

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
MR. JUSTICE PAUL M. PERELL

)
)
)

THURSDAY, THE 10TH
DAY OF JULY, 2014

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*

ORDER

(Approving Notice to Class Members)

THIS MOTION for an Order approving the form and content of the notice to Class Members of a settlement approval hearing and approving the method of dissemination of the notice was heard on **Thursday, July 10, 2014**, at Osgoode Hall, 130 Queen St. West, Toronto, Ontario;

UPON READING the materials filed, including the Settlement Agreement dated **July 9, 2014**, a copy of which is attached to this Order as Schedule "A" (the "**Settlement Agreement**"), and upon hearing submissions of counsel for all parties;

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that a hearing is to be held on ^{VPMO.} ~~Oct 2, 2014~~ ^{11:00 VPMO}, beginning at ~~10:00~~ a.m. or as soon thereafter as possible at Osgoode Hall, 130 Queen St. West, Toronto, Ontario, at which time this Court will be asked to approve the Settlement Agreement as fair, reasonable and in the best interests of Class Members (the "**Settlement Approval Hearing**").

3. **THIS COURT ORDERS** that the proposed form of notice of the Settlement Approval Hearing, attached hereto as Schedule "B", is approved (the "**Notice**");

4. **THIS COURT ORDERS** that the Notice shall be delivered to Class Members on or before ^{VPMO} ~~July 18, 2014~~ by the following means:

- (a) Pre-paid regular mail to the last known address for each Class Member;
and
- (b) Publication of the Notice on a dedicated website for this action maintained by Class Counsel, Sotos LLP (the "**Notice Plan**").

5. **THIS COURT ORDERS** that the Quiznos Defendants shall, in accordance with the terms of the Settlement Agreement, pay the reasonable disbursement costs associated with mailing the Notice to Class Members as required in paragraph 4(a).

6. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing may be subject to adjournment by the Court without further mailing of a notice to Class Members.

7. **THIS COURT ORDERS AND DECLARES** that the Notice and Notice Plan constitute fair and reasonable notice to all Class Members and comply with section 19 of the *Class Proceedings Act, 1992*.



The Honourable Mr. Justice Paul M. Perell

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 10 2014

PER / PAR:



SCHEDULE "A"

Court File No. 06-CV-311330CP

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

SETTLEMENT AGREEMENT

WHEREAS:

- A. On May 12, 2006, the plaintiffs, 2038724 Ontario Ltd. and 2036250 Ontario Inc. (together, the "**Plaintiffs**") commenced an action in the Ontario Superior Court of Justice (the "**Court**"), Court File No. 06-CV-311330CP (the "**Action**"), against the defendants, Quizno's Canada Restaurant Corporation, Quiz-Can LLC, The Quizno's Master LLC and Canada Food Distribution Company (collectively, the "**Quiznos Defendants**") and the defendants, Gordon Food Service, Inc. and GFS Canada Company Inc. (together, the "**GFS Defendants**"), which Action was certified as a class proceeding by Order of the Court dated November 23, 2009 (the "**Certification Order**");
- B. The Defendants have denied and continue to deny any wrongdoing or liability of any kind to the Plaintiffs or the Class (as defined in the Certification Order);

- C. The Plaintiffs have reviewed the terms of this Settlement Agreement. Class Counsel (as defined below) have fully explained to the Plaintiffs the terms of this Settlement Agreement. Based upon an analysis of the facts and the law applicable to the claims of the Plaintiffs, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving claims of the Class Members provided for in this Settlement Agreement, the Plaintiffs and the law firm of Sotos LLP (the "Class Counsel") have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Class Members;
- D. Despite their belief that they are not liable for the claims asserted in the Action and have defences thereto, the Defendants are entering into the Settlement Agreement in order to achieve a final resolution of all claims asserted in the Action or which could have been asserted in the Action against them or any of the Releasees (as defined below), by the Plaintiffs, to avoid the expense, inconvenience and burden of the litigation and the related distraction and diversion of the personnel and resources, to put to rest this controversy and to avoid the risks inherent in uncertain litigation;
- E. The Parties intend to and hereby do finally resolve the Action, subject to Court approval as set out herein, without prejudice or admission of liability.

