

Ex-Pizza Hut franchisees obtain judgment against franchisor for \$118,277.32 over Pizza Hut Salisbury dispute

Mark Gustavsson & Associates has assisted ex-Pizza Hut franchisees Ranjodh Singh Joshan and Jasbir Kaur Joshan obtain judgment in New South Wales against franchisor, Pizza Pan Group, in connection with litigation concerning a franchised Pizza Hut business located in Salisbury, South Australia.

Franchisor Pizza Pan Group initially commenced a claim against the ex-franchisees, who purchased the Salisbury Pizza Hut business in 2016, alleging the ex-franchisees abandoned the store in 2018. The franchisor initially commenced proceedings in New South Wales, despite the franchised business being based in South Australia. After a successful win in the New South Wales Court of Appeal – which our firm ran on a pro bono basis – the [Court of Appeal confirmed that the ex-franchisees were entitled to litigate the matter in South Australia](#), and Pizza Pan Group was found liable to the ex-franchisees in the sum of \$118,277.32 for legal costs.

The ex-franchisees intend to enforce their judgment against Pizza Pan Group. It is unclear whether Pizza Pan Group will comply with the court order for payment of legal costs.

With litigation continuing in South Australia continuing, the ex-franchisees intend to allege that they were [misled into purchasing a loss-making business](#) by, among others, franchisor Pizza Pan Group. They also intend to allege that the franchise agreement between them and the franchisor created a 'right, but not obligation' to operate the store, which the New South Wales has determined was loss-making.

The ex-franchisees also intend to allege that any term requiring them to operate a loss-making franchise for 10 years, for Pizza Pan Group's continued profit, is an "unfair term" under the Australian Consumer Law's unfair terms regime, and is void and unenforceable.

Australia's unfair terms regime has recently being amended, with the Australian Competition and Consumer Commission [recently welcoming new penalties and expansion](#) of the existing unfair contract terms legislative regime.

Franchisor Pizza Pan Group alleges that the ex-franchisees, Ranjodh and Jasbir Joshan, are not "franchisees" for the purpose of the Franchising Code of Conduct. The franchisor has applied to strike out the ex-franchisee's cross-claim on the basis it allegedly discloses no reasonable cause of action.

Mark Gustavsson & Associates are experienced commercial and corporate litigation specialists. Our consumer protection team is specialised in misleading conduct, unconscionable conduct and other consumer protection actions. Contact us today if you have a franchise or business dispute.

If you are a franchisee and believe you have been treated unfairly by your franchisor, you can contact the Mark Gustavsson & Associates team for a no obligation chat to discuss your options.

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