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## Arthur Wishart Act Sparks Litigation

The Wishart Act has sparked considerable litigation, both: a) between franchisors and franchisees, and b) between franchisors/franchisees and their advisors.

### Key Provisions of the Wishart Act

The Wishart Act addresses the relationship between franchisors and franchisees. It prescribes the disclosure the franchisor is required to make to the franchisee. If these disclosure requirements are not met, then the franchisee has three powerful remedies:

- 1) The franchisee has 24 months to rescind the franchise agreement, if there was no disclosure;
- 2) The franchisee has 6 months to rescind the franchise agreement, if there was late disclosure and
- 3) On rescinding, the franchisee can recover from the franchisor all of the following:
  - a) franchise fees, b) inventory costs, c) equipment and supplies costs, and d) the losses incurred setting up, acquiring and operating the franchise.

These provisions have resulted in substantial recoveries by franchisees from franchisors.

### Impact on Advisors

Advisors to both the franchisors and franchisees have been sued under the Act. Franchisors have sued their advisors for not informing them of their obligations. Conversely, franchisees have sued their advisors for not informing them of their rights.

Until franchisors, franchisees, and their respective advisors understand the full implications of the Act, it will continue to spark litigation.

*Peter Macaulay is a CICA designated specialist in forensic accounting. His practice focuses on damage quantification in commercial disputes and professional negligence. Prior to establishing P. Macaulay & Associates Inc. in 1998, he worked in the litigation practice at Deloitte & Touche LLP.*