

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

MICHAEL FERENCE AND KATHLEEN  
KAMOUYEROU FERENCE, husband and  
wife,

Plaintiffs

v.

MARCUS A. LEMONIS, an individual, and  
THE SIMPLE GREEK, LLC, a Delaware  
Limited Liability Company, and ML FOODS,  
a Delaware Limited Liability Company

Defendants

CIVIL DIVISION

No.

COMPLAINT IN CIVIL ACTION, LAW  
AND EQUITY

Filed on behalf of:  
Michael Ference and Kathleen Kamouyerou  
Ference, Plaintiffs

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

MICHAEL FERENCE AND KATHLEEN	)	
KAMOUYEROU FERENCE, husband and wife,	)	
	)	
Plaintiffs	)	
	)	
v.	)	
	)	
MARCUS A. LEMONIS, an individual, and THE	)	No.
SIMPLE GREEK, LLC, a Delaware Limited Liability	)	
Company, and ML FOODS, a Delaware Limited	)	
Liability Company	)	
	)	
Defendants	)	

**NOTICE TO DEFEND**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the following pages, you must take action within **TWENTY (20)** days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAWYER REFERRAL SERVICE  
Allegheny County Bar Association  
436 Seventh Avenue  
Pittsburgh, PA 15219  
(412) 261-5555

**NOTICE**

**YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF ONE OR MORE OF THE PARTIES IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD IMMEDIATELY BEFORE A JUDGE WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.**



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

MICHAEL FERENCE AND KATHLEEN	)	
KAMOUYEROU FERENCE, husband and	)	
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Plaintiffs	)	
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	)	No.
MARCUS A. LEMONIS, an individual, and	)	
THE SIMPLE GREEK, LLC, a Delaware	)	
Limited Liability Company, and ML FOODS,	)	
a Delaware Limited Liability Company	)	
	)	
Defendants		

**COMPLAINT IN CIVIL ACTION, LAW AND EQUITY**

AND NOW come, Plaintiffs Michael Ference and Kathleen Kamouyerou Ference, by and through their counsel, W. David Slomski, Esq., and Gary Ogg, Esq., and file this Complaint in Civil Action, Law and Equity.

1. Plaintiffs Michael and Kathleen Kamouyerou Ference are adult individuals, husband and wife residing at 822 Bebout Road, Venetia, PA 15637.

2. The Simple Greek, LLC is a Delaware Limited Liability Company formed January 21, 2015 with a registered address of 1209 Orange Street, Wilmington, Delaware 19801. Its headquarters are located at 794 Penllyn Pike, Suite 219, Blue Bell, PA 19422, but it maintains that its principal place of business is 250 Parkway Drive, Suite 270, Lincolnshire, Illinois, 60069.

3. Marcus A. Lemonis is an individual residing at 1020 Havenwood Lane, Lake Forest, IL 60045 who, upon information and belief, is the principal owner of ML Foods, LLC.

4. ML Foods, LLC, formed on June 12, 2014, is a Delaware Limited Liability Company with a registered office c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. It also operates as the ML Foods Group out of Blue Bell, PA. According to documents filed with the Delaware Secretary of State, ML Foods purports to be the owner of The Simple Greek, LLC.

#### BACKGROUND

5. Defendant Marcus Lemonis is the celebrated star of a widely watched popular “reality” TV show, broadcast weekly on CNBC called “The Profit”.

6. On the show, Lemonis, a self-professed “multi-millionaire,” interviews owners of small businesses such as restaurateurs, learns their backgrounds, discusses the problems facing their businesses and decides whether or not he will invest money into the business.

7. If Lemonis decides to invest, Lemonis professes that he will use his considerable business acumen and resources to help the participants become successful, but he will be “in charge”.

8. The Plaintiffs were participants on “The Profit” TV show, and the actions described herein arose out of transactions which occurred during and after episodes of those shows.

9. In 2005, Kathleen Kamouyerou Ference, a person of Greek heritage, as a sole proprietor, opened a Greek food themed restaurant in McMurray, PA called My Big Fat Greek Gyro featuring authentic Greek food made from family and personal recipes. The restaurant also incorporated a fast food theme.



