

22nd Annual OBA Franchise Law Conference

Franchise Law



Date: Tuesday, November 28, 2023 | 9:00 am to 4:30 pm

Location: OBA Conference Centre
20 Toronto Street, 2nd Floor, Toronto



For CPD hours, please see:

[Accreditation Chart](#)

The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Ontario.

The OBA Franchise Law Section is pleased to invite you to the 22nd Annual Franchise Law Conference. Join us to hear from an exceptional faculty of lawyers who are recognized authorities in this complex area of law.

Whether you are an experienced practitioner or desire to gain a more robust understanding of franchise law, this Conference will provide valuable insights and advice on the latest developments and emerging trends, from both transactional and litigation perspectives. Plus, don't miss the Annual Legal & Legislative Update, your succinct summary of all of the key developments in franchise law and jurisprudence over the past year.

Whether you represent franchisees or franchisors, join your colleagues for a full day of professional development at this highly informative Conference.

Program Chairs: **Amy Delisle**, Keyser Mason Ball, LLP
Rebecca Valo, Cassels Brock & Blackwell LLP

9:00 am Welcome and Opening Remarks

9:10 am Presentation of Markus Cohen Memorial Award

9:15 am **Plenary: Understanding, Addressing and Advising on Fatal v. Non-Fatal Flaws**

Clark Harrop, Dale & Lessmann LLP

Andrew MacIver, Siskinds LLP

Adam Ship, Ship-Law-ADR

Moderator: Debi Sutin, Gowling WLG (Canada) LLP

Explore the distinction between so-called 'fatal' and 'non-fatal' disclosure flaws with this expert panel as they examine the rationale behind that distinction, identify the current status of such flaws, project how the jurisprudence might evolve, and discuss how to advise franchisors and franchisees.

10:15 am Health Break

10:30 am Breakout Workshops (*choose one of two workshops*)

[A] Strength in Numbers? Evaluating Franchise Litigation Strategies: Class Actions, Group Actions, and Individual Actions

Adrienne Boudreau, Sotos LLP

Jason Beitchman, Loopstra Nixon LLP

Chris Horkins, Cassels Brock & Blackwell LLP

When it comes to franchise disputes, is more really merrier or is it better to go it alone? Unravel the relative merits of

litigating franchise disputes through class proceedings, group actions, and individual actions, drawing on the experience of three seasoned franchise litigators. Gather valuable insights and practical advice that franchisees, franchisors, and counsel need to know when prosecuting or defending claims brought on a collective basis by multiple franchisees.

[B] Best Practices for Navigating Franchisee Transfers and Resales

Frank Robinson, Cassels Brock & Blackwell LLP

Daniel So, McKenzie Lake Lawyers LLP

Jason Tsoukas, Foodtastic Inc.

A common occurrence in the lifecycle of any franchise system, mastering the resale or transfer process for individual franchised units requires a basic understanding of relevant law and market dynamics as well as an ability to foresee and address unusual and complicated issues that inevitably arise. Our seasoned panel, including in-house counsel, will ensure you have all the knowledge you need, from a review of the basic legal concepts, applicable contractual considerations, franchise disclosure rules and exemptions, business considerations, as well as emerging or current trends such as dealing with complex or disputed transfers and selling to multi-brand, multi-unit or capital-backed transferees.

11:20 am Break

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11:35 am Roundtables 1 (*in-person attendees: choose one of six roundtables; # 7 & # 8 topic for virtual participation*)

1. Lessons from the US / take aways for Canada
George Eydt, Hodgson Russ LLP
2. Update on joint employer considerations
Matthew Badrov, Sherrard Kuzz LLP
3. Development considerations
Gregory Prekupec, Dipchand LLP
4. Settlement – when to fight and when to settle
Daniel Hamson, Sotos LLP
5. Master Franchisees vs. Area Developers vs. Area Reps
Jordan Druxerman, Garfinkle Biderman LLP
6. Best practices on defaults and terminations
Yulia Vasilyeva, Recipe Unlimited
7. QC French language changes
Stéphanie Destrempes, Cain Lamarre
8. The use of questionnaires and disclaimers in disclosure documents
Sukhdeep Sidhu, Keyser Mason Ball, LLP

12:05 to 12:30 pm Roundtables 2

12:30 pm to 1:10 pm Lunch Break

1:10 pm Breakout Workshops (*choose one of two workshops*)
[C] Navigating the Amendments to the Competition Act

Moderator: Dominic Mochrie, Osler, Hoskin & Harcourt LLP
Chris Margison, Fasken Martineau DuMoulin LLP
Nikiforos Iatrou, McCarthy Tétrault LLP
Susan Hutton, Stikeman Elliott LLP

Criminal prohibitions in Section 45.1 of the *Competition Act* on no-poach agreements and wage-fixing agreements recently came into force and have the potential to irreversibly alter several commercial arrangements and practices commonly used in the franchise business model. Guidance from the Competition Bureau shows that franchising is squarely in the spotlight and, while Section 45.1 itself is new, there is history underlying Section 45 that could lay a groundwork for enforcement and litigation of the new provisions. Ensure you are up to speed on this new development, including the history of Section 45.1 of the *Competition Act*, the relevant prohibitions, the available defenses, and how the prohibitions can specifically impact the franchise business model.

[D] AI, Tech and Privacy in Franchising

Imran Ahmad, Norton Rose Fulbright (Canada) LLP
Jennifer Shayko, Recipe Unlimited

Lucas Versteegh, Osler, Hoskin & Harcourt LLP

Artificial intelligence continues to be a hot-button issue in the franchise industry, both for its promise as a business tool as well as the potential risks associated with its use. Many franchisors have already put AI to innovative and impressive use, but the new technology has created novel risks in a variety of legal areas, whether copyright, confidentiality or data privacy. This is especially true with the potential negative impacts that privacy litigation and data breaches can have on brands. Join our expert faculty to engage on how the industry can and should respond to some of the myriad legal issues that can arise with the implementation of AI technologies in a franchise system.

2:00 pm Break

2:15 pm Breakout Workshops (*choose one of two workshops*)

[E] Three's Company! Critical Lease Issues from the Perspectives of the Landlord, Franchisor and Franchisee
Joanne Gilbert-Wiens, Restaurant Brands International
Imdad Junejo, Keyser Mason Ball, LLP
Melissa McBain, Daoust Vukovich LLP

What is happening in the world of leasing? We will examine best practices and what is front of mind for landlords, franchisors and franchisees when negotiating and executing lease documentation.

[F] Hot Topics in Trademark and IP Protection

Stephanie Chong, Hoffer Adler LLP
Jennifer Mckay, Dentons Canada LLP

Trademarks and intellectual property are an integral component of any franchise system and are one of a franchisor's most valuable assets. Join our distinguished panel of practitioners as they share expert insights on current legal issues and key recent decisions concerning the protection of trademarks and intellectual property by franchisors. Our speakers will contribute a broad range of perspectives drawn from their respective backgrounds in private practice and the Canadian Trademarks Office, and the Intellectual Property Institute of Canada.

3:05 pm Break

3:20 pm **Legal and Legislative Update**

Andrae Marrocco, McMillan LLP
Lauren Baker, Hoffer Adler LLP

4:20 pm Closing Remarks and Program Concludes

4:30 pm **Networking Reception at the Bier Market**

Please join us immediately following the program for a reception at Bier Market (58 The Esplanade, Toronto, ON M5E 1R2). The venue has been generously provided by Recipe Unlimited Corporation and food at the reception has been generously sponsored by Osler, Hoskin & Harcourt LLP. It will be a cash bar.

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