

## Clarity for Crabby Joe's?: The Supreme Court of Canada Denies Leave to Appeal in Franchise Dispute

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April 4, 2019

In our previous newsletters, we reported on the case of *2212886 Ontario v. Obsidian Group*, which arose out of a motion for partial summary judgment concerning a franchise dispute. By way of brief summary, at the Superior Court of Justice level, there were two principal issues respecting liability. The first was whether the disclosure document provided by the franchisor was so materially deficient as to constitute no disclosure at all, giving rise to a right to rescission within two years of the execution of the franchise agreement pursuant to the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3. The second liability issue was whether the two year period ran from the date the parties first executed the franchise agreement, in which case the claim would be out of time, or from the date the parties executed a replacement agreement, in which case the claim was timely. The motion judge granted the franchisee and its principals rescission of the franchise agreement and damages against the franchisor and its director.

On appeal, the Appellate Court allowed the appeal in part, setting aside all but the motion judge's determination of the limitation period issue. This decision was made on the basis that there was an insufficient record upon which to make crucial findings of fact and that oral evidence was necessary to address issues of credibility. ([A copy of our discussion on the Court of Appeal decision can be found here.](#))

On March 7, 2019, the Supreme Court of Canada released its judgment dismissing the franchisee's application for leave to appeal with costs. Following the failed appeal, the matter will be sent back to the Ontario Superior Court of Justice for trial. ([A copy of the Supreme Court of Canada's decision refusing leave to appeal can be found here.](#))

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*This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.*