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### CANADIAN FRANCHISE GUIDE

Osler, Hoskin & Harcourt LLP

Release No. 2, June 2026

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

**Restrictive covenants (i.e. non-competes, non-solicitation, anti-poaching, etc)**—Bilomba Inc., operating as Fully Promoted Canada (“**Bilomba**”) operated a franchise system and entered into franchise agreements which contained a broad non-compete clause which limited operation for 2 years after termination within a 200 km radius of the store. The principal of the former franchisee, John Barrett, began operating a competing business, Creative Cresting Print and Promo Ltd. (“**Creative**”) with his son, Aaron Barrett, and purchased assets and a client list from the franchisee, as well as used the franchisor’s signage. Bilomba previously sought (and obtained) an interlocutory injunction against Creative and John Barrett for violating the non-compete clause (the “**Interim Injunction**”). The Interim Injunction prohibited the defendants from operating a competing business and required them to return certain items including a client list, phone numbers, a Google Business Page, and client artwork. However, the Court in that case declined to grant an injunction against Aaron Barrett. See: *Bilomba Inc. (Fully Promoted Canada) v. Barrett*, 2025 NSSC 124, 2025 CarswellNS 289 (N.S. S.C.). Bilomba brought a contempt motion against Creative, Jack Barrett, and Aaron Barrett for allegedly breaching the Interim Injunction. An investigation conducted by Bilomba revealed that Jack Barrett was still conducting business activities at the Creative storefront in Lower Sackville, Nova Scotia in July 2025, and Jack Barrett admitted he met with a potential client out of financial desperation. Additionally, the evidence showed that the client list was destroyed rather than returned to Bilomba, with both Jack Barrett and Aaron Barrett admitting they disposed of and retained no copies of it. (*Bilomba Inc. (c.o.b. Fully Promoted Canada) v. Barrett*, 2026 NSSC 13, 2026 CarswellNS 35 (N.S. S.C.))

**Duty of good faith and fair dealing**—The plaintiff franchisor, Massive Restaurant Private Limited (the “**Franchisor**”), operates a modern bistro-style restaurant franchise called “Farzi Cafe” and entered into a franchise agreement with the corporate defendant, Massive Restaurants Inc. (the “**Franchisee**”), to operate a Farzi Cafe restaurant in Mississauga, Ontario. The individual defendant was the directing mind of the Franchisee but was not himself a party to the franchise agreement. The Franchisor commenced an action against the Franchisee and the individual defendant in contract, negligence, fraud and unjust enrichment. The plaintiff alleged that the franchisee breached the agreement by failing to provide daily sales reports, failing to pay royalties, damaging the brand through poor service, fraudulently misrepresenting revenue data, and failing to comply with standard operating procedures. The defendants denied these allegations and counterclaimed, asserting that the plaintiff franchisor had itself breached its duty of fair dealing and good faith by failing to provide the necessary support, training, and guidance required in the franchise agreement as well as its disclosure obligation by deliberately misrepresenting its capability to provide this support. The franchisee ceased all operations after the claim had commenced. (*Massive Restaurant Private Limited v. Massive Restaurants Inc.*, 2026 ONSC 847, 2026 CarswellOnt 1850 (Ont. S.C.J.))