

Alberta Court Grants Injunction as Franchisee's Conduct Fills the Void

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In *HS Massage Experts Corp. v. Bakker*,¹ the Alberta Court of King's Bench recently granted an interlocutory injunction enforcing in-term restrictive covenants against a franchisee that had rebranded and begun operating a competing business. The Court held that the franchisor had established a strong prima facie case that one of the franchise agreements at issue (which had been marked "void") was binding and that the defendants were actively breaching the restrictive covenants contained in it.

Background

The franchisee operated two franchise locations under the plaintiff franchisor's system. Each location had a separate franchise agreement. After announcing a rebrand to a newly created competing business, the franchisee redirected customers to their own booking platform, used customer information to promote the new business, and otherwise operated in competition with the franchise system. The defendants disputed the validity of the franchise agreements on the basis that one of the agreements was not executed, and the other, while signed, had been stamped "void." The defendants also argued that disclosure deficiencies and other alleged breaches entitled them to rescind the agreements or render them unenforceable.

The Decision

The Court applied the traditional *RJR-MacDonald* injunction test and found that the franchisor had established a strong prima facie case in respect of the signed franchise agreement that had been stamped "void." The void stamp was imposed by DocuSign because the franchisee's lawyer did not sign in relation to the personal guarantee. For this agreement, the Court relied on evidence that the defendants had conducted themselves as franchisees under the system for a significant period of time. The Court concluded that the evidence demonstrated active breaches of in-term non-competition, non-diversion, and confidentiality covenants.

The Court found a serious issue to be tried in respect of the unsigned franchise agreement, but did not conclude that the unsigned franchise agreement established a strong prima facie case at the interlocutory stage.

Cassels

The Court has no trouble finding irreparable harm arising from the erosion of franchise-system goodwill, customer relationships, and the value of the network. In balancing the parties' interests, the Court held that any losses suffered by the defendants would be quantifiable and compensable in damages, whereas harm to the franchise system would not be readily measurable.

Ultimately, the Court reached different conclusions regarding two agreements. The Court was prepared to enforce the signed agreement with the “void” stamp on an interlocutory basis, but was not willing to do so for the unsigned agreement. However, the in-term covenant in the signed agreement applied to competition during the term anywhere in the world, rendering the enforceability of unsigned agreement somewhat academic.

Why It Matters

The decision shows that courts are prepared to enforce franchise agreement, even where there may be technical execution issues, provided that the evidence shows that the franchisee was taking the benefit of the franchise agreement, including by holding itself out as a franchisee.

The decision also confirms that evidence of customer diversion and damage to system goodwill can be persuasive and is capable to supporting a finding of irreparable harm sufficient to ground an injunction.

[Colin Pendrith](#) and Saad Rajper acted as counsel for the franchisor.

¹ *HS Massage Experts Corp. v. Bakker et al.* (Alta. K.B., June 26, 2026)