

The 14th Annual Franchise Law Conference Regulation Nation: Franchising in an Era of Increasing Regulation

Franchise Law

Date: Tuesday, November 18, 2014 | 8:30 am to 5:00 pm

Location: Twenty Toronto Street Conferences and Events
20 Toronto Street, 2nd Floor, Toronto

Program Chairs: **David Shaw**, Blake, Cassels & Graydon LLP
Pascale Cloutier, Miller Thomson LLP



In-Person



Webcast



This program contains 2.25 Professionalism Hours
This program is eligible for up to 5.75 Substantive Hours
The OBA has been approved as an Accredited Provider of
Professionalism Content by The Law Society of Upper Canada.

As the *Arthur Wishart Act (Franchise Disclosure), 2000* marks its fourteenth year of regulation of franchising in Ontario, franchisors and franchisees are sharing the challenges of complying with new regulations governing their industries while maintaining their focus on operating profitable businesses.

The OBA Franchise Law section is once again bringing you the very latest developments and emerging trends in this challenging and constantly evolving area of the law presented by a stellar faculty of speakers. Hear about the impact of new and potential regulation on franchising, get tips you can use right away to draft agreements and disclosure documents and learn the very best practices for enforcing non-competes and when to use arbitration to resolve disputes.

Join your colleagues for a full day of learning and networking at this eagerly anticipated and always well attended annual event.

<p>8:00am Registration and Coffee</p> <p>8:30am Welcome and Opening Remarks</p> <p>8:40am Plenary 1 - Regulation Nation - A Look at New and Potential Regulation and Legislative Developments Impacting Franchising</p> <p>This plenary session will provide an overview and/or update on the following areas of recent or pending legislative and regulatory development:</p> <p>Moderators: David Shaw, Blake, Cassels & Graydon LLP Pascale Cloutier, Miller Thomson LLP</p> <p>Panelists: Chad Finkelstein, Dale & Lessmann LLP Lisa Bolton, Sherrard Kuzz LLP Wendy Mee, Blake, Cassels & Graydon LLP Ian Macdonald, Gowling Lafleur Henderson LLP Joseph Adler, Hoffer Adler LLP Pascale Cloutier, Miller Thomson LLP</p> <p>(1) Menu Labelling (Nutritional Information) (2) Protect Your Brand without becoming a Co-employer (3) Canada's Anti-Spam Legislation (4) Privacy and Data Protection (5) <i>Competition Act</i> Considerations (6) Amendments to the <i>Trade-Marks Act</i> (7) French Language issues in Quebec</p> <p>10:00am <i>Markus Cohen, Q.C. Memorial Award</i></p> <p>10:10am Networking Break</p> <p>10:25am Roundtables (choose two) Each roundtable will explore one or more topics related to Franchising (with an emphasis on regulations affecting franchising)</p> <p>(A) Marketing in the <i>CASL</i> Era Helen Fotinos, McCarthy Tétrault LLP</p> <p>(B) Protect Your Brand without becoming a Co-Employer Lisa Bolton, Sherrard Kuzz LLP</p> <p>(C) Complying with Menu Labelling Requirements Chad Finkelstein, Dale & Lessmann LLP</p>	<p>(D) Mediation of Franchise Disputes Steven Goldman, Goldman Hine LLP</p> <p>(E) Document Management in Litigation Jeffrey Hoffman, Gowling Lafleur Henderson LLP</p> <p>(F) Disclosure Issues Q & A Dixie Ho, Morrison Brown Sosnovitch LLP</p> <p>(G) Privacy and Data Protection Wendy Mee, Blake, Cassels & Graydon LLP</p> <p>(H) Gift Cards Dan Vukovich, M&M Meat Shops</p> <p>(I) <i>Competition Act</i> Considerations Ian Macdonald, Gowling Lafleur Henderson LLP</p> <p>(J) Amendments to the <i>Trade-Marks Act</i> Joseph Adler, Hoffer Adler LLP</p> <p>(K) Building and Adapting the Brand David Kornhauser, MacDonald Sager Manis LLP</p> <p>(L) Acting for U.S. Franchisors entering Canada Andraé Marrocco, Dickinson Wright LLP</p> <p>11:30am Networking Break</p> <p>11:40am Breakout - Workshops (choose one)</p> <p>[A] Advanced Drafting Issues: Top 10 Tips to Help You Draft Franchise Agreements and Disclosure Documents</p> <p>Larry Weinberg, Cassels Brock & Blackwell LLP Andraya Frith, Osler, Hoskin & Harcourt LLP</p> <ul style="list-style-type: none"> • Tips stemming from recent case law, including how to update provisions related to the duty of good faith, releases, governing law and rebates • How to help the franchisor avoid being found to be the employer of its franchisees or of its franchisees' employees • Addressing compliance with <i>CASL</i> and <i>PIPEDA</i> • Best practices when preparing a national FDD and how to customize an FDD for site specific information and resales • Addressing financial performance representations in large commercial franchise transactions • Improving assignment provisions, including minority share transfers and assignment by the franchisor
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PROGRAM REGISTRATION IS ONLINE www.oba.org/pd

Questions? pd@oba.org

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[B] Best Practices for Enforcing Non-Competes and Other Restrictive Covenants

Jennifer Dolman, Osler, Hoskin & Harcourt LLP
Adam Ship, McCarthy Tétrault LLP

- Latest word from the courts on over-breadth and unenforceability
- Enforcing non-competes against non-signatories (non-arm's length third parties)
- In-term versus post-term covenants
- Litigation strategy when dealing with breaches

12:50pm Break - Serve Box Lunch

1:05pm Professionalism Lunch Plenary: Pros and Cons of Arbitration to Resolve Franchise Disputes (with box lunch)

Justice Graeme Mew, Ontario Superior Court of Justice (Toronto)
Allan Dick, Sotos LLP
Frank Zaid, ADR Chambers
Lawrence Theall, Theall Group LLP

- The case for arbitration of franchise disputes
- Pros and Cons of arbitration
- How to make arbitration successful
- Practical Tips for drafting an arbitration clause in a Franchise Agreement
- Examples of successful programs in particular industries

2:20pm Professionalism Plenary: Lawyer Conduct Disclosed: Potential Liability of Franchise Counsel for Failure to Comply with Franchise Disclosure Requirements

Karen Granofsky, LawPRO
David Altshuller, Teplitsky, Colson LLP
Darrell Jarvis, Fasken Martineau DuMoulin LLP

- Identifying and avoiding the risks
- What is the required level of experience?
- What is the required amount of due diligence?

3:20pm Networking Break

3:35pm Plenary Session: "Annual Legal & Legislative Update"

Derek Ronde, Cassels Brock & Blackwell LLP
John Yiokaris, Sotos LLP

This plenary session will highlight the past year's important court decisions relating to the franchise relationship and key legislative developments affecting franchising, with an emphasis on the practical implications of such developments.

4:50pm Closing Remarks

4:55pm Lucky Ticket Draws

5:00pm Reception