

The 15th Annual Franchise Law Conference Practicing Practically - A Focus on Business

Franchise Law

Date: Tuesday, November 17, 2015 | 8:45 am to 4:45 pm
(Reception to follow)

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

Program Chairs: **Helen Fotinos**, McCarthy Tétrault LLP
Dominic Mochrie, Osler, Hoskin & Harcourt LLP



In-Person



Webcast



Please see accreditation chart listed [HERE](#)

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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 latest strategies for crises management in franchise systems, the impact of recent case law on good faith and fair dealing in franchising, why, when and how to settle franchise disputes, and what in house counsel expect from their external counsel relationships.

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

8:15am Registration and Coffee

8:45am Welcome and Opening Remarks

8:50am **Keep Calm and Franchise On: Crisis Management in Franchise Systems**

Moderator:

Darrell Jarvis, Fasken Martineau DuMoulin LLP

Speakers:

John Ratchford, Navigator Ltd.

Kelly Friedman, DLA Piper Canada LLP

Joel Levesque, McDonalds Canada Ltd.

Get proven strategies and practical information on how to deal with both small and large scale crises in franchise systems. Whether you're dealing with a claim that a local restaurant is illegally hiring workers or a system wide crises like a food borne illness in ingredients supplied to all franchises, learn how to prepare for, respond to and rehabilitate the franchise network and the brand when a crisis occurs. Topics covered will include:

- Identifying internal and external areas of risk
- Conducting a gap analysis of current agreements, policies and practices
- Assembling the right cross-functional "Crisis Response Team"
- Investigation and containment strategies to mitigate legal, reputational and operational damage
- Controlling the message and communications with franchisees and the public
- Post-crisis teachings, remediation solutions, disclosure obligations and best practice tips to avoid future recurrences.

10:05am *Markus Cohen, Q.C. Memorial Award*

10:15am Networking Break

10:25am **Breakout - Workshops (choose one)**

[A] Drafting, Litigating and Defending Financial Performance Representations in Disclosure Documents

Geoffrey Shaw, Cassels Brock & Blackwell LLP

John Yiokaris, Sotos LLP

Explore the key elements of drafting bullet-proof FPRs from a solicitor's perspective, and learn how to critically analyze, litigate and defend FPRs from a litigator's perspective.

- What are the technical requirements for drafting an FPR (including a case-law review on deficiencies in FPRs)?
- Common mistakes in providing FPRs
- How should the franchisor select the representative sample?
- Ensuring accuracy and regularly updating FPRs
- Avoiding unwittingly providing an "FPR"
- Can a US franchisor use a US FPR with disclaimers?
- Handling FPRs for renewing and resale franchisees

[B] If, Why, When and How: A Practical Guide To Settling Franchise Disputes

Gillian Scott, Osler, Hoskin & Harcourt LLP

Lloyd Hoffer, Hoffer Adler LLP

The overwhelming majority of commercial cases settle before reaching trial or final arbitration. Odds are that yours will be one of them. This workshop offers best practices and advice for effectively assessing and implementing settlement in franchise disputes.

If & Why?

- Realities of the court experience of franchisors
- Weighing the impact of settlement vs. impact of a dispute on a franchise system
- Relationship preservation

When?

- When is the optimal time for settlement?
- What settlement mechanisms are available and optimal?

How?

- Key terms in Settlement Agreements
- Best practices in releases
- The role of ILA

[C] From Expensive Stranger To Trusted Advisor: How To Get There from Your Clients Perspective

Moderator:

Jennifer Brown, Canadian Lawyer, InHouse Magazine

Speaker:

Liisa Kaarid, Loblaw Companies Ltd.

Fernando Garcia, Nissan Canada

Simply being a good lawyer does not necessarily equate to, nor guarantee, a strong relationship with your client. Gain valuable insight directly from in-house counsel on what they look for and appreciate, and what they can't stand, in their external counsel relationships.

PROGRAM REGISTRATION IS ONLINE www.oba.org/pd

Questions? pd@oba.org

300-20 Toronto St. Toronto, ON M5C 2B8 | Toll Free: 1-800-668-8900 | Tel: 416-869-1047 | Fax: 416-642-0424

- Preferred external partners: Who gets the best work from in-house counsel and why
- The growing importance of alternative fee arrangements
- Effective communication
- What establishes (or destroys) a great working relationship
- Client focused service – Knowing who your client is and making them look like a star
- Five things in-house counsel love
- Five things in-house counsel hate

- What is the limit of the duty of good faith? Can it be used to create new obligations or imply new contract terms?
- If the duty of good faith creates a disclosure obligation, what reciprocal obligations exist / should exist for the franchisee?
- How does the duty of good faith compare with the duty of honesty discussed in *Bhasin v Hrynew*?