NOW, THEREFORE, the Parties, by their respective counsel, agree as follows:

Section A. Notice to the Class

1. Subject to the Court's approval in accordance with section 19 of the *Class Proceedings Act 1992*, S.O. 1992 c. 6, the parties agree that the Class Members shall be notified of the Settlement Approval Hearing (as defined below) and of the period for providing written objection to the Settlement, by a written notice substantially in the form attached as Exhibit "A" (the "**Notice**"). As used herein, the term "Class Members" does not refer to or include any person who opted-out of the Class in accordance with paragraph 8 of the Certification Order.
2. Subject to the Court's approval, the Notice shall be delivered to Class Members by the same means described in paragraph 7 of the Certification Order (a copy of which is attached as Exhibit "B").
3. The Quiznos Defendants shall bear the reasonable cost of mailing the Notice to Class Members.
4. The parties will bring a motion to the Court, as soon as reasonably practicable following execution of this Settlement Agreement, for approval of the Notice and proposed delivery of the Notice, and to fix a date for a motion (the "**Settlement Approval Hearing**") seeking the Court's approval of this Settlement Agreement and the issuance of the Approval Order, in accordance with section 29 of the *Class Proceedings Act 1992*, S.O. 1992 c. 6.

Section B. Court Approval of the Settlement Agreement and Dismissal of Actions

5. The parties agree to proceed to the Settlement Approval Hearing on consent in accordance with this Settlement Agreement.

6. The parties will seek an Order approving the Settlement Agreement and dismissing the Action substantially in the form attached as Exhibit "C" (the "**Approval Order**").

7. If the Approval Order is not issued by the Court:

(a) the Settlement Agreement shall be null and void and shall have no force or effect, shall not be used as evidence or referred to in any way, and no party to this Settlement Agreement shall be bound by any of its terms except the terms of this paragraph;

(b) this Settlement Agreement, and all of its provisions, and all negotiations, statements and proceedings relating to it shall be without prejudice to the rights of the Parties, who shall be deemed to be restored to their respective positions existing immediately before this Settlement Agreement; and

(c) the Funds (as defined below), together with accumulated interest, will be returned to the Quiznos Defendants.

8. Counsel for the Plaintiffs and the Quiznos Defendants agree that, with respect to the action and counterclaim in Ontario Superior Court of Justice file number CV-09-7997-00CL (the "**Other Action**"), they shall execute a consent to an order dismissing the Other Action without costs in the form attached hereto as Exhibit "D". This

consent shall be held in escrow by counsel for the Quiznos Defendants, to be filed with the Court only after receiving the Approval Order.

Section C. The Settlement Amount

9. Within 30 days of execution of the Settlement Agreement, the Quiznos Defendants shall pay the amount of \$275,000, inclusive of all fees, disbursements and taxes to Class Counsel in trust (the "**Funds**"), to be held in escrow until the 31st day following the issuance of the Approval Order.

10. Within 30 days of execution of the Settlement Agreement, the parties shall consent to an Order paying the amount of \$10,000, posted as security for costs by the Plaintiffs pursuant to the Order of Madam Justice Hoy dated March 28, 2007, plus any interest that has accrued, out of court payable to Class Counsel in trust, to be held in escrow until the 31st day following the issuance of the Approval Order.

Section D. Effect of Settlement

11. "**Released Claims**" means any and all claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, including assigned claims, whether known or unknown, asserted or unasserted, regardless of the legal theory, existing now or arising in the future by any and all of the Plaintiffs or the Class Members, arising out of or relating to the purchase, sale, distribution, promotion or marketing of Supplies (as defined in the Statement of Claim). Released Claims include, without limitation, all claims for damages including, but not limited to punitive, aggravated, statutory and other multiple damages or penalties of any kind; or remedies of whatever

kind or character, known or unknown, that are now recognized by law or equity or that may be created and recognized in the future by statute, regulation, judicial decision, or in any other manner; injunctive and declaratory relief; economic or business losses or disgorgement of revenues or profits; costs or lawyers' fees; and prejudgment and post-judgment interest.

12. **"Releasees"** means the Defendants and each of their respective direct and indirect parents, subsidiaries, affiliates, and divisions, along with each of their respective current and former officers, directors, employees, trustees, representatives, lawyers, agents and insurers; any and all predecessors, successors, and/or shareholders of the Defendants and each of their direct and indirect parents, subsidiaries, affiliates, and divisions.

13. **"Releasers"** means the Plaintiffs and the Class Members and their respective heirs, executors, trustees, administrators, assigns, attorneys, representatives, partners and insurers and their predecessors, successors, heirs, executors, trustees, administrators and assignees.

14. Upon the issuance of the Approval Order, the Releasers forever and absolutely release the Releasees from the Released Claims.

15. Upon the issuance of the Approval Order, the Quiznos Defendants forever and absolutely release the Plaintiffs from any and all any and all claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, including assigned claims, whether known or unknown, asserted or unasserted, regardless of the legal theory, existing now or arising in the future by any and all of the Quiznos

Defendants, arising out of or relating to the Plaintiffs ownership or operation of a Quiznos franchise. This release includes, without limitation, all claims for damages including, but not limited to punitive, aggravated, statutory and other multiple damages or penalties of any kind; or remedies of whatever kind or character, known or unknown, that are now recognized by law or equity or that may be created and recognized in the future by statute, regulation, judicial decision, or in any other manner; injunctive and declaratory relief; economic or business losses or disgorgement of revenues or profits; costs or lawyers' fees; and prejudgment and post-judgment interest (the "**Quiznos Released Claims**").

