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SCC overhauls administrative law, clarifies standard of review

Margaret Robbins was interviewed for Canadian Lawyer's article *SCC overhauls administrative law, clarifies standard of review*. Margaret comments on the new framework for standard of review in administrative law cases following the long-awaited decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*.

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"It was like opening a Christmas present early," says Margaret Robbins at Lenczner Slaght Royce Smith Griffin LLP in Toronto, "because when they came out this morning, they were so anticipated."

"The court has looked at what's happened in the courts below and has seen that standard of review analysis has taken up so much of litigants' time and effort," Robbins says, "and they are providing us with a new framework that will hopefully reduce the amount of time spent arguing what the standard is and give litigants more opportunity to focus on the merits on these appeals and judicial reviews."

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"My read of the dissent of both Justices Karakatsanis and Abella and is that they see this new approach of the majority as a sea change," says Robbins. "So rather than a slight clarification of the law and standard of review, they see this as a complete change of course."

The perspective of the dissenting justices is the impact of the new framework, which will affect what to do with previous case law under the old standard, stare decisis, "and what is this new approach going to do to the precedents that have been set in standard of review," Robbins says. "They point to the broadened ability of the court to apply a correctness standard on the basis of the rebuttable presumption of reasonableness, including this legislative intent, where an appeal provision is included."

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