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CANADIAN FRANCHISE GUIDE

Osler, Hoskin & Harcourt LLP

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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 Chapter 16, Leading Franchise Decisions.

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Highlights

Franchise Disputes: Case Law & Commentary – Leading Franchise Decisions – Class Actions – The Court of Appeal dismissed the appeal, upholding the chambers judge's decision. The Court found no error in the judge's characterization of the alleged injury or in accepting TDL's evidence regarding the intent of the No-Hire Clause. The Court highlighted that the evidence from TDL's Vice President of Franchise Operations that the clause was intended to protect franchisees' investment in training employees was essentially unchallenged. The Court emphasized that the appellant's evidence, including expert testimony on the effects of no-solicitation clauses, focused on the effects rather than the intent of the clause. For a predominant purpose conspiracy claim to succeed, the predominant purpose must be to harm the plaintiff, not merely to benefit the conspirators (even if harm results from such benefit). The appellant failed to demonstrate that the predominant purpose of the No-Hire Clause was to harm employees rather than to serve the legitimate business interests of protecting training investments. *Latifi v. The TDL Group Corp.*, 2025 BCCA 45.

Franchise Disputes: Case Law & Commentary – Leading Franchise Decisions – Restrictive Covenants – The Court found that there was no non-disclosure by DQC of an important and material fact related to the ongoing performance or enforcement of the Franchise Agreement. Correspondingly, DQC had not offended its duty to disclose important and material facts pursuant to s. 3 of the Wishart Act. The Franchise Agreement did not impose a duty on DQC to inform the Franchisee of inquiries or applications received for proposed franchise locations surrounding the Franchisee's exclusive territory. While there was an obligation to notify the Franchisee of DQC's plans pursuant to DQC's policies, DQC abided by this policy by providing notice to the Franchisee of its intention to open a new location and providing the Franchisee to respond. The Court found that it was not necessary to imply a term that DQC was required to give notice to the Franchisee of the interest received from others about developing and operating a Paris location as such a term was not consistent with the express terms of the Franchise Agreement and was not necessary to make the agreement commercially effective. The Court characterized the Franchisee's application as claiming a "right of first refusal" and a disclosure obligation that did not exist in the Franchise Agreement. DQC was always entitled under the Franchise Agreement to consider its own interests in developing new restaurants/stores outside of the Franchisee's exclusive territory. The Franchisee's application was therefore dismissed. *Ken Breau Corp. v. DQC Canada Inc.*, 2025 ONSC 126.