16. Upon the issuance of the Approval Order, the Releasors, and Class Counsel shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity or other claims over for relief from any Releasee in respect of any Released Claim or any matter related thereto.

17. The Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, the Releasees, and the Releasors. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Defendant shall be binding upon all of the Releasees.

18. Neither the Approval Order nor the Settlement Agreement, nor anything contained herein, shall be interpreted as a concession or admission of wrongdoing or liability by any Releasee, or as a concession or admission by any Releasee of the truthfulness of any claim or allegation asserted in the Action. Neither the Approval Order nor the Settlement Agreement, nor anything contained herein shall be used or construed as an admission by any Releasee of any fault, omission, liability or wrongdoing in any statement, release or written document or financial report.

19. Neither the Settlement Agreement, nor anything contained herein, nor any of the negotiations or proceedings connected with it, nor any related document, nor any other action taken to carry out the Settlement Agreement shall be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to enforce the Settlement Agreement, or to defend against the assertion of Released Claims or if otherwise required by law.

20. In the event that litigation commenced or continued by any Class Member against another person or by another person against a Class Member arising out of or in any way relating to the Released Claims results in a claim over or judgment against any Defendant and/or any other Releasee, the Class Member shall fully hold harmless, reimburse and indemnify the Defendant and/or such other Releasee for such amount.

Section E. Miscellaneous

21. The parties agree that, aside from the cost of mailing the Notice, each party shall bear its own costs with respect to the Settlement Approval Hearing and any other steps necessary to seek approval of and to implement the Settlement Agreement.

22. Any notification, request, instruction or other document to be given by any Party to any other Party shall be provided in writing, as follows:

To Plaintiff and Class Members:

Sotos LLP
180 Dundas Street West, Suite 1200
Toronto, Ontario, M5G 1Z8
Facsimile No: (416) 977-0717
Attention: Jean-Marc Leclerc

To the Quiznos Defendants:

Cassels Brock & Blackwell LLP
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2
Facsimile No: (416) 360-8877
Attention: Geoffrey B. Shaw

To the GFS Defendants:

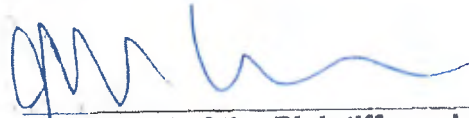
Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario, M5L 1B9
Facsimile No.: (416) 947-0866
Attention: Katherine L. Kay

23. The Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronic signature shall be deemed an original signature for purposes of executing the Settlement Agreement.

24. The recitals to the Settlement Agreement are true and form part of the Settlement Agreement.

25. The exhibits annexed hereto form part of the Settlement Agreement.
26. The Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.
27. All amounts referred to in this Settlement Agreement are in Canadian dollars.
28. This Settlement Agreement constitutes the entire agreement between the Parties pertaining to the Settlement, and supersedes all prior understandings, representations, negotiations, discussions and agreements, whether oral or written, which may have occurred prior hereto.

DATED AT Toronto, Ontario this 9th day of ^{July} June, 2014



On behalf of the Plaintiffs and the Class

**Allan D.J. Dick,
David Sterns
Jean-Marc Leclerc
SOTOS LLP
Barristers and Solicitors
180 Dundas Street West
Suite 1250
Toronto, ON
M5G 1Z8**

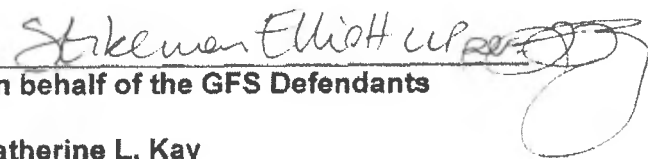
DATED AT Toronto, Ontario this 9th ¹¹ July day of ~~June~~, 2014



On behalf of the Quiznos Defendants

Geoffrey B. Shaw
Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

DATED AT Toronto, Ontario this 9th July day of ~~June~~, 2014



On behalf of the GFS Defendants

Katherine L. Kay
STIKEMAN ELLIOTT LLP
Barristers and Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, ON
M5L 1B9

EXHIBIT 'A'

QUIZNOS' CLASS ACTION

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT APPROVAL HEARING

CURRENT AND FORMER QUIZNOS' FRANCHISEES

Please read this notice carefully as it may affect your legal rights.

