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Ontario Appeals Court Upholds Decision Dismissing Franchisees' Class Action Claims

In an important victory for franchisors, the Court of Appeal for Ontario has upheld a lower court's decision dismissing Tim Hortons franchisees' claims in a proposed class action. *Fairview Donut, Inc. v. The TDL Group Corp.*, [2012] ONCA 867 (Dec. 7, 2012). As we reported in the April 2012 edition of *The GPMemorandum*, the Ontario Superior Court of Justice had dismissed a \$2 billion action brought against Tim Hortons by a putative class of franchisees relating to Tim Horton's transition to a new donut production system and the pricing of its products.

The franchisees appealed the decision granting summary judgment on the breach of contract and statutory duty of good faith claims. The Court of Appeal for Ontario upheld the lower court's decision, finding that none of the franchisees' claims could succeed and that Tim Hortons' decision to move to a new donut production system was a rational business decision for "valid economic and strategic reasons." The appeals court also decided that the franchise agreements did not require that every new product that Tim Hortons rolled out to the system be profitable. These decisions signal to franchisors that Ontario courts will uphold the terms of a franchise agreement provided that the franchisor acts in good faith.

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