2:05pm

Roundtables (choose two)

Each roundtable will explore one or more topics related to Franchising

(A) Crisis Management: Identifying and Dealing with System Threatening Events

Darrell Jarvis, Fasken Martineau LLP

(B) Practical Impacts of the Duty of Good Faith and Fair Dealing on the Day-to-Day Operations of a Franchise System

David Altshuller, Teplitsky Colson LLP

(C) Big Data: Big Problem? The Opportunities and Challenges of Increasing Access to Information by a Franchisor

David Fraser, McInnes Cooper

(D) Managing Franchise Relationships During an M&A Transaction

Andraé Marrocco, Dickinson Wright LLP

(E) Settling to Win: Effective Strategies to Avoid Litigation

Jonathan Mesiano-Crookston, Goldman Hine LLP

(F) Are My Franchisee's Employees my Employees?

Christine Kilby, Norton Rose Fulbright Canada LLP

(G) Provisions You Should Never Put in Your Franchise Agreement... and Provisions You Wish You Had

Sam Hall, Hall Legal Counsel

(H) Customizing a Franchise Disclosure Document for Resales and Renewals

Dan Caldarone, Caldarone Law

(I) Private Equity and Franchising

Frank Robinson, Cassels Brock and Blackwell LLP

(J) Legal and Business Considerations When Managing a Renewal Process

David Kornhauser, Macdonald Sager Manis LLP

(K) Helping Emerging Franchisors Achieve the Next Level of Growth

Chad Finkelstein, Dale Lessman LLP

(L) How to Handle Record Keeping at Each Stage of the Franchise Lifecycle

Melissa Won, McKenzie Lake Lawyers LLP

11:35am **Breakout - Workshops (choose one)**

[A] Drafting, Litigating And Defending Financial Performance Representations In Disclosure Documents

Same as 10:25 am Workshop above

[B] If, Why, When and How - A Practical Guide To Settling Franchise Disputes

Same as 10:25 am Workshop above

[C] Recovering from a Good Master Franchise Gone Bad

Adam Ship, McCarthy Tétrault LLP

Debi Sutin, Gowling Lafleur Henderson LLP

Master franchising can be an effective means of expansion of a franchise system [outside of its home jurisdiction]. If the venture fails, however, a franchisor may be faced with unique and complex challenges in its efforts to maintain the brand in the market following termination of a master franchisee. Experienced counsel will offer strategies for minimizing the fallout, including advice on:

- Maintaining the network of sub franchisees
- Re-establishing the relationship with system suppliers
- Damages and other remedies
- Drafting tips to enable a smooth transition

12:35pm Break - Serve Box Lunch

12:50pm **Lunch Plenary:**

Hitting the Moving Target: The On-Going Evolution of Good Faith and Fair Dealing in Franchising (with box lunch)

Moderator:

David Altshuller, Teplitsky, Colson LLP

Speakers:

Derek Ronde, Cassels Brock & Blackwell LLP

Paul Bates, Siskinds LLP

Jean-Marc Leclerc, Sotos LLP

Case law continues to evolve and define the duty of good faith and fair dealing in franchising. This plenary will provide an update on recent case law as well as practical considerations on what the duty of good faith and fair dealing mean for franchisors in their day-to-day operations and relationships with franchisees

- Responding to requests for information from franchisees
- Obligations to recognize and deal with franchisee associations
- Whether the duty of good faith impacts how you, as a lawyer, deal with opposing counsel or unrepresented franchisees
- Whether the duty of good faith impacts a franchisor's ability to treat franchisees differently

3:00pm Networking Break

3:15pm **Plenary Session: "Annual Legal and Legislative Update"**

David Shaw, Blakes, Cassels & Graydon LLP

Pascale Cloutier, Miller Thomson LLP

The past year's most important court decisions relating to the franchise relationship, and key legislative developments affecting franchising will be analyzed and discussed with an emphasis on the practical implications of each.

4:30pm Q & A and Closing Remarks

4:45pm Reception

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