If you or your company carried on business in Canada under a 'Quiznos' Franchise Agreement at any time between May 12, 2006 and November 23, 2009, and did not opt out of this class action, you are a Class Member.

PURPOSE OF THIS NOTICE

The parties have reached a proposed settlement of this class action lawsuit. The settlement must be approved by the Court before it will become effective.

As a Class Member, your legal rights will be affected by this settlement. You can participate in the approval process and comment on, or object to, the settlement if you want to.

THE CLASS ACTION

This class action was commenced in Ontario in 2006 by two Quiznos' franchisees, who are acting as the representative plaintiffs for all Class Members, against certain Quiznos and Gordon Food Services companies. The lawsuit alleges overcharging by Quiznos on supplies purchased by Class Members.

None of the allegations in the lawsuit have been proven in Court. All of the

defendants deny any wrongdoing or liability.

TERMS OF THE PROPOSED SETTLEMENT

The full terms of the Settlement Agreement can be viewed at:

<http://www.sotosllp.com/class-actions/quiznos>

The claim against all defendants will be dismissed and Class Members will release any claim they have against the defendants in relation to the matters alleged in the class action. This means that if the Settlement Agreement receives Court approval, you will not be able to start or continue with any other claim or legal proceeding against Quiznos or GFS in relation to the matters alleged in the class action.

Quiznos has agreed to pay \$275,000 to the Plaintiffs in respect of disbursements incurred in the action, in full and final settlement of the class action.

SETTLEMENT IS SUBJECT TO COURT APPROVAL

The proposed settlement is a compromise of the disputed claims in the class action, and takes into account a variety of the risks inherent in lawsuits.

The Court will decide whether to approve the proposed settlement at a settlement approval hearing to be held on [NTD: date] at the courthouse at Osgoode Hall, 130 Queen St. W.,

Toronto, Ontario, commencing at 10:00 a.m.

At this hearing the Court will determine whether the Settlement Agreement is fair, reasonable and in the best interests of Class Members.

COMMENTS ON OR OBJECTIONS TO THE PROPOSED SETTLEMENT

If you approve of the proposed settlement you do not have to do anything. You may make comments on or object to the proposed settlement. Any comments or objection must be made in writing and sent to:

Quiznos Class Action
c/o Sotos LLP
180 Dundas St. W., Suite 1200
Toronto, Ontario, M5G 1Z8

Comments and objections should be sent no later than **[NTD: date]**. All written submissions received by **[NTD: date]** will be brought to the attention of the Court.

A Class Member who objects to the proposed settlement and who wants to make submissions at the hearing must provide written submissions no later than **[NTD: date]**. That Class Member may attend the hearing in person or send a representative to explain the reason for their objection.

Any Class Members is welcome to attend the Settlement Approval Hearing, but you are not required to attend.

ADDITIONAL INFORMATION

The law firm of Sotos LLP represents all Class Members in this class action.

Requests for additional information or questions about the class action or proposed settlement should be directed to ● of Sotos LLP by phone at 416-977-0007 or 1-888-977-9806 or by email at info@sotosllp.com.

Class Members may also visit the following website:

<http://www.sotosllp.com/class-actions/Quiznos>

INTERPRETATION

This notice is a summary of the terms of the Settlement Agreement and the class action. If there is a conflict between the provisions of this notice and the terms of Settlement Agreement, the Settlement Agreement prevails.

EXHIBIT B'

Court File No. 06-CV-311330CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**



) MONDAY, THE 23RD DAY
)
) OF NOVEMBER, 2009

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

ORDER (CERTIFICATION)

THIS MOTION made by the plaintiffs for an Order certifying this action as a class proceeding was heard on February 14, 15, 19, 20, 21 and 22, 2008 at 393 University Avenue, Toronto, Ontario and was dismissed by Order dated March 4, 2008.

AN APPEAL was taken from the dismissal of the certification motion to the Divisional Court resulting in an Order of the Divisional Court made April 27, 2009 conditionally certifying this action as a class proceeding, subject to approval by the Honourable Justice P. M. Perell of the plaintiffs' revised Plan of Proceeding,

ON READING the Order of the Divisional Court dated April 27, 2009, and on

approving herein the plaintiffs' revised Plan of Proceeding,

1. **THIS COURT ORDERS** that this action be certified as a class proceeding against the defendants.
2. **THIS COURT ORDERS** that the class be defined 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" (the "Class").
3. **THIS COURT ORDERS** that 2038724 Ontario Ltd. and 2036250 Ontario Inc. be and hereby are appointed as the representative plaintiffs on behalf of the Class.
4. **THIS COURT ORDERS** that, in accordance with the Divisional Court Order made April 27, 2009, the following common issues ("Common Issues") are certified for the purposes of this proceeding:
 - (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 (2nd 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*?

