

The 18th Annual Franchise Law Conference

Franchise Law



In-Person



Webcast

Date: Tuesday, November 13, 2018 | 8:15 am to 4:45 pm
Reception to follow

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

Program Chairs: **Darrell Jarvis**, Fasken Martineau DuMoulin LLP
Melissa Won, McKenzie Lake Lawyers LLP



Please see accreditation chart listed [HERE](#)

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 18th Annual OBA Franchise Conference where the very latest developments and emerging trends in this constantly evolving area of law will be presented by a stellar faculty of speakers. The Conference will host a series of round-tables on franchise-related topics, the granting of the Markus Cohen Q.C. Memorial Award, and the popular Annual Legal & Legislative Update, rolling up all the developments in franchise law and jurisprudence over the past year.

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

<p>8:15am Registration and Coffee</p> <p>8:45am Welcome and Opening Remarks</p> <p>8:55am Disclosure Errors: Assessing the Impact Moderator: Andraya Frith, Osler, Hoskin & Harcourt LLP Lloyd Hoffer, Hoffer Adler LLP David Shaw, Dale Lessmann LLP</p> <ul style="list-style-type: none"> • Discuss common disclosure errors • Identify fatal v. non-fatal deficiencies in disclosure • Can deficiencies be corrected after the fact? If so, how (i.e. SOMC v. fresh disclosure)? • Examine how to report deficiencies to the client • How to communicate risk to franchisor clients and document a client's acceptance of the risk • How do you address client dishonesty or reluctance to disclose material information • Limited retainers – how to best deal with “one off” and “annual update” clients <p>10:00am Presentation of the Markus Cohen, Q.C. Memorial Award</p> <p>10:15am Networking Break</p> <p>10:30am Breakout – Workshops (choose one of three workshops)</p> <p>[A] The Franchise Model and the Accidental Franchisor Faye Lucas, Sotos LLP Rebecca Valo, Cassels, Brock & Blackwell LLP</p> <ul style="list-style-type: none"> • How to determine whether a business relationship constitutes a “franchise” • Report on the implications of being a “franchise” to franchisor clients • Assess the application of statutory exemptions 	<ul style="list-style-type: none"> • Practical means of correcting non-compliance with the AWA after the fact (i.e. issuing “late” disclosure) <p>[B] The Franchisee is Insolvent – What’s a Franchisor to Do? Todd Greenbloom, Blaney McMurtry LLP Craig Mills, Miller Thompson LLP Sheldon Disenhouse, Dentons LLP</p> <ul style="list-style-type: none"> • Discuss competing priorities (CRA, landlord, lender, franchisor) • Explore CRA deemed trust claims • Does petitioning the franchisee into bankruptcy make sense? • How to structure the post-termination asset acquisition process • Understand how to structure the resale to a new franchisee (including disclosure obligations relating to the prior franchisee) • Identify and monitor indicators of insolvency before it is too late <p>[C] Increasing System Morale through Franchisee Involvement David Kornhauser, Macdonald Sager Manis LLP Steven Goldman, Goldman Hine LLP John Chimienti, Canadian Tire Corporation</p> <ul style="list-style-type: none"> • Explore the effective use of franchisee advisory councils and franchisee-led advertising cooperatives • Discuss regional representation of divergent franchisee interests • How to recognize and communicate with a franchisee association
---	---

PROGRAM REGISTRATION IS ONLINE www.oba.org/pd

Questions? pd@oba.org

11:35am **Roundtable 1 (choose one of nine roundtables)**
Each roundtable will explore topics related to Franchising:

