

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

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

**REPLY TO THE STATEMENT OF DEFENCE
OF GORDON FOOD SERVICE, INC. AND GFS CANADA COMPANY INC.
(collectively, "GFS")**

1. The plaintiffs admit the allegations contained in paragraphs 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 29 (first two sentences), 30 (to the extent only that franchisees are not required to buy produce from GFS), 35, 40 (first sentence), and 50 (first sentence thereof) of GFS's statement of defence.
2. The plaintiffs deny the allegations contained in paragraphs 8, 9, 10, 11, 12, 13, 27, 28, 29 (balance), 30 (balance), 36, 37, 38, 40 (balance), 41 to 47, 49 and 50 (balance) of GFS's statement of defence.
3. The plaintiffs have no knowledge of the allegations contained in paragraphs 22, 27, 29 (last sentence), 31, 32, 33, 34 and 39 of GFS's statement of defence.

4. The plaintiffs repeat and reply upon the allegations contained in their amended amended statement of claim, as if pleaded below in their entirety.

5. With respect to the allegations contained in paragraphs 40 to 47 of the GFS statement of defence, GFS's proposal was disingenuous. To GFS's knowledge, Quiznos franchisees pay substantially more for the same products which GFS could arrange itself for the franchisees to purchase if GFS acted as a direct distributor of the same products. Instead, GFS agreed contractually with Quiznos/CFD to distribute products at inflated prices and to remit a substantial part of the overcharge to Quiznos. GFS would remain bound by its agreement with Quiznos/CFD regardless of whatever "with prejudice" offer it made with the plaintiffs.

6. Notwithstanding its proposal and the knowledge that its then current distribution agreement with Quiznos/CFD breached the *Competition Act* as alleged, GFS renewed the wrongful distribution scheme by entering into a subsequent unlawful distribution agreement with Quiznos/CFD during the course of this action.

DATE: December 21, 2009

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2038724 ONTARIO LTD. et al.

Plaintiffs

and

**QUIZNO'S CANADA RESTAURANT
CORPORATION**

Defendants

Court File Number: 06-CV-311330CP

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SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

**REPLY TO THE STATEMENT OF
DEFENCE OF GORDON FOOD SERVICE,
INC. AND GFS CANADA COMPANY INC.**

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