5. **THIS COURT ORDERS** that the Plan of Proceeding attached hereto as Schedule "A" be and is hereby approved.

6. **THIS COURT ORDERS** that the defendant, Quizno's Canada Restaurant Corporation, provide Class counsel by no later than November 16, 2009 with the last known mailing addresses of each Class Member as an electronic mailing list.

7. **THIS COURT ORDERS** that Notice to the Class (the "Notice") in the form attached hereto as Schedule "B" be delivered to the Class Members on November 23, 2009 by the following means:

- (a) Pre-paid regular mail to the last known address for each Class Member shown on the list provided under paragraph 5 hereof; and
- (b) publication of the Notice on a dedicated website for this action maintained by Class Counsel.

8. **THIS COURT ORDERS** that a Class Member may opt out of the class proceeding by delivering to Sotos LLP either the Opt-Out Coupon attached to the Notice, or some other legible, written, signed request to opt out containing substantially the same information as the Opt-Out Coupon, on or before January 7, 2010.

9. **THIS COURT ORDERS** that Class Members may not opt out of the class proceeding after January 7, 2010.

10. **THIS COURT ORDERS** that Sotos LLP shall serve on the defendants and file with the court, within 7 days after the end of the opt-out period, an affidavit containing a list of persons who have opted out of the class proceeding and attaching copies of all Opt-Out Coupons, or other legible, written, signed request to opt out containing substantially the same information as the Opt-Out Coupon, received from Class Members.

Penell, J

FILED
CLERK OF COURT
JUL 23 2009
COURT NO.:
DOCUMENT NO.:
[Signature]

SCHEDULE "A"

Court File No.: 06-CV-311330CP

**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

**REVISED PLAN OF PROCEEDING
PURSUANT TO S. 5(1)(e)(ii) OF THE CLASS PROCEEDINGS ACT, 1992**

Overview

1. This action is brought on behalf of approximately 500 franchisees and former franchisees of the Quiznos franchise chain.
2. The action alleges that the defendants have unlawfully conspired to inflate the cost of goods which each of the Class Members must purchase for their businesses and that the conduct complained of constitutes breaches by Quiznos of various contractual and other duties owed to the Class Members.
3. The action was certified by the Divisional Court on April 27, 2009, subject to approval of this revised Plan by the Honourable Justice P.M. Perell.

A. Identification of Class Members

4. The class is defined 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".

5. All Class Members are known to the defendant, Quiznos Canada Restaurant Corporation, which is the franchisor of the Canadian Quiznos franchise system. There are no class identification issues in this action.

6. The proposed Certification Order requires Quiznos to provide to plaintiffs' counsel contact information for all Class Members by no later than November 16, 2009.

B. Particulars of the notice

7. A copy of the draft Notice to Class is attached as Schedule B to the proposed certification order.

8. The certification order contemplates that the defendant, Quizno's Canada Restaurant Corporation, provide Class counsel with the last known addresses of each Class Member by no later than November 16, 2009. On November 23, 2009, the Notice will be sent to all Class Members by the following means:

- (a) Pre-paid regular mail to the last known address for each Class Member; and
- (b) publication of the notice on a dedicated website for this action maintained by Class Counsel.

9. The cost of such notification will be borne by the plaintiffs at first instance.

10. So long as the list of current and former franchisees provided by Quiznos is complete and accurate, the plaintiffs do not consider it necessary to cause the Notice to be published in a national newspaper or other medium. However, if such list is found to be materially incomplete or inaccurate, the plaintiffs will request that Quiznos pay the cost of publishing the Notice in such media as is considered necessary in order to come to the attention of the omitted Class Members.

11. Lawyers for the plaintiffs, Sotos LLP, have established a link within their website for this class action. Copies of the Notice to Class, court decisions and other information related to the class proceeding will be available from the website. Email contacts are also available on the website.

12. The Notice will be published on the website of the Canadian Quiznos franchisee association known as Denver Subs Canada Franchise Association ("Denver Subs").

C. Timetable

13. The plaintiffs propose the following schedule:

Pleadings

- (a) The statement of claim amended to include Canada Food Distribution Company (CFD) (as contemplated by the Order of Perell J.) and other changes will be served following the release of Perell J.'s ruling on the pleadings motions returnable Friday, October 16, 2009.
- (b) Statements of defence will be served by December 7, 2009 (i.e. 30 days following service of the statement of claim so amended).
- (c) Reply, if any, will be delivered by December 16, 2009.

Productions

- (d) The timing of productions is addressed separately below.