1. Assessing Materiality: A Litigation Perspective
Lara Di Genova, Teplitsky Colson LLP
2. #metoo – What Does it Mean for Franchisors?
Colin Pendrith, Cassels, Brock & Blackwell LLP
3. Everything is Electronic: Implementing Electronic Delivery of the FDD and Electronic Execution of Documents
Andrew MacIver, Siskinds LLP
4. Where Franchise Law Meets Employment Law: Considerations for Franchisors
Matthew Badrov, Sherrard Kuzz LLP
5. What is that Worth? Valuation Issues in Franchise Litigation
Ephraim Stulberg, MDD Forensic Accountants
6. Tailoring the Sale Process, the Franchise Disclosure Document and the Franchise Agreement for Resale Transactions (including the Sale of Corporate Locations)
Jennifer Pocock, Recipe Unlimited
Hailey Kersey, Morrison Brown Sosnovitch LLP
7. Enforcement of Post-Termination Provisions of the Franchise Agreement (including Restrictive Covenants, De-Identification Obligations and Guarantees/Indemnities)
Brad Hanna, McMillan LLP
8. Representations, Warranties and Due Diligence in a Franchise M&A Transaction
Valerie Eisen, Fasken Martineau DuMoulin LLP
9. Beyond the Simple Unit Franchise: Joint Venture Franchises, Significant Investors, Test Franchises
Edward (Ned) Levitt, Dickinson Wright LLP

12:05pm **Break - Box Lunch Served** - Pick up and eat at Second Roundtable at 12:30pm

12:30pm **Roundtable 2 (choose one of nine roundtables listed above at 11:35am session)**
Each roundtable will explore topics related to Franchising.

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

- [D] **Before the Franchisee Opens its Doors: Development Considerations for the Franchisor**
Helen Fotinos, Dentons LLP
Richard Leblanc, Miller Thomson LLP
Dan Vukovich, M&M Meat Shops
- Identify the appropriate tenant
 - Determine the practical and contractual considerations for franchisors who do not enter into the head lease
 - Understand the key provisions of the franchise agreement relating to site selection, lease negotiation, occupation of premises and post-termination rights in favour of the franchisor
 - Examine the franchisor controls over the construction process

- [E] **“Non-Franchise” Cases of Importance for Franchise Counsel**
Adam Ship, McCarthy Tetrault LLP
Jonathan Mesiano-Crookston, Goldman Hine LLP
- Discuss significant non-franchise case law which inform the practice of franchise law:
 - Common law developments on the enforceability of releases
 - The scope and enforceability of exclusion and limitation of liability clauses
 - The common law duty of fair dealing with respect to contracts
 - Common interest privilege issues in both transactions and litigation
 - Trademark/copyright law
 - Developments in the interpretation and enforcement of restrictive covenants

- [F] **Territory protection –Is it a fallacy in the Internet Age?**
Jennifer Dolman, Osler, Hoskin & Harcourt LLP
Debi Sutin, Gowling WLG
- An overview of territorial rights common in franchise agreements
 - The effect of e-commerce and other on-line services affecting territory rights
 - Drafting an enforceable territory rights clause in your franchise agreement
 - Asserting and defending encroachment claims

2:10pm **Breakout – Workshops (choose one of two workshops)**

[G] **Modernizing the Franchise Agreement to Address Legal and Business Realities**

Michael Melvin, McInnes Cooper

Andrae Marrocco, McMillan LLP

- The drafting landscape (in light of current jurisprudence)
- Drafting to reflect modern technology
- New approaches to exclusivity and territorial rights
- Drafting for Raibex
- Supplies and authorized supplier provisions
- System changes and modifications
- Rethinking common employer issues
- Renewal, transfer and termination rights
- The latest on restrictive covenants
- Communicating and documenting contractual evolution to the client

[H] **Rescission: Initiating and Responding to the Notice**

Derek Ronde, Cassels, Brock & Blackwell LLP

Jill Knudsen, Macdonald Sager Manis LLP

- Outline the issuance of an effective notice of rescission and applicable limitation periods
- Review the continued operation by a franchisee post-rescission
- Explore rescission after termination by the franchisor
- What is the effect of arbitration provisions?
- How to calculate damages and negotiate settlement and releases
- Understand the obligation to notify the client and/or insurer of errors and omissions
- Consider conflicts of interest

3:10pm **Networking Break**

3:25pm **Annual Legal and Legislative Update**

Allan Dick, Sotos LLP

Ben Hanuka, Law Works

Join us for the Annual Legal and Legislative Update during which we explore the latest developments in franchise law cases and legislation affecting franchising.

4:30pm **Closing Remarks**

4:45pm **Reception**

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