

# Franchise Law

## REVIEW

May 2012

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.

### Franchise Legislation

*Manitoba's The Franchises Act Comes Into Force on October 1, 2012*

Manitoba will join the ranks of those provinces with in-force franchise legislation this fall, when *The Franchises Act* comes into effect on October 1, 2012. While the general structure and obligations of the disclosure requirements are similar to those found in the other four franchising statutes in Canada, there are some noteworthy differences. [More on osler.com](#)

### Other Legislation

*Apologies as Dispute Resolution*

Imagine you're faced with a dispute that you believe could be resolved with a simple apology. Should you apologize even though your apology could later be construed as an admission of liability? Several provinces have legislation to help people apologize without admitting liability, but that legislation does not provide protection in all circumstances. Here are some strategies to consider. [More on osler.com](#)

### Franchising in the Courts

*Sirianni v. Country Style: A Cautionary Tale for Franchisors*

In the recent *Country Style* decision, the Ontario Superior Court ordered a franchisor to pay punitive damages to a franchisee for breaching the statutory duty of fair dealing. The case offers useful insight regarding when a franchisee will be permitted to rescind a franchise agreement, and should serve as a cautionary tale for franchisors in their dealings with franchisees, especially as they relate to the renewal of their franchise agreements. [More on osler.com](#)

### Best Practices

*Part II: Best Practices in Franchise Agreement and Disclosure Document Preparation*

In recent years we have observed some common problems in the preparation and validity of franchise disclosure documents. This article comments on several of these problems, including issues relating to the form, content, maintenance and delivery of disclosure documents. [More on osler.com](#)

### Kudos

Jennifer Dolman was selected as a *Franchise Times* Legal Eagle for 2012.

Frank Zaid was selected as a *Franchise Times* Legal Eagle for 2012.

Jennifer Dolman was interviewed for an article in the April 30, 2012 edition of the *Financial Post* Business Entrepreneur entitled "Franchisees need to remember their business is not their own."

Jennifer Dolman spoke on Hallmarks of a Viable Class Action at the Canadian Institute's Inaugural Class Actions Litigation Bootcamp on April 18, 2012.

Jennifer Dolman was quoted on the impact on franchise statutory rescission claims regarding the recent Court of Appeal decision in *Sharma v. Timminco Ltd.* in an article entitled, "Timminco Has Broad Implications" in the April 16, 2012 edition of *Law Times*.

Dominic Mochrie presented "But I'm Not a Spammer! Understanding the Pending Anti-Spam Legislation" at the Canadian Franchise Association's 2012 National Convention in Niagara Falls on April 2, 2012.

# Franchising in Quebec

## Update of Quebec Signage Issue

When venturing into Quebec, it is important to be familiar with the *Québec Charter of French Language*, which establishes French as the official language of Quebec. The Office québécois de la langue française has recently adopted a controversial approach to the interpretation of the French language requirements for exterior retail store signage. Although the issue remains in some state of flux, this new approach attempts to limit Quebec retailers' ability to display their English-only trade-marks on exterior store signage.

[More on osler.com](#)

## Frequently Asked Questions

### We resolved an ongoing civil action. Do we still have to disclose the case and the resolution?

Generally speaking, in respect of any civil actions, franchisors must include concluded civil litigation matters in the disclosure document only if there was any finding or admission of liability. [More on osler.com](#)

## Who, Where & What

### Upcoming Speaking Engagements

Dominic Mochrie will be facilitating a roundtable discussion on "A Strategy to Take Over the World – Things to Think About Before Expanding Internationally" at the upcoming International Franchise Association Symposium to take place from May 20 - 22, 2012 in Washington, D.C.

Jennifer Dolman will be facilitating a roundtable discussion during the International Franchise Association 2012 Legal Symposium on "Relationship: Notice of Default and Termination – How to Enforce Franchisee Exit from the System."

Jennifer Dolman will be speaking on "Critical Considerations for Franchise Class Actions Litigation" at The Canadian Institute's National Forum on Class Actions Litigation in Toronto on September 21, 2012.

Gillian Scott is co-chairing and speaking at the upcoming Ontario Bar Association dinner panel: "Wake up and Smell the Coffee! What You Need Know About the Tim Horton's Decision," on May 29, 2012.

### Seminars

#### Best Practices in Canadian Franchise Law

The Osler Franchise Group has presented exclusive seminars on Best Practices in Canadian Franchise Law for specific client groups directly or on-line. If you are interested in having us make such a presentation for your firm or franchise company, at no charge, please contact any member of our Franchise Law Group.

We are also going to present a webinar for United States based franchisors and franchise attorneys on "How to Bring a US Franchisor to Canada – the Practical Issues and Solutions" within the next few months. If you are interested in being on our mailing list for this webinar, please contact [seminars@osler.com](mailto:seminars@osler.com)

### Papers

Frank Zaid authored: "The Case for Mediation and Arbitration of Franchise Disputes" in the Ontario Bar Association Franchise Section *Focus on Franchising* newsletter, April 2012 (Vol. 3, No. 2).

Gillian Scott authored: "Limitation Periods and the Rescission Remedy" in the Ontario Bar Association Franchise Section *Focus on Franchising* newsletter, April 2012 (Vol. 3, No. 2).

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