10. In 2009, Kathleen Kamouyerou Ference sold a franchise of My Big Fat Greek Gyro to an individual who continues to operate successfully in the Pine Tree Shops in Wexford, PA.

11. Mrs. Ference sold two additional franchises which opened, but are now closed.

12. In late 2012, the Plaintiffs sold two more franchises; one opened in Mt. Lebanon, PA and another in Market Square, Pittsburgh, PA.

13. Plaintiffs wanted to expand the footprint of their business by selling additional franchises, but needed additional capital and business guidance. Plaintiffs applied to NBC Universal television productions in April of 2014 to participate on a television program produced by Machete Productions called "The Profit." The program was hosted by Defendant Marcus A. Lemonis.

14. The show's format has Defendant Lemonis visit the participants at their place of business, assess their operations and his interest in investing in their business.

15. Plaintiffs were accepted to be on the show almost immediately upon applying. Filming of the show began in July of 2014 at the Plaintiffs' location in McMurray and at the Mt. Lebanon and Market Square locations.

16. At the filming of the show in McMurray PA, Defendant Lemonis offered to pay the Plaintiffs Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) for Fifty-Five (55%) percent ownership of the Plaintiff's business. Lemonis was buying into the "parent" company, which Kathleen and Michael Ference owned as sole proprietors. The Plaintiffs accepted Lemonis' offer.

17. On the show, Defendant Lemonis handed a Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) check to the Plaintiffs, but after the filming of this segment, a



producer asked for the check back. The Plaintiffs were directed to return the check to Defendant Lemonis, and were advised it was a only "prop."

18. However, the Plaintiffs and Defendant Lemonis began to operate the restaurants together from that point forward. Over the objections of the Plaintiffs, Defendant Lemonis proposed to and did change, the name of the restaurants to "The Simple Greek". The name change discussion occurred at Plaintiffs' residence during an informal dinner that included family, friends and current franchisees. The name "The Simple Greek" was offered and introduced by the group, not by Lemonis.

19. The Plaintiffs continued to participate in the management of the restaurants as they had prior to the involvement of Defendant Lemonis, but now called "The Simple Greek". However, they still have never received the Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) from Lemonis.

20. Lemonis, or an entity controlled by Lemonis, did provide funding to remodel and restructure three locations, including Mt. Lebanon, McMurray and Market Square, and also opened a new franchise in Highland Park, Illinois. The Plaintiffs were told by Lemonis that the \$350,000.00 was invested in the rebranding and redesigning of the existing locations. The Plaintiffs did not receive any money from this investment.

21. Plaintiffs provided services to the new business arrangement in a variety of ways. In addition to overseeing the day-to-day operations of the newly-formed stores, the Plaintiffs offered support where necessary within the system. Michael Ference drafted Franchise documents, operations manuals, employee handbooks, and human resources handbooks. Plaintiffs also oversaw the conversion and reopening of the McMurray and Market Square locations. Michael Ference was responsible for the timely build-out and budgeting for the



complete renovations of each location. Kathleen Kamouyerou Ference provided recipes, know-how, experience and consulting. The Plaintiffs together met with, entertained, consulted with and advised franchise owners and prospective franchise owners, and continue to provide these services to date.

22. Defendants, Lemonis and ML Foods, LLC caused the formation of The Simple Greek, LLC in Delaware on January 21, 2015. However, Defendants Lemonis and ML Foods, LLC organized and operated The Simple Greek, LLC as a business owned wholly by ML Foods, LLC, an entity either wholly owned or controlled by Defendant Lemonis. Defendant Lemonis apparently appointed Sam Lundy to be its President. The Plaintiffs were not included in this organization, which was unknown to them at that time.

23. In early January of 2016, an update and second episode of “The Profit” show was filmed featuring the Plaintiffs and Lemonis at Simple Greek restaurants in both Pittsburgh and Highland Park, Illinois. That show aired on CNBC on January 26, 2016.

