

November 27, 2008

Dear fellow franchisees,

As you may know, the Executive Committee of the Concerned Franchisees Group ("CFG") brought a motion to intervene as an added party to my lawsuit. The motion was heard by Justice Lax on November 20, 2008. Soon thereafter, Justice Lax dismissed the motion, thereby denying the Executive Committee the ability to participate as an added party in the proceedings. In addition to paying substantial legal costs in excess of \$100,000.00 to the Executive Committee's lawyers, the membership fees for joining the CFG will be used to pay \$30,300.00, being a portion of my legal costs, since I had to defend arguments that the judge dismissed as being "irrelevant to the certification requirements" of my proposed class action.

I know franchisees who felt compelled to join the CFG and pay \$500.00 because they feared being targeted by TDL if their names were not on the list of CFG members accessible on the homepage of the CFG website. I requested the Executive Committee to remove the list of members from the website and to keep the names confidential so that franchisees would not have to become members out of fear. My request was ignored.

The Executive Committee has promulgated incorrect information to mislead franchisees to contribute to the legal fees to make arguments that were ultimately rejected by the court as being irrelevant to the issues before the court. The inaccuracies and misinformation the Executive Committee have disseminated on the CFG website creates fear and unwarranted concern amongst members who can only benefit from my lawsuit or class action, if certified, and **will not be harmed by it.**

A clear example of misinformation is the posting of the opinion of Dr. Sridhar Moorthy on the CFG website. The members of the Executive Committee offer Dr. Moorthy as a branding expert with an opinion about likely harm to the Tim Hortons brand because of this lawsuit. The Executive Committee ignored my request to post the transcript of Dr. Moorthy's cross-examination where he clearly concedes he has not done the analysis necessary to offer an opinion on whether the brand would be harmed by media reports concerning this lawsuit. In her reasons, Justice Lax finds that "there is no reliable evidence that the business interests of franchisees will be harmed by certification or that certification will result in negative media coverage adversely affecting the brand or a reduction in sales. Dr. Moorthy has undertaken no analysis to determine this." In open court, Justice Lax also noted that the evidence of Graham Oliver, a member of the Executive Committee, was that he had not suffered any negative impact to his business (in terms of sales to customers or relationships with employees, retailers, suppliers) due to the commencement of my lawsuit. Justice Lax had this to say about the inaccuracies of the CFG's website: "Some of the information provided to members of CFG through the website is incorrect, (for example that the plaintiffs are seeking a return to the scratch baking system) and some of the information appears to misunderstand the purpose of a certification motion)..."

I hope that this decision will demonstrate the fallacy of the suggestion that the Tim Hortons brand and franchisees' businesses will be harmed by this lawsuit. As Justice

Lax has stated and as I have said many times, "the substance of this action is the erosion of franchisees' margins." Contrary to the CFG's misinformation, this lawsuit is NOT about returning to the scratch-bake system nor is it about increasing product prices to the customers. What I am seeking is the fair treatment of franchisees, i.e. ensuring that franchisees earn fair margins in the face of a change of the baking system and TDL's management of the lunch menu program.

Justice Lax noted that even the CFG shares at least some of my concerns that are at issue in this lawsuit, but that we disagree on the mechanism for resolving these issues. If we franchisees would expend our energies on negotiating a fair arrangement with TDL rather than engaging in the divisive behaviour that was evident during this past month, seeking to certify my lawsuit as a class action might not be necessary. Since the Advisory Board's efforts to date have not achieved the changes to reflect a fair allocation of profit in my estimation, I remain committed to a court determination of the issues.

Please feel free to contact me if you have any questions and check [www.adairmorse.com](http://www.adairmorse.com) for updates. You may also email one of my lawyers, Ms. Agape Lim at [alim@adairmorse.com](mailto:alim@adairmorse.com), with your contact information to be included on a mailing list to receive updates.

The reasons of Justice Lax are posted in the Latest News Section of the Adair Morse LLP website, accessed at <http://www.adairmorse.com/Pages/News/Default.aspx>.

Yours truly,

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