

What does a franchise litigation lawyer do?

Franchises are not immune to disagreements. If these become too much to handle, the services of a franchise litigation lawyer may be needed



By [Kairos Anggadol](#)

Jun 06, 2024

Share [f](#) [X](#) [in](#)

Contents

- [1. What is a franchise litigation lawyer?](#)
- [2. What are the roles of a franchise litigation lawyer?](#)
- [3. Why do you need a franchise litigation lawyer?](#)
- [4. Franchise litigation lawyer: helping franchisees and franchisors](#)

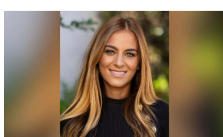
When a franchise contract is entered, parties may still be in the honeymoon phase; in time, disputes might arise between them. If they can sort out these disputes, well and good.

But what happens if they can't resolve these disputes between themselves? Reaching out to a franchise litigation lawyer may be their best option.

What is a franchise litigation lawyer?

A franchise litigation lawyer is a legal professional who knows how to settle disagreements between franchisees and franchisors through filing these cases in court. They know the different Canadian laws on the enforcement and termination of franchise agreements that concern the issue at hand.

Recent Articles



[From Lebanon to Loblaw – Carole Dagher impresses in the legal world and as a mental health advocate](#)

[High fares prompt Competition Bureau study on airlines](#)



CSA introduces new rules for faster mutual fund settlements

But because they're also focused on the litigation aspect of franchise law, franchise litigation lawyers are also experts on the rules of court and trial procedures. They guide clients in the stages of a trial (pre-trial, trial proper, up to appeals), and what to do to prepare for it.

Legal issues that franchise litigation lawyers deal with

Franchise litigation lawyers can help clients with issues that can be:

- contractual in nature, which stem from the interpretation or implementation of their franchise contract
- other related issues, or those which are based on the business relations of these two parties

Watch this short video on how to deal with these franchise disputes:



Reach out to any of the [best corporate commercial litigation lawyers in Canada](#) for help with franchise disputes.

Canadian laws on franchises

While there are no federal laws on franchising in Canada, there are franchise laws — also called franchise disclosure laws — in the following provinces:

- Alberta
- British Columbia
- Manitoba
- New Brunswick
- Ontario
- Prince Edward Island

All these provinces' franchise laws are similarly called the Franchises Act, except for Ontario, whose formal name is the Arthur Wishart Act (Franchise Disclosure). In Québec, the Civil Code of this province is also another applicable law.

In addition to these laws, franchise litigation lawyers not only deal with franchise law, but may also touch on other practice areas, such as:

- **contract law:** Canadian law on franchises relies on the law on contracts, in the absence of a federal franchising law
- **corporate commercial law:** as contending parties are usually corporations themselves, whose operations are governed by corporate commercial laws

- **intellectual property (IP) law:** franchise disputes may also pertain to violation of IP rights or infringements (e.g., trademark)

What are the roles of a franchise litigation lawyer?

Daniel Hamson, Senior Associate of the Litigation Group at Sotos LLP, gives some insights into the work of a franchise litigation lawyer. “As the name suggests, franchise litigation lawyers assist clients in all manner of disputes that occur in the franchising industry.

He explains that conflicts usually occur between franchisors and franchisees. These conflicts often involve:

- legal issues under provincial franchise laws
- requests for court orders to stop or allow the ending of franchise agreements
- disputes about how franchisors manage their systems
- disputes about how franchisees behave

He also points out the unique practice of franchise litigation, in relation to the business context in which these disputes arise. “Parties to a franchise dispute are typically locked into a provincially regulated, long term and interdependent contractual relationship. These factors, along with clients’ overarching commercial objectives and the dynamics of their systems, must be factored into whatever solutions a franchise litigation lawyer recommends to their clients.”

Franchise dispute and franchise agreement lawyer

Like a [franchise dispute lawyer](#), a franchise litigation lawyer can help their client resolve a franchise dispute it has with the other party. However, what makes a franchise litigation lawyer different is that they usually use a trial proceeding and let the court decide on the matter.

In most cases, the roles of a [franchise agreement lawyer](#), franchise dispute lawyer, and a franchise litigation lawyer may also overlap.

Represent franchisees and franchisors

Hamson says most of his practice has been dedicated to franchise litigation.

“I have been fortunate to represent both franchisors and franchisees on a number of interesting matters. For example, I recently represented a franchisor in the successful defence of the purported rescission of its franchise agreement with one of its franchisees. This decision clarified the scope of a franchisor’s ability to obtain a binding release despite the non-waiver provisions in Ontario’s franchise legislation.”

He adds that he also recently represented ten cross-Canadian former franchisees of a national brand in their successful defence of a motion for injunctive relief to compel their reintegration into the system.

Evaluate the case before filing it in court

The role of franchise litigation lawyers usually starts when clients come to them with a dispute regarding their franchise agreements. The case will then be evaluated by these lawyers to check if:

- the client really has a cause of action over the other party
- the issue can be resolved by filing a case, or through other means

For instance, franchise litigation lawyers can advise clients if they have a strong case and if filing a case in court is proper. Otherwise, they may have to resort to other methods, such as mediation or arbitration, especially if it’s outlined in the franchise agreement.

Depending on the remedy asked by the plaintiff (the one filing the case), franchising disputes usually fall as civil cases. Here are some examples of cases that can be filed in court with regards to franchising disputes:

- breach of franchising contracts or agreements
- violation of franchise disclosure laws
- claims for misrepresentation and fraud
- infringement of the franchisor's IP rights

Help in court filing and trial proper

Franchise litigation lawyers can help their clients file a case in court. With their knowledge of the rules of court and trial strategies earned through experience, these lawyers can guide clients through every step.

This starts with:

- building the case
- preparing the pleading
- gathering evidence
- prepping witnesses

When trial day comes, franchise litigation lawyers can also walk clients through the process.

If the court's decision is not favourable to their clients, franchise litigation lawyers know what to do next, which is the filing of an appeal.

Why do you need a franchise litigation lawyer?

Hamson says that the best time to contact a franchise litigation lawyer is before a dispute escalates. "Given the duration and interdependent nature of franchise relationships, parties to a franchise dispute may well have to work together for many years after their dispute has concluded. Because of this, there is a significant incentive to explore whether the dispute can be amicably resolved pre-litigation, which is best accomplished with the assistance of experienced franchise counsel.

He adds that engaging in amicable settlement where appropriate can, at a minimum, build some trust. "If a resolution is achieved, head off potentially costly litigation from the outset to allow parties to instead dedicate their time and financial resources to their businesses."

Franchise litigation lawyer: helping franchisees and franchisors

When contractual parties face difficulties, they have the option of leaving the relationship or working to solve the matter. This also applies to franchise disputes. A franchise litigation lawyer can help clients decide whether to pursue legal action against the other party or explore other options.

It's also important to know one's [rights and obligations stated in the franchise contract](#). Where there's confusion as to these matters, a franchise litigation lawyer can help their client understand the bigger picture.

But when it's time to seek the intervention of the court, a franchise litigation lawyer can help.

Looking to hire a franchise litigation lawyer? Check out our directory of the [best franchise lawyers in Canada](#) as ranked by Lexpert.