Discovery/Expert Reports

- (e) Discovery dates and matters relating to expert reports will be determined at regularly scheduled case conferences, the first of which is scheduled for March 5, 2010 at 10:00 AM.

Common Issues Trial and Following

- (f) If the common issues are resolved by judgment in favour of the plaintiff class, the timing, form and content of the notice of resolution of the common issues will be addressed by the common issues judge.
- (g) Individual hearings, if any, will be conducted according to the timelines and other directions to be set down by the common issues judge.

D. Productions

14. The plaintiffs seek to require the defendants to produce documents in tranches, on a rolling basis.

15. After the close of pleadings, and before delivering the first tranche of documents, the parties shall meet and confer to discuss a discovery plan for the production of documents.

16. By no later than February 24, 2010 (i.e. 70 days after the close of pleadings), each party will deliver the 1st of a series of tranches of relevant documents using best efforts to provide the documents most relevant to the common issues.

17. The parties will present a draft discovery plan at the first scheduled case conference and report on the status of productions.

E. Method of communication with the class

18. Class counsel are in regular communication with the representative plaintiffs regarding all aspects of this action.

19. The representative plaintiffs have and will continue to communicate certain information on a regular ongoing basis to the Class Members by periodic email and other communications.

20. Due to confidentiality issues arising from the continuing relationship of the parties, information communicated to the Class Members is of a limited and non-strategic nature.

21. Limited and non-strategic information will also be communicated to the Class Members by regular updates to the Sotos LLP site and Denver Subs website.

F. Possibility of settlement

22. The parties will conduct settlement negotiations from time to time, as circumstances dictate.

23. The timetable includes mandatory mediation following the exchange of expert reports.

G. Individual issues, method for valuation of damages, distribution of damage award

24. The treatment of individual issues, if any, following the common issues trial, the method(s) of valuation of damages, and the distribution of the damage award will be addressed as directed by the common issues judge.

25. If requested by the individual Class Member, class counsel will represent such Class Members in any individual hearings to recover direct damages following the common issues trial. Plaintiffs' counsel agree to act on a contingent-fee basis for such individual hearings, subject to terms to be approved by the Court. Separate notice will be given to Class Members concerning the participation in any individual hearings, if necessary, and any costs implications of participating in those hearings.

H. Funding

26. The plaintiff's legal fees are to be paid on a contingency basis, as provided for in *Class Proceedings Act 1992*, and are subject to the Court's approval. Funding of all disbursements necessary to properly prosecute this action will be paid by the plaintiffs in addition to voluntary contributions from the Class members. An application may be made to the Class Proceedings Fund.

27. The plaintiffs will seek recovery of the full costs of this action as well as full investigation costs from the Quiznos defendants pursuant to s. 36(1) of the *Competition Act*.

DATE: November 23, 2009

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

Allan D.J. Dick LSUC # 24026W
Tel: (416) 977-5333 (ext. 309)
Fax: (416) 977-0717

David Sterns LSUC#: 36274J
Tel: (416) 977-5333 (ext.313)
Fax: (416) 977-0717

Lawyers for the plaintiffs

SCHEDULE "B"

Court File No. 06-CV-311330CP

**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

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 Representatives 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 (2nd 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) 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) or Allan D.J. Dick (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.

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.

2038724 ONTARIO LTD. et al.

Plaintiffs

and QUIZNO'S CANADA RESTAURANT
CORPORATION et al.

Defendants

Court File Number:06-CV-311330CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

ORDER

SOTOS LLP
Barristers and Solicitors
Suite 1250
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Toronto, ON M5G 1Z8

Allan D.J. Dick (LSUC # 24026W)

David Sterns (LSUC # 36274J)

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Fax: (416) 977-0717

Lawyers for the plaintiffs

EXHIBIT 'C'

Court File No. 06-CV-311330CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
MR. JUSTICE PAUL M. PERELL) THE
)
) DAY OF, 2014

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*

ORDER

(Approving Notice to Class Members)

THIS MOTION for an Order approving the form and content of the notice to Class Members of a settlement approval hearing and approving the method of dissemination of the notice was heard on **[NTD: Date]** at Osgoode Hall, 130 Queen St. West, Toronto, Ontario;

UPON READING the materials filed, including the Settlement Agreement dated [NTD: Date], a copy of which is attached to this Order as Schedule "A" (the "**Settlement Agreement**"), and upon hearing submissions of counsel for all parties;

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that a hearing is to be held on [NTD: Date], beginning at 10:00 a.m. or as soon thereafter as possible at Osgoode Hall, 130 Queen St. West, Toronto, Ontario, at which time this Court will be asked to approve the Settlement Agreement as fair, reasonable and in the best interests of Class Members (the "**Settlement Approval Hearing**").

