

HOW TO LOCATE THE RIGHT LAWYER FOR YOUR FRANCHISED BUSINESS



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HOW CAN I LOCATE THE RIGHT LAWYER FOR MY FRANCHISED BUSINESS?

THE IMPORTANCE OF RETAINING GOOD COUNSEL

Franchise law in this Province of Ontario has become much more complex since the passing of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, Ontario's franchise disclosure statute. Under this relatively new law, a franchisor is required to provide a prospective franchisee with a disclosure document containing all material facts regarding the franchise to be sold to the franchisee, along with the franchise agreement and all other agreements to be executed by the franchisee. The preparation of the franchise documentation and a disclosure document (from the franchisor's perspective) and the review and analysis of the documentation (from the franchisee's perspective) requires certain legal expertise that is rarely found among lawyers who do not practice franchise law.

RECOMMENDATION

Whether you are an entrepreneur looking to franchise your business, an existing franchisor or a prospective franchisee looking to purchase a franchise, you will inevitably require the assistance of a lawyer to help you manage and deal with the wide range of legal issues surrounding your venture. Franchising has now legitimately become its own area of expertise. Often, franchisors and franchisees have hundreds of thousands of dollars at risk, so retaining your family lawyer or general corporate and commercial lawyer to address your franchising legal issues is therefore not recommended. I have all too often seen businesses which due to their failure to retain expert franchise counsel either generated unwanted litigation or have regretted their investment or their lack of resolve to retain franchise counsel when they needed such expert counsel most.

QUESTIONS TO ASK BEFORE RETAINING A LAWYER

Questions you should ask your lawyer before retaining him or her should include the following:

1. What experience do you have in advising prospective franchisees, entrepreneurs looking to franchise their businesses and existing franchisors?
2. Is franchise law your principal area of expertise?
3. Will you do the work yourself or will the work be handled by someone else within your firm?
4. Do you communicate clearly when explaining legal issues and legal documentation to your clients?
5. What are your billing practices? Will you consider flexible billing arrangements and do you bill regularly so as to not surprise your clients?
6. How connected are you to the franchising industry and can you introduce the appropriate franchise professionals such as franchise consultants, brokers and accountants familiar with the unique issues involved with franchising?
7. Do you have access to an experienced litigator within your office who could assist you to defend or launch an action should the need arise?
8. Are you a deal-maker or a deal-breaker?
9. Do you have interests outside of the law that may make you a better-rounded legal practitioner?
10. Are your offices conveniently located near and accessible to the subway system and major thoroughfares?

Joseph has been listed in The Canadian Legal LEXPERT® Directory as a leading franchise law practitioner. In addition to acting on behalf of franchisees, he serves as counsel for Canadian and US franchisors doing business in Canada and Canadian franchisors doing business in the US, Europe and abroad.

This does not constitute legal advice. Please consult your lawyer.

Joseph invites you to visit www.hofferadler.com and www.intelligentfranchising.com or to call him at the number below.