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**TIM HORTONS USA, LLC AND RESTAURANT BRANDS INTERNATIONAL  
DEALT DOUBLE BLOWS BY AGGRIEVED FRANCHISEES**

*Red Bank, New Jersey* – Canadian franchisor TIM HORTONS was dealt a blow to its efforts to silence a Minnesota area developer, fourteen Minnesota franchisees, and the US-based Great White Northern Franchisee Association-USA, LLC, which represents a significant portion of Tim Hortons US franchisees.

In *Tim-Minn, Inc. et al. v. Tim Hortons USA, LLC*, Case No. 20-23481, Tim Hortons USA, LLC, Tim Hortons' US-based sub-franchisor, had sought to dismiss both the area developer, Tim-Minn, Inc. and fourteen Minnesota franchisees who alleged numerous claims against the franchisor for fraud, misrepresentation, numerous breaches of contract and unjust enrichment. United States District Court for the Southern District of Florida's Magistrate Judge Edwin G. Torres found in favor of the Tim-Minn franchisees' on five of eleven counts of their complaint and, for those claims the court dismissed, providing clear guidance on repleading same. Magistrate Torres was clear in his rebuke of many of Tim Hortons USA's legal theories, including their failed argument that Tim-Minn and the franchisees' claims were precluded due to prior litigation in Minnesota. Similarly, the Court dispensed with the franchisor's theory that a general release in Tim-Minn's contract from 2017 could operate to bar claims from unaffiliated parties which accrued after the date it was executed.

In *Great White Northern Franchisee Association-USA, LLC v. Tim Hortons USA, LLC et al.*, Case No. 20-cv-20878, the Association prevailed after challenging the Southern District of Florida's dismissal of its case when the 11th Circuit recognized that the federal courts likely lacked jurisdiction over the case entirely, a position the Association readily agreed with and had previously argued in the state courts of Florida before the matter was transferred to the federal courts. On remand to the Southern District, United States District Judge Beth Bloom held that the federal courts lacked jurisdiction over the dispute and threw out the franchisor's arguments that the Association was established primarily to defeat federal diversity jurisdiction, noting that the Association was formed in Florida two years prior to initiating suit. The District Court found

inescapable the undisputed fact that both the Association and franchisor were residents of Florida and, lacking any federal question of law in the suit, remand to the state courts of Florida was required. In so doing, the Court's prior ruling, dismissing the Association's case (which the Association appealed as error) was vacated.

The plaintiffs in both cases are represented by Red Bank, New Jersey franchise law firm Marks & Klein, LLP in collaboration with Wasch Raines, LLP, of Boca Raton, Florida. "The Great White Northern Franchisee Association-USA, LLC undertook this representation to vindicate the interests of its constituent members who have been badly abused by their franchisor, who has preyed upon them and used them as a captive revenue stream in violation of the law and their franchise agreements," said Steven T. Keppler, one of the Marks & Klein, LLP attorneys representing the Association. "The Association seeks declaratory and injunctive relief, only, to protect its membership from the predatory practices of their franchisor," he continued. With respect to Tim-Minn, Inc. and the fourteen Minnesota franchisees, Jerry Marks, Senior Partner at Marks & Klein, LLP, observed that "Tim Hortons has a history of abusing franchisees both here in the US and north of the border in Canada. We have watched closely as this once-great Canadian institution has transitioned from a quality franchisor to a predator. Tim-Minn, Inc. was badly abused by Tim Hortons' US-based operations, who unfairly took advantage of a trusted partner and took it for a ride worth millions of dollars, then sued several franchisees under its development umbrella to leverage a settlement, only to bilk the entire group out of hundreds of thousands of dollars in a failed market. It's unconscionable. We are very pleased that the Southern District of Florida has recognized the validity of our clients' claims in that forum and look forward to advancing them in the coming weeks and months."

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