24. During the filming of the second show, which was not aired, Defendant Lemonis handed the Plaintiffs a typed document titled “Memorandum of Understanding” (the “MOU”). The Memorandum of Understanding stated that it “clarifies the compensation for Kathleen and Michael Ference who holds [sic] Forty-Five (45%) percent interest in The Simple Greek, LLC.” The document was dated January 7, 2016, and was signed by Marcus Lemonis, “President.” Plaintiffs also signed the document. A true and correct copy is attached hereto, incorporated herewith and is marked as Plaintiffs’ Exhibit A.

25. After the airing of the second episode of “The Profit” television show, the Plaintiffs continued to provide the services as outlined above in Paragraph 21 of this Complaint, as they always had.



26. The Plaintiffs made several requests of Lemonis and of Sam Lundy, who was appointed as the President of Defendant ML Foods by Defendant Lemonis, to provide them with a copy of the Organizational Documents for The Simple Greek, LLC, and also requested that they be provided with financial records and reports concerning its business operations. Despite these requests, the Plaintiffs were not provided with any of these documents.

27. After the two shows featuring the Plaintiffs' business aired, many leads were generated for new franchisees. Plaintiffs would contact these prospects, meet with and entertain them.

28. Many new franchise businesses of The Simple Greek, LLC were purchased since it has been formed by Defendants ML Foods, LLC and Lemonis due to the Plaintiffs' efforts.

29. During the filming of the second episode in Chicago, Defendant Lemonis suddenly offered to "buy out" the Plaintiffs' interest in The Simple Greek, LLC, but the Plaintiffs declined the offer.

30. After the filming of the second episode, the relationship between the Plaintiffs and Defendants began to deteriorate. Sam Lundy had assumed the general management and operations of The Simple Greek, LLC and began to exclude the Plaintiffs from involvement in the business. This also included withholding information about the business operations from the Plaintiffs.

31. The freezing out of the Plaintiffs by the Defendants was highlighted in June of 2016 at the National Franchise Convention at the Javits Center in New York City.

32. Despite the fact that the Plaintiffs were owners of Forty-Five (45%) percent of The Simple Greek, LLC, were the founders of the restaurant chain and were the main contact with existing and prospective franchises, the Plaintiffs were not invited to participate at the



Convention. The Plaintiffs were told by Sam Lundy, "your presence is not required, there is nothing for you to do here."

33. The Plaintiffs only learned about the franchise convention arrangements through their son Andreas, who had been hired by Defendant Lemonis to work for The Simple Greek, LLC.

34. Nonetheless, the Plaintiffs at their own expense traveled to and from New York City for the event and paid all of their own travel and lodging expenses.

35. The corporate officers of The Simple Greek, LLC appointed by Defendant Lemonis were prominently featured at the Convention and identified by name tags with their respective titles. The Plaintiffs were required to purchase admission and were given name tags as "Attendees". The Plaintiffs felt as though this action and lack of support was very demeaning and dismissed their roles within the Company they had created.

36. Despite this mistreatment, the Plaintiffs involved themselves in The Simple Greek's booth and questions from prospective franchisees were referred to the Plaintiffs. Many questions directed to Sam Lundy were diverted directly to the Plaintiffs, with Mr. Lundy stating that Plaintiffs were the authority and could answer the questions more fully.

37. Shortly after the Convention in New York City ended, the Plaintiffs received email correspondence from Sam Lundy, President of The Simple Greek, LLC, which confirmed the arrangement for the Plaintiff to receive royalties from the franchises the Plaintiffs had created and confirmed the Plaintiffs' membership in The Simple Greek, LLC as stated previously in Exhibit A, but at the same time attempted to change that arrangement. A true and correct copy of that correspondence is attached, incorporated and marked Exhibit B.



38. On or about July 18, 2016, the Defendants, through their attorney Robert Gerber, Esquire, sent the Plaintiffs an Amended and Restated Operating Agreement (“AROA”) which did not accurately reflect the agreement made between the Plaintiffs and Defendant Lemonis. A true and correct copy of the Amended and Restated Operating Agreement is attached, incorporated and marked Exhibit C.

