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CANADIAN FRANCHISE GUIDE

Osler, Hoskin & Harcourt LLP

Release No. 1, April 2024

This work contains more than 2,000 pages from one of the country's leading franchise law firms. You will find reliable guidance to help your clients achieve their business goals, whether they intend to start a franchise, expand their franchise in Canada or internationally, bring or defend business critical franchise litigation or buy or sell an existing franchise system.

What's New in this Update:

This release features updates to the case law and commentary in Chapters 1 (A History of Franchise Legislation in Canada), 15 (Regulation of Business Practices) and 16 (Leading Franchise Decisions).

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Highlights

FRANCHISE DISPUTES: CASE LAW & COMMENTARY LEADING FRANCHISE DECISIONS — DISCLOSURE OBLIGATIONS & RESCISION — Motion to reattend discovery dismissed. The determination of the relationship was based on factors set out in the Act. Correspondingly, the nature of arrangements that others in the cannabis space were offering or the other kinds of arrangements the plaintiff was entertaining were not relevant. The plaintiff was therefore not required to re-attend to provide the documents or information that the defendants requested: *Tripsetter Inc. v. 2161907 Alberta Ltd.*, 2023 ONSC 3078 (Ont. S.C.J.).

FRANCHISE DISPUTES: CASE LAW & COMMENTARY — LEADING FRANCHISE DECISIONS — OTHER — Application of the exception to non-performance contained in Article 1591 of the *Civil Code of Quebec* where the other party fails to perform its obligations to a substantial degree. The Court examined whether the parties breached their contractual obligations and their duty of good faith under the terms of their franchisor-franchisee relationship. The Court found that, due to the breaches by the franchisor, the franchisee was not obliged to fulfill all of its obligations under the franchise agreement by virtue of the exception in Article 1591 of the *Civil Code of Quebec*, which excused its non-payment of the monthly 7% royalty fees and advertising fees leading up to the termination of the franchise agreement. The Court awarded damages to the plaintiff franchisee for certain amounts paid during the duration of the franchise arrangement, however it did not award damages for loss of business or reimbursement of advertising fees, which would have required a month-by-month breakdown of the services rendered by the franchisor: *Concept Bio Minceur Inc. c. Ventilation Conceptech Inc.*, 2023 QCCS 4536 (C.S. Que.).

FRANCHISE DISPUTES: CASE LAW & COMMENTARY — LEADING FRANCHISE DECISIONS — TERMINATION & RIGHT TO RENEW — Injunction sought to prevent defendants from terminating their franchise agreement. The current franchise agreement ends in April 2024 and there is no automatic renewal clause. The injunction was denied. The injunction would have extended the agreement indefinitely, pending the resolution of ongoing litigation between the parties. The court reasons that litigation could take years and it would be unfair to the defendants to bind them to the continuing franchise agreement. Instead, the court reasons that the plaintiffs could continue their litigation to recover monetary damages arising from the termination: *First of Five Inc. v. Recipe Unlimited Corp.*, [2023] O.J. No. 5525, 2023 ONSC 6925 (Ont. S.C.J.).

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
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- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
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