

## The 19th Annual OBA Franchise Law Conference - Franchising 2020: Franchising During Turbulent Times

### Franchise Law

**Date:** Monday, November 30, 2020 | 8:30 am to 2:15 pm

**Location:** Webinar Only

**Agenda:** 8:30 am Program Commences  
2:15 pm Program Remarks



Webcast



**Professionalism Hours:** This program contains a total of 1 hour of Professionalism content

**Substantive Hours:** This program is eligible for up to 4h 45m  
*The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Ontario.*

The OBA Franchise Law Section invites you to the 19th Annual OBA Franchise Law Conference where the very latest developments and emerging trends in this constantly evolving area of law will be presented by an experienced faculty of speakers. The Conference will host a series of workshops and roundtables on franchise-related topics, as well as the popular Annual Legal & Legislative Update, rolling up all the developments in franchise law and jurisprudence over the 24 months.

Join your colleagues for a full day of learning and networking at this well attended and highly informative event.

**Program Chairs:** **Christine Jackson**, Osler, Hoskin & Harcourt LLP  
**Adam Ship**, McCarthy Tétrault LLP

8:30 am Welcome and Opening Remarks

8:40 am **Plenary Topic: It's Not Black and White: Tackling the Grey Disclosure Issues**

**Moderator: David Kornhauser**, Macdonald Sager Manis LLP

**Joseph Adler**, Hoffer Adler LLP

**Andraya Frith**, Osler, Hoskin & Harcourt LLP

**Jeffrey Hoffman**, Dale & Lessmann LLP

**Rebecca Valo**, Yum! Brands - KFC Canada/Pizza Hut Canada

Four of Canada's leading franchise law practitioners will provide best practices and tips for some of the most challenging disclosure issues facing franchisors including:

- Certificates of disclosure
- Financial disclosure issues
- Transfer franchise disclosure documents
- Multiple brand franchise disclosure documents
- Rectifying deficient disclosure documents

9:50 am Health Break

9:55 am Breakout Workshops (*choose one of three workshops*)

**[A] Beyond Rescission: Key Litigation Issues in Franchise Relationships**

**Moderator: Dixie Ho**, General Counsel, Mary Browns Inc.

**Steven Goldman**, Goldman Hine LLP

**Geoffrey Shaw**, Cassels Brock & Blackwell LLP

This workshop will provide a forward-looking discussion on non-rescission related litigation issues, including:

- Claims for misrepresentation under Section 7 of the *Wishart Act*
- Disputes relating to system change
- How insolvency related issues interact with franchising
- Good faith and fair dealing claims
- Post-termination / post-expiration enforcement of non-competition and non-solicitation provisions in the franchise agreement
- Issues relating to transfers and renewals
- Class actions
- The "accidental franchisee"
- Arbitration issues (stays and appeals)

**[B] The Impact of Private Equity on the Franchise Industry**

**Megan Shaw**, Blake, Cassels & Graydon LLP

**John Sotos**, Sotos LLP

These expert practitioners will discuss the impact of private equity on the franchise industry addressing a variety of topics including:

- The key players involved
- The intersection of key party interests
- Unique negotiation considerations
- The practical implications that this type of investment presents to private equity firms, franchisors and franchisees, including the importance of franchise-specific diligence, compliance issues on the value of the system, and understanding the rights and restrictions on system change

**PROGRAM REGISTRATION ONLINE [www.oba.org/pd](http://www.oba.org/pd)**

Questions? [pd@oba.org](mailto:pd@oba.org)

## [C] Top 10 Things to Know when Franchising in Quebec

**Marissa Carnevale**, Lapointe, Rosenstein, Marchand, Melançon S.E.N.C.R.L. (Quebec)

**Frederic Gilbert**, Fasken (Montreal)

This panel will discuss ten essential matters (and tips to address them) that franchisors and their counsel must consider as they plan and execute their Quebec expansion, including:

- French language compliance
- Pre-contractual disclosure norms and other practices driven by good faith requirements under Quebec's Civil Code. the fundamentals of "adhesion contracts" and their effects
- "Implicit obligations" inherent in any franchise agreement governed by Quebec law

## 11:00 am Roundtable 1 (choose one of nine roundtables)

1. E-Commerce and Encroachment  
**Debi Sutin**, Gowling WLG
2. Navigating Multi-Party and Multi-Proceeding Arbitration Issues  
**Ben Hanuka**, Law Works Lawyers
3. Data Protection and Cyber Security Issues for Franchise Systems  
**Andrew Johnson**, McKenzie Lake Lawyers
4. Reputational Risk: Terminating Franchisees for Damage to a Franchise System's Reputation  
**Clark Harrop**, Dale & Lessman LLP
5. Who is a Franchisor's Associate and Why Should You Care?  
**Jonathan Mesiano-Crookston**, Goldman Hine LLP
6. The Accidental Franchise: When does it arise and best practices for avoiding an accidental franchise classification  
**Helen Fotinos**, Dentons
7. Calculating Rescission Damages  
**Ephraim Stulberg**, Matson, Driscoll & Damico LTD.
8. Loyalty and Rewards Programs in Franchise Systems  
**Lucas Versteegh**, Osler, Hoskin & Harcourt LLP
9. Efficient Resolution of Franchise Disputes  
**Stephanie Sugar**, McCarthy Tétrault LLP

## 11:25 am Roundtable 2 (choose one of nine roundtables listed above at 11:00am)

11:45 am Health Break

## 12:00 pm Annual Legal and Legislative Update

**Darrell Jarvis**, Fasken

**Melissa Won**, McKenzie Lake Lawyers LLP

**David Altschuller**, Teplitsky, Colson LLP

This year's legal and legislative update will cover the past two years of legal and legislative developments, and will focus on best practices that franchise counsel can put to immediate use.

## 1:05 pm Breakout Workshops (choose one of three workshops)

### [D] Hot Competition Law Issues in Franchising: No-Poaching Provisions and Dual Distribution Models

**Nikiforos Iatrou**, McCarthy Tétrault LLP

**Larry Weinberg**, Cassels Brock & Blackwell LLP

Competition law issues arise and interact with the franchise business model on a daily basis, often in new and unanticipated ways. This panel tackles some of the latest competition law issues facing franchisees and franchisors, including:

- No-poach/non-solicitation agreements
- Price maintenance/price fixing issues that can arise in the daily interaction between franchisor and its franchisees
- Dual distribution issues that arise when a franchisor competes with franchisees through corporate-owned outlets or online

### [E] Whose Obligation Is It? Modern Privacy and Data Issues in Franchising

**Adrienne Boudreau**, Sotos LLP

**Christopher Oates**, Gowling WLG (Canada) LLP

Franchise systems and relationships, by their very nature, pose unique privacy concerns and challenges. What are the obligations on franchisors, franchisees, and others to safeguard personal information while collecting and processing it in the context of a franchise system? Join us for a detailed discussion where we identify the source of parties' privacy obligations, consider what obligations fall to which parties, and propose practical solutions as to how those obligations can be fulfilled under a franchise agreement while still achieving business goals.

### [F] Franchising 101 – Disclosure Basics – Top 10 Disclosure Pitfalls

**Amy Delisle**, Partner, KMB Law

**Jennifer Pockock**, Recipe Unlimited Corporation

Take part in an interactive presentation about the pitfalls of franchise disclosure. Going beyond a basic overview of disclosure, we will reveal common (and often preventable) mistakes that can make or break your franchise systems documents. Discussing real world examples of disclosure traps, we will provide tips to avoid potential rescission claims.

2:15 pm Closing Remarks

**[PROGRAM REGISTRATION ONLINE](http://www.oba.org/pd)** [www.oba.org/pd](http://www.oba.org/pd)

Questions? [pd@oba.org](mailto:pd@oba.org)