3. **THIS COURT ORDERS** that the proposed form of notice of the Settlement Approval Hearing, attached hereto as Schedule "B", is approved (the "**Notice**");

4. **THIS COURT ORDERS** that the Notice shall be delivered to Class Members on or before [NTD: Date] by the following means:
 - (a) Pre-paid regular mail to the last known address for each Class Member;
and
 - (b) Publication of the Notice on a dedicated website for this action maintained by Class Counsel, Sotos LLP (the "**Notice Plan**").

5. **THIS COURT ORDERS** that the Quiznos Defendants shall, in accordance with the terms of the Settlement Agreement, pay the reasonable disbursement costs associated with mailing the Notice to Class Members as required in paragraph 4(a).

6. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing may be subject to adjournment by the Court without further mailing of a notice to Class Members.

7. **THIS COURT ORDERS AND DECLARES** that the Notice and Notice Plan constitute fair and reasonable notice to all Class Members and comply with section 19 of the *Class Proceedings Act, 1992*.

The Honourable Mr. Justice Paul M. Perell

2038724 ONTARIO LTD. et al.
Plaintiffs

and
Defendants

QUIZNO'S CANADA RESTAURANT CORPORATION et al.

Court File No. 06-CV-311330CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

ORDER

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Lawyers for the Defendants
Quizno's Canada Restaurant Corporation, Quiz-Can LLC,
The Quizno's Master LLC and Canada Food Distribution
Company

EXHIBIT 'D'

Court File No. CV-09-7997-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**QUIZNO'S CANADA REAL ESTATE CORPORATION and
QUIZNO'S CANADA RESTAURANT CORPORATION**

Plaintiffs

- and -

**1450987 ONTARIO CORP., 2036249 ONTARIO INC.,
2036250 ONTARIO INC., THOMAS JOHNSON
and DOUGLAS JOHNSON**

Defendants

AND BETWEEN:

**1450987 ONTARIO CORP., 2036249 ONTARIO INC.
and 2036250 ONTARIO INC.**

Plaintiffs by Counterclaim

- and -

QUIZNO'S CANADA RESTAURANT CORPORATION

Defendant to the Counterclaim

CONSENT

By their respective lawyers, the parties, none of whom is under disability, consent to an Order dismissing this action and the counterclaim without costs.

DATED AT TORONTO, ONTARIO this day of July, 2014

CASSELS BROCK & BLACKWELL LLP

Per:

Geoffrey B. Shaw
Lawyers for the plaintiff Quizno's Canada
Real Estate Corporation and the plaintiff
(defendant to the counterclaim) Quizno's
Canada Restaurant Corporation

DATED AT TORONTO, ONTARIO this day of July, 2014

SOTOS LLP

Per:

Allan D.J. Dick and David Sterns
Lawyers for the defendants, Thomas
Johnson and Douglas Johnson and the
defendants (plaintiffs by counterclaim),
1450987 Ontario Corp. 2036249 Ontario
Inc. and 2036250 Ontario Inc.

QUIZNO'S CANADA REAL ESTATE CORPORATION, et al.
Plaintiffs
1450987 ONTARIO CORP., et al.
Plaintiffs by Counterclaim

1450987 ONTARIO CORP., et al.
Defendants
QUIZNO'S CANADA RESTAURANT CORPORATION
Defendant to the Counterclaim

and
and

Court File No. CV-09-7997-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

CONSENT

Cassels Brock & Blackwell LLP
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chorkins@casselsbrock.com
Lawyers for the Plaintiffs
(Defendants to the counterclaim)

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE) DAY OF , THE
, 2014

BETWEEN:

(Court Seal)

**QUIZNO'S CANADA REAL ESTATE CORPORATION and
QUIZNO'S CANADA RESTAURANT CORPORATION**

Plaintiffs

- and -

**1450987 ONTARIO CORP., 2036249 ONTARIO INC.,
2036250 ONTARIO INC., THOMAS JOHNSON
and DOUGLAS JOHNSON**

Defendants

AND BETWEEN:

**1450987 ONTARIO CORP., 2036249 ONTARIO INC.
and 2036250 ONTARIO INC.**

Plaintiffs by Counterclaim

- and -

QUIZNO'S CANADA RESTAURANT CORPORATION

Defendant to the Counterclaim

ORDER

THIS MOTION, made by the plaintiff, Quizno's Canada Real Estate Corporation, and the plaintiff (defendant to the counterclaim), Quizno's Canada Restaurant Corporation, for an Order

dismissing the action and the counterclaim, without costs, was heard this day at the court house,
393 University Avenue, Toronto, Ontario, M5G 1E6.

