduct”; Catharine Titi for her article “Investment Arbitration in Latin America: The Uncertain Veracity of Preconceived Ideas”; Stephen Fietta and James Upcher for their article “Public International Law, Investment Treaties and Commercial Arbitration: An Emerging System of Complementarity?”; Gary Born for his article “A New Generation of International Adjudication”; Professor Charles H. Brower II for his article “Arbitration and Antitrust: Navigating the Contours of Mandatory Law”; and Nicolas Ulmer for his article “The Cost Conundrum.”

The annual Smit-Lowenfeld prize honors the late professors Hans Smit, former Stanley H. Fuld Professor Emeritus at Columbia Law School, and Andreas Lowenfeld, former Rubin Professor Emeritus at the New York University School of Law, for their distinguished careers in the field of international arbitration, both as scholars and as arbitrators. Article selection is based on originality, quality, significance and scholarship, among other factors. Honorees are selected annually by the IACNY and are awarded an honorarium of \$2,500. The IACNY is currently in the process of reviewing articles published in 2022 for next year’s award.

The International Arbitration Club of New York

The International Arbitration Club of New York was formed on June 25, 2010, by 70 founding members as a not-for-profit association. The Club now comprises

approximately 150 leading practitioners and scholars in the field of international arbitration who reside and/or work in the New York City area. The Club is governed by a steering committee that includes James H. Carter, formerly of Wilmer Cutler Pickering Hale and Dorr LLP; John Fellas, independent arbitrator, formerly of Hughes Hubbard & Reed LLP; David Lindsey of Chaffetz Lindsey LLP; Lawrence W. Newman (Chair) of Baker McKenzie; David W. Rivkin, formerly of Debevoise & Plimpton LLP; and Robert H. Smit, formerly of Simpson Thacher & Bartlett LLP. The purpose of the Club is to promote best practices in arbitration as a means of settling international commercial disputes, and the Club holds regular meetings to hear speakers from both within and outside of its membership. The Club also sponsors the Smit-Lowenfeld prize for the best scholarly article in the field and cooperates with other arbitral organizations on projects in the field of international arbitration.

The 2023 Award Recipients:

Caline Mouawad



Caline Mouawad, a partner at Chaffetz Lindsey LLP, has over 20 years of experience representing clients in international commercial arbitrations and investment treaty disputes, as well as related litigation matters, across the globe and in a variety of industry sectors. She acts as counsel in arbitrations conducted in English and French before all major arbitral institutions, including the ICC, ICSID, LCIA, AAA, ICDR, and SIAC, as well as in *ad hoc* cases under the UNCITRAL Rules. In addition, Caline regularly serves as an arbitrator and is listed on the ICDR's Panel of Neutrals and the AAA's National Roster of Arbitrators and Mediators. Among other leadership roles, Caline serves as Vice-Chair of the Steering Committee of the ICC Commission on Arbitration and ADR and the Steering Committee's liaison to the ICC Task Force on Addressing Corruption Issues. Caline also serves as Co-Chair of the IBA Investment Arbitration Subcommittee and is a member of the IBA Arbitration Committee's Task Force on Privilege. She is a Director of the New York International Arbitration Center, as well as a Member of its Executive Committee.

Jessica Beess und Chrostin



Jessica Beess und Chrostin is a Partner in the international dispute resolution practice of King & Spalding LLP in New York. Jessica's practice focuses on complex international dispute resolution, with particular expertise in high-stakes commercial and investor-state disputes. Jessica regularly represents clients in disputes in the infrastructure, oil and gas, mining and renewable energy sectors, and has significant experience in real estate, construction and telecommunications disputes. She is experienced in all phases of international dispute resolution and crisis management, and has experience in arbitrations before all major arbitral forums, including the AAA, ICC, ICDR, ICSID, JAMS and SCC as well as *ad hoc* arbitrations, such as under the UNCITRAL Rules. Jessica is a frequent writer and speaker on topics relating to international dispute resolution, and has been recognized by IFLR Americas as a Rising Star in Commercial Arbitration.

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