

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**2038724 ONTARIO LTD. and 2036250 ONTARIO INC.**

Plaintiffs

- and -

**QUIZNO'S CANADA RESTAURANT CORPORATION,  
QUIZ-CAN LLC, THE QUIZNO'S MASTER LLC,  
CANADA FOOD DISTRIBUTION COMPANY, GORDON FOOD SERVICE, INC.  
and GFS CANADA COMPANY INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

Notice published under the *Class Proceedings Act, 1992*

**TO ALL CANADIAN QUIZNOS FRANCHISEES**

If you operated a Quiznos franchise in Canada at any time between May 12, 2006 and November 23, 2009, this Notice will be important to you. A legal claim against the above named defendants (hereafter "Quiznos" and "GFS") has been certified as a Class Proceeding (the "Class Proceeding") by the Ontario Superior Court of Justice. The Class Proceeding will deal with claims alleged against the defendants which, if proven, could entitle you to a monetary payment.

This Notice is published by Order of the Ontario Superior Court of Justice dated November 23, 2009 (the "Certification Order") and deals with:

- Nature of the Class Proceeding and Common Issues;
- Inclusion In/Opting Out of the Class Proceeding;
- Consequences of the Class Proceeding; and
- Other Matters.

**Nature of the Class Proceeding and Common Issues**

2038724 Ontario Ltd. and 2036250 Ontario Inc. (the "Representative Plaintiffs") commenced an action against the defendants by having a Statement of Claim ("Claim") issued on behalf of a class that is defined in the Certification Order as:

all persons, including firms and corporations, carrying on business in Canada under a 'Quiznos' Franchise Agreement at any time between May 12, 2006 and November 23, 2009 ("Class Members").

On behalf of Class Members, the Representative Plaintiffs claim damages and other relief for alleged overcharging on supplies purchased by the Class Members. A claim is also made for punitive damages.

Quiznos and GFS have denied the allegations in the Claim and will defend the proceeding. Quiznos will also assert by way of defence that certain Class Members no longer have a claim because of releases signed by these Class Members. The Representative Plaintiffs' position is that these releases are not enforceable.

This action has been certified as a class proceeding by the court and will proceed to trial to determine the following common issues:

- (a) Have the Quiznos Defendants, or any of them, engaged in conduct contrary to Section 61(1) of the *Competition Act*, R.S.C. 1985, c. 19 (2<sup>nd</sup> Supp.)?
- (b) Have the Defendants, or any of them, engaged in conduct that amounts to civil conspiracy?
- (c) Have the Quiznos Defendants, or any of them, engaged in conduct which constitutes a breach of their contractual obligations to the Class Members?
- (d) Have the Class Members suffered loss or damage as a result of any of the conduct referred to in issues (a), (b), (c) or (d)? If so, what is the appropriate measure or amount of such loss or damages?
- (e) Should the Court award an aggregate assessment of monetary relief on behalf of some or all Class Members? If so, what is the amount of the aggregate assessment and how should the Class Members share in the award?
- (f) Should the defendants pay punitive, exemplary or aggravated damages to the Class Members? Should such damages be assessed in the aggregate? If so, what is the amount of such damages including pre-and post-judgment interest thereon?
- (g) Are the Class Members entitled to recover from the Quiznos Defendants the full costs of their investigations and the full costs of this proceeding, including contingent legal fees on a complete indemnity basis, under section 36(1) of the *Competition Act*?

### **Inclusion In / Opting Out of the Class**

#### **A. Automatic inclusion in the Class**

If you carried on business in Canada on May 12, 2006 under a Quiznos Franchise Agreement, then you are automatically included in the Class. No steps are necessary to "join" the Class.

#### **B. How to be excluded from the Class**

If you do not wish to be included in the Class, you must fill out the attached coupon and send it to Sotos LLP, the lawyers for the Class. The deadline for opting out is 45 days after the date on this notice (i.e. January 7, 2010). If your written request to opt out is not received by that date, you will remain a member of the Class.

### C. Consequences of opting out

If you opt out of the Class, you will not be affected by or benefit from any decision the Court makes on the common issues.

#### **Possible Consequences of the Lawsuit**

The Court will be asked to decide whether the defendants should pay any monies to the Class Members, and if so, how much the affected Class Members should receive. The Court may also order the defendants to stop engaging in certain practices.

Class Members, other than the Representative Parties, are not liable for costs except with respect to the determination of their individual claims.

Whether or not the Class Proceeding is successful, all Class Members who do not opt out will be bound by the judgment. This means, for example, that after the Class Proceeding has concluded a Class Member cannot start its own individual claim against any of the defendants based on the same or similar allegations.

#### **Other matters**

The Representative Plaintiffs have retained the law firm of Sotos LLP ([www.sotosllp.com](http://www.sotosllp.com)) to represent the Class in the Class Proceeding. The law firm will be paid legal fees only if the Class Proceeding is successful. The Representative Plaintiffs have agreed that the law firm's fees will be 25% of the amount recovered plus disbursements, in addition to any costs the defendants are required to pay. The retainer agreement and any fees charged by class counsel must be approved by the Court.

For further information about the class action lawsuit you may contact:

Sotos LLP, Barristers and Solicitors, Suite 1250, 180 Dundas St. West, Toronto, Ontario M5G 1Z8, attention: David Sterns ([dsterns@sotosllp.com](mailto:dsterns@sotosllp.com)) or Allan D.J. Dick ([adjdick@sotosllp.com](mailto:adjdick@sotosllp.com)), telephone (416) 977-0007, fax (416) 977-0717.

The statement of claim and other court papers in this action are available on Sotos LLP's website.

PLEASE DO NOT CONTACT the Court with any questions about the lawsuit.

November 23, 2009

**OPT OUT COUPON**

TO:

**SOTOS LLP**

Barristers and Solicitors  
Suite 1250  
180 Dundas Street West  
Toronto, Ontario M5G 1Z8

Attention: David Sterns

Facsimile: (416) 977-0717

I wish to opt out of the Quiznos/GFS class action lawsuit.

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Signature

Name of Company:  
please print

Store No:

Address:

Postal code:

Telephone:

Note: To opt out, this coupon must be completed and received at the above address before January 7, 2010.