ON READING the Consent of the parties filed,

1. THIS COURT ORDERS that this action and the counterclaim be and are hereby dismissed without costs.

(Signature of Judge)

QUIZNO'S CANADA REAL ESTATE CORPORATION, et al.
Plaintiffs
1450987 ONTARIO CORP., et al.
Plaintiffs by Counterclaim

and
1450987 ONTARIO CORP., et al.
Defendants
and
QUIZNO'S CANADA RESTAURANT CORPORATION
Defendant to the Counterclaim

Court File No. CV-09-7997-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT
TORONTO**

ORDER

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Lawyers for the Plaintiffs
(Defendants to the counterclaim)

SCHEDULE 'B'

QUIZNOS' CLASS ACTION

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT APPROVAL HEARING

CURRENT AND FORMER QUIZNOS' FRANCHISEES

Please read this notice carefully as it may affect your legal rights.

If you or your company carried on business in Canada under a 'Quiznos' Franchise Agreement at any time between May 12, 2006 and November 23, 2009, and did not opt out of this class action, you are a Class Member.

PURPOSE OF THIS NOTICE

The parties have reached a proposed settlement of this class action lawsuit. The settlement must be approved by the Court before it will become effective.

As a Class Member, your legal rights will be affected by this settlement. You can participate in the approval process and comment on, or object to, the settlement if you want to.

THE CLASS ACTION

This class action was commenced in Ontario in 2006 by two Quiznos' franchisees, who are acting as the representative plaintiffs for all Class Members, against certain Quiznos and Gordon Food Services companies. The lawsuit alleges overcharging by Quiznos on supplies purchased by Class Members.

None of the allegations in the lawsuit have been proven in Court. All of the

defendants deny any wrongdoing or liability.

TERMS OF THE PROPOSED SETTLEMENT

The full terms of the Settlement Agreement can be viewed at:

<http://www.sotosllp.com/class-actions/quiznos>

The claim against all defendants will be dismissed and Class Members will release any claim they have against the defendants in relation to the matters alleged in the class action. This means that if the Settlement Agreement receives Court approval, you will not be able to start or continue with any other claim or legal proceeding against Quiznos or GFS in relation to the matters alleged in the class action.

Quiznos has agreed to pay \$275,000 to the Plaintiffs in respect of disbursements incurred in the action, in full and final settlement of the class action.

SETTLEMENT IS SUBJECT TO COURT APPROVAL

The proposed settlement is a compromise of the disputed claims in the class action, and takes into account a variety of the risks inherent in lawsuits.

The Court will decide whether to approve the proposed settlement at a settlement approval hearing to be held *JOMP* on Oct 2, 2014 at the courthouse at Osgoode Hall, 130 Queen St. W.,

Toronto, Ontario, commencing at ~~10:00~~ 11:00 a.m. JRP.

At this hearing the Court will determine whether the Settlement Agreement is fair, reasonable and in the best interests of Class Members.

COMMENTS ON OR OBJECTIONS TO THE PROPOSED SETTLEMENT

If you approve of the proposed settlement you do not have to do anything. You may make comments on or object to the proposed settlement. Any comments or objection must be made in writing and sent to:

Quiznos Class Action
c/o Sotos LLP
180 Dundas St. W., Suite 1200
Toronto, Ontario, M5G 1Z8

Comments and objections should be sent no later than ~~Sept 15, 2014~~ ^{Sept 15, 2014} JRP. All written submissions received by will be brought to the attention of the Court.

A Class Member who objects to the proposed settlement and who wants to make submissions at the hearing must provide written submissions no later than ~~Sept 15, 2014~~ ^{Sept 15, 2014} JRP. That Class Member may attend the hearing in person or send a representative to explain the reason for their objection.

Any Class Members is welcome to attend the Settlement Approval Hearing, but you are not required to attend.

ADDITIONAL INFORMATION

The law firm of Sotos LLP represents all Class Members in this class action.

Requests for additional information or questions about the class action or proposed settlement should be directed to ~~Tanya Atherford~~ ^{Tanya Atherford} JRP. of Sotos LLP by phone at 416-977-0007 or 1-888-977-9806 or by email at info@sotosllp.com.

Class Members may also visit the following website:

<http://www.sotosllp.com/class-actions/Quiznos>

INTERPRETATION

This notice is a summary of the terms of the Settlement Agreement and the class action. If there is a conflict between the provisions of this notice and the terms of Settlement Agreement, the Settlement Agreement prevails.

2038724 ONTARIO LTD. et al.
Plaintiffs

and QUIZNO'S CANADA RESTAURANT CORPORATION et al.
Defendants

Court File No. 06-CV-311330CP

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT TORONTO

ORDER

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The Quizno's Master LLC and Canada Food Distribution
Company