39. The Plaintiffs, through their attorney, proposed changes to the AROA to make it comport with the agreement between the Plaintiffs and Defendants Lemonis and The Simple Greek, LLC as stated in the January 1, 2016 Memorandum of Understanding (Exhibit A).

40. Plaintiffs’ counsel also requested corporate and financial records of The Simple Greek, LLC from Defendants’ counsel in accordance with their rights as a member.

41. Defendants, by and through Mr. Gerber, refused to provide any of the requested documents and Defendants refused to discuss any of the changes to the AROA suggested by Plaintiffs’ counsel, and replied by saying only ministerial changes will be considered, and that the terms as stated in the MOU (Exhibit A) had been abandoned. A true and correct copy of Mr. Gerber’s correspondence of August 8<sup>th</sup>, 2016 is attached hereto and is marked Exhibit D.

42. Mr. Gerber, on behalf of the Defendant, proposed a “take-it-or-leave-it” scenario for the Plaintiffs which required them to either sign the AROA or forfeit any interest they have in The Simple Greek, LLC.

43. Plaintiffs through their counsel again requested information about The Simple Greek from Mr. Gerber to assess Mr. Gerber’s threat, but Mr. Gerber would not respond.

44. Prior to the New York City convention, Defendant Lemonis had announced the expansion of The Simple Greek into Twenty (20) new markets with Fifty-Three (53) franchises slated to open (Exhibit E).



45. Shortly after the New York City Convention, Defendant Lemonis reported that there were more than One Hundred Fifty (150) new franchises sold and opening soon. Plaintiffs believe and aver that there now are more than Two Hundred Fifty (250) franchises of The Simple Greek, LLC that are under contract and in the developmental stages throughout the country.

46. Defendant The Simple Greek, LLC is and has been operating numerous franchises across the country without providing an accounting or any financial information to the Plaintiffs and without acknowledging, but denying the Plaintiffs' ownership interest in The Simple Greek.

47. Plaintiffs believe and aver that The Simple Greek is transacting millions of dollars in business while denying Plaintiffs' involvement in the business and failing to account to the Plaintiff.

48. Finally, on August 16, 2016, Defendant The Simple Greek, LLC sent correspondence to the Plaintiffs unilaterally terminating Plaintiffs' rights to royalties from the franchises. A true and correct copy of this correspondence is attached hereto, incorporated herewith and marked Exhibit F.

49. The Defendants purported to terminate Plaintiffs, have wrongfully withheld royalties from the Plaintiffs, and have excluded them from the operations of the business with the purpose and intent of having them relinquish their ownership rights in The Simple Greek.

#### **COUNT I—ACCOUNTING**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
THE SIMPLE GREEK, LLC, a Delaware Limited Liability Company

50. Paragraphs 1 through 49 are incorporated by reference as if fully restated.

51. Pursuant to the MOU and as members of The Simple Greek, LLC, Plaintiffs are entitled to receive distributions of cash from The Simple Greek.



52. Upon information and belief, The Simple Greek has been operating numerous profitable franchises throughout the country, resulting in substantial amounts available for distribution to Members of The Simple Greek.

53. Defendants have engaged in acts and practices, as described, which constitute material breaches of the MOU, in an unlawful, unfair and fraudulent manner.

54. As a result, Defendants owe Plaintiffs damages in an amount unknown to Plaintiffs, which amount cannot be ascertained without an accounting of the receipts, profit and loss statements and other financial materials, statements and books from Defendants.

55. Despite Plaintiffs' absolute right, under all applicable laws, Defendants have refused to provide Plaintiff with access to The Simple Greek's books or records.

56. As a result, Plaintiffs are unable to determine the total amount of cash distributions to which Plaintiffs are entitled because the financial information necessary to make this determination is contained in The Simple Greek's financial books or records. Pursuant to the laws of both Delaware and Pennsylvania, Plaintiffs are entitled to the remedy of an accounting.

WHEREFORE, Plaintiffs respectfully request this Honorable Court compel Defendants 1) to allow Plaintiffs access to the financial books and records of The Simple Greek, 2) to account fully to Plaintiffs and 3) that this Honorable Court enter a judgment against Defendants for the amount determined to be due, which amount is in excess of the jurisdictional amount for compulsory arbitration, along with interest, costs and attorney's fees.

#### **COUNT II—APPOINTMENT OF RECEIVER**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
THE SIMPLE GREEK, LLC, a Delaware Limited Liability Company



57. Paragraphs 1 through 56 are incorporated by reference as if fully restated.

58. As set forth above, Defendants have wrongfully converted Plaintiffs' ownership interest in The Simple Greek to their own use and benefit without the authority to do so.

59. The appointment of a Receiver is necessary to protect the Plaintiffs' ownership interest in The Simple Greek and prevent the continued conversion of that interest by Defendants.

60. Irreparable injury will result to Plaintiffs in the absence of the appointment of a Receiver.

61. The interest of other parties, including Defendants, creditors of The Simple Greek and franchise owners of The Simple Greek will not be prejudiced by the appointment of a Receiver. In fact, it is vital to the interest of those parties that a Receiver be appointed.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter an Order appointing a Receiver for The Simple Greek.

### **COUNT III—BREACH OF FIDUCIARY DUTY / OPPRESSION**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and THE SIMPLE GREEK, LLC, a Delaware Limited  
Liability Company, and ML FOODS, a Delaware Limited Liability Company

62. Paragraphs 1 through 61 are incorporated by reference as if fully restated.

63. By law, the manager of an LLC owes all members a fiduciary duty.

64. Under applicable laws, the manager of an LLC cannot use its powers of control to exclude members from their proper share of the benefits due to them.

65. Defendants have refused to provide Plaintiffs with information about The Simple Greek's company affairs and have failed to provide Plaintiffs with financial records or books.

66. Defendants have used their power of control to frustrate Plaintiff's expected benefits in The Simple Greek, based on Plaintiff's Forty-Five Percent (45%) ownership.

67. Despite Plaintiffs' Forty-Five Percent (45%) ownership in The Simple Greek, Defendants have "frozen" Plaintiffs out, in an effort to deprive Plaintiffs of their interest in The Simple Greek.

68. The oppressive conduct of Defendants has substantially defeated the reasonable expectations held by Plaintiffs as a Forty-Five Percent (45%) owner of The Simple Greek. As a result, Plaintiffs have sustained substantial financial damages.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment against Defendants for breach of fiduciary duty in an amount to be determined, which amount is in excess of the jurisdictional amount for compulsory arbitration, along with interest, costs and attorneys' fees.

#### **COUNT IV—ACTION FOR SPECIFIC PERFORMANCE**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and THE SIMPLE GREEK, LLC, a Delaware Limited  
Liability Company, and ML FOODS, a Delaware Limited Liability Company

69. Paragraphs 1 through 68 are incorporated by reference as if fully restated.

70. Plaintiffs and Defendants entered into the MOU, as more fully described in Paragraph 24. The MOU provided in pertinent part that Plaintiffs were Forty-Five Percent (45%) owners in The Simple Greek and were also entitled to commission checks.

71. Plaintiffs have fully performed their obligations as outlined in the MOU.

72. Defendants have refused Plaintiffs their rights as required by the terms of the MOU and denied Plaintiffs' ownership in The Simple Greek.



73. Plaintiffs are entitled to specific performance of the terms, conditions and provisions of the MOU described in Paragraph 24.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter an Order directing Defendants to deliver to Plaintiffs' certificates confirming the ownership of Forty-Five Percent (45%) of the outstanding interest in The Simple Greek, LLC effective as of January 31, 2015.

### **COUNT V—BREACH OF CONTRACT**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and THE SIMPLE GREEK, LLC, a Delaware Limited  
Liability Company, and ML FOODS, a Delaware Limited Liability Company

74. Paragraphs 1 through 73 are incorporated by reference as if fully restated.

75. Pursuant to the terms of the MOU, Defendants agreed that Plaintiffs were entitled to Forty-Five Percent (45%) ownership in The Simple Greek. Plaintiffs were entitled to distributions from the franchises that were formed.

76. Despite their obligations under the MOU, Defendants have wrongfully withheld distributions due to Plaintiffs and have excluded them from the business.

77. The actions of Defendants described herein constitute material breaches of the Memorandum of Understanding.

78. Plaintiffs have sustained substantial damages as a result of Defendants' breach of the Memorandum of Understanding.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment against Defendants for breach of contract in an amount to be determined, which amount is in excess of the jurisdictional amount for compulsory arbitration, along with interest and costs.

## COUNT VI—FRAUD/FRAUDULENT INDUCEMENT

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and ML FOODS, a Delaware Limited Liability  
Company

79. Paragraphs 1 through 78 are incorporated by reference as if fully restated.

80. In order to divest and defraud Plaintiffs of their ownership interests in their restaurants and in The Simple Greek, Defendants represented to Plaintiffs, among other things, that:

- a. The Simple Greek was being formed so that Plaintiffs and Defendants could grow the franchises and expand throughout the United States. After Defendants established The Simple Greek using Plaintiffs' established business, recipes, know-how and experience, Defendants instituted a plan to freeze Plaintiffs out of their interests.
- b. Defendants fraudulently misrepresented their intentions of the business relationship between the parties.
- c. Defendants fraudulently claimed that the terms of the MOU had "been abandoned" and threatened Plaintiffs with a "take-it-or-leave-it" scenario to sign the AROA despite the fact that the AROA contained materially different terms than what the parties had agreed.

81. These representations were false when made and were known by Defendants to be false at the time they were made with the intent that Plaintiffs would rely thereon.

82. Plaintiffs did, in fact, rely upon these misrepresentations to their detriment and damage as evidenced by their work to generate new leads for new franchises.

83. As a direct and proximate result of the misrepresentations of Defendants, Plaintiffs have suffered substantial damages.



WHEREFORE, Plaintiffs respectfully requests this Honorable Court enter judgment against Defendants for Fraud/Fraudulent Inducement in an amount to be determined, which amount is in excess of the jurisdictional amount for compulsory arbitration, as follows:

- a. For compensatory and punitive damages
- b. For attorney's fees and costs; and
- c. For such other and further relief as this Court may deem equitable and just.

**COUNT VII—BREACH OF IMPLIED DUTY OF GOOD FAITH AND FAIR DEALING**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and ML FOODS, a Delaware Limited Liability  
Company

84. Paragraphs 1 through 83 are incorporated by reference as if fully restated.

85. At all times material hereto, Plaintiffs have been members of The Simple Greek, and as such Defendants owed Plaintiffs a duty to act fairly and in good faith.

86. As more particularly described herein, Defendants have breached their duty to act in good faith and to deal fairly with Plaintiffs, all to the financial detriment of Plaintiffs.

87. Plaintiffs have suffered substantial damages as a direct and proximate result of Defendants' breach of their duties to Plaintiffs.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment against Defendants for breach of Implied Duty of Good Faith and Fair Dealing in an amount to be determined, which amount is in excess of the jurisdictional amount for compulsory arbitration, along with interest, costs and attorney's fees.

**COUNT VIII—CONVERSION**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and ML FOODS, a Delaware Limited Liability  
Company

88. Paragraphs 1 through 87 are incorporated by reference as if fully restated.

89. By the conduct alleged herein, Defendants have converted and continue to convert Plaintiffs' property, particularly the Plaintiffs' ownership of the Franchise rights to The Simple Greek restaurants, and/or the Plaintiffs' ownership interest in The Simple Greek, to their own use and benefit without the authority to do so.

90. Defendants' conversion of Plaintiffs' property has been knowing, intentional, wanton, willful and an outrageous violation of Plaintiffs' rights.

91. As a proximate result of Defendants' conversion of Plaintiffs' property, Plaintiffs have suffered substantial damages.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment against Defendants for Conversion in an amount in an amount to be determined, which amount is in excess of the jurisdictional amount for compulsory arbitