

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
MR. JUSTICE M. CULLITY) FRIDAY, THE 16TH
) DAY OF OCTOBER, 2009

BETWEEN:

405341 ONTARIO LIMITED

Plaintiff

- and -

MIDAS CANADA INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the plaintiff for an order declaring that any provision contained in the Midas Franchise and Trademark Agreement requiring class members to release the defendant from liability as a condition for the renewal or transfer of their rights under the Agreement, is unenforceable to the extent of some or all of the common issues certified in this Action, amongst other relief, was heard on September 24, 2009 at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of Daniel McGolrick sworn August 18, 2009, the Affidavit of Harry Hochman sworn August 20, 2009 and the Affidavit of James Ball

sworn September 4, 2009, filed, on hearing the submissions of counsel for the plaintiff and the defendant, and upon being advised of the parties' agreement regarding the issue of the costs of the motion,

1. **THIS COURT ORDERS AND DECLARES** that any provision contained in the Midas Franchise and Trademark Agreement (the "Agreement") requiring franchisees to release the defendant from liability as a condition for the renewal or transfer of their rights under the Agreement is unenforceable and void for the purposes of this proceeding.
2. **THIS COURT ORDERS** that the defendant, Midas Canada Inc. ("Midas"), is prevented from requiring 405341 Ontario Limited, being the representative plaintiff herein, to release Midas from the claims certified in this action, as a condition of the renewal or transfer of its rights under its Agreement.
3. **THIS COURT ORDERS** that the defendant pay to the plaintiff the costs of this motion, fixed in the amount of \$35,824, inclusive of G.S.T. and disbursements, which costs are payable on November 16, 2009.

NOV 18 2009
 REGISTRY
 REGISTRATION NO.:



G. Argyropoulos, Registrar
 Superior Court of Justice

THIS ORDER BEARS INTEREST at the rate of 2 per cent per year commencing on November 17, 2009.

405341 ONTARIO LIMITED
Plaintiff

and
MIDAS CANADA INC.
Defendant

Court File Number:07-CV-333934CP

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

ORDER

SOTOS LLP
Barristers and Solicitors
Suite 1250
180 Dundas Street West
Toronto, ON M5G 1Z8

Allan D.J. Dick (LSUC # 24026W)
David Sterns (LSUC # 36274J)
Sam Hall (LSUC#54582T)

Tel: (416) 977-0007
Fax: (416) 977-0717

Lawyers for the plaintiff