

Franchise Law

REVIEW

May 2011

This latest issue contains legislative updates, commentaries on recent cases, practice tips as well as news on our team. Please feel free to pass it on to colleagues you think would find it interesting.

Legislation

Making Ontario More Accessible: Customer Service Standards in force in 2012

Franchisors and franchisees with employees in Ontario should review the Accessibility Standards for Customer Service issued under the *Accessibility for Ontarians with Disabilities Act* to develop a compliance strategy in advance of January 1, 2012, when the Standards come into force. [More on osler.com](#)

Best Practices

Is It Time For Your Franchise Agreement to Have a Tune-Up?

Adopting the practice of regular franchise agreement reviews ensures franchisors are in compliance with relevant laws and operating their franchise systems in accordance with applicable commercial law requirements. The time, effort and costs involved are relatively insignificant and failure to do so may have critical consequences at a later date. [More on osler.com](#)

Franchising in Alberta

Ensuring your Guarantee is Enforceable

If franchisors operating in Alberta are unfamiliar with the requirement to obtain a certificate of notary public in relation to personal guarantees, they may find that the personal guarantees of franchisees' obligations that they have obtained are not enforceable. [More on osler.com](#)

Franchising in Québec

Gift Card Legislation Introduced in Québec

Québec's *Consumer Protection Act* has been amended to contemplate gift cards. Of note, these gift card amendments have retroactive effect, capturing all gift cards regardless of when they were issued. Gift cards are now regulated in all Canadian provinces. [More on osler.com](#)

Frequently Asked Questions

What to Do When a Franchisee Summons You to Testify

What do you do if you or one of your senior executives receives a summons to testify in your franchisee's law suit with his landlord, a business partner, or spouse? Whatever you do, don't ignore it. [More on osler.com](#)

Kudos

Jennifer Dolman was the Chair of, and spoke at, the Ontario Bar Association Franchise Law Section dinner program on "Ethical Issues for Franchise Lawyers" held in February. Jennifer also presented "Pulling the Reins in on Franchisees' Fair Dealing and Right to Associate Claims" at the Canadian Franchise Association's Ontario Regional Legal Day on March 2, 2011. Jennifer presented "Recent Trends in Franchise Injunctions and Why You Should Care" at the Canadian Franchise Association's National Convention from April 3 to 5, 2011.

Andraya Frith presented at the Ontario Bar Association program "Franchise Law Primer: A Practical Roadmap" held in Toronto on February 3, 2011.

Frank Zaid co-chaired a Business Solutions roundtable on "Best Practices in Administering Advertising Funds" at the International Franchise Association's 51st Annual Convention in Las Vegas on February 16, 2011.

Who, Where & What

Dominic Mochrie and Andraya Frith are both co-presenting papers at the International Franchise Association's 44th Annual Legal Symposium in Washington, DC from May 15 to 17, 2011. Dominic is presenting "Keeping Pace with Changing Technology in Franchising" and Andraya is presenting "To Err is Human: Remediating Mistakes in the Pre-Sale Disclosure Process."

Seminars

Over the past few months, the Osler Franchise Law Group has been conducting no-fee in-house seminars with some of our established franchisor clients on best practices in Canadian franchise law. These seminars deal with current trends and recommended practices in the preparation of franchise agreements and disclosure documents. As more provinces take an interest in franchise legislation and the number of court decisions interpreting existing legislation and providing guidance on disclosure practices increases, we are seeing a definite need and ongoing interest for the franchise community to be apprised of these developments.

If you are interested in having us present a seminar for your franchise company, law firm, or other franchise service supplier, please contact any member of the Osler Franchise Law Group.

We are planning a webinar entitled *"Best Practices in Canadian Franchise Law"* that will offer a particular focus on U.S.-based franchisors and their local counsel. If you wish to sign up for our advance invitation list, please send an e-mail to: seminars@osler.com.

About Us

Osler's Franchise Law Group has worked with more than 400 franchise systems in virtually every product and service category to help franchisors build large, successful businesses domestically and internationally.

With franchise experts in Toronto, Montréal and Calgary, our practice is national in scope and we have the experience and resources needed to help ensure the success of any client – from a Canadian start-up to a leading franchisor entering the Canadian market.

For more information on Osler's Franchise Law Group, visit our Franchise home page on osler.com.

Frank Zaid is a workshop panellist on *"Franchising in Regulated Industries"* at the International Franchise Association/ International Bar Association's 27th Annual IBA/IFA Joint Conference on May 18, 2011 in Washington, DC. Frank is also presenting a roundtable called *"Now's the Time – Expanding to Canada"* at the International Franchise Association's 44th Annual Legal Symposium in Washington DC from May 15 to 17, 2011.

Jennifer Dolman is hosting a roundtable on *"Preparing and Winning Injunctions for Franchisees and Franchisors"* at the International Franchise Association's 44th Annual Legal Symposium in Washington, DC from May 15 to 17, 2011.

Gillian Scott is co-presenting *"Live and Undecided: Sub-section 6(6) and Section 7 of the Arthur Wishart Act (Franchise Disclosure), 2000"* at the Ontario Bar Association franchise law dinner on June 1, 2011.

Jennifer Dolman is speaking at the Canadian Institute's 12th Annual National Forum on Class Actions Litigation on September 21, 2011 on the topic of *"Overcoming Unique Circumstances in Franchising Class Actions"* and at the ABA Forum on Franchising regarding *"Enforcing Your Trade-mark after Abandonment or Misappropriation"* on October 20, 2011.

For more information please contact:

Frank Zaid
Co-Chair
416.862.6415
fzaid@osler.com

Jennifer Dolman
Franchise Litigation
416.862.5911
jdolman@osler.com

Nathalie Beauregard
Québec
514.904.8121
nbeauregard@osler.com

Andraya Frith
Co-Chair
416.862.4718
afrith@osler.com

Colin Feasby
Alberta
403.260.7067
cfeasby@osler.com

Dominic Mochrie
Commercial Franchising
416.862.5994
dmochrrie@osler.com

osler.com

Toronto
Montréal
Calgary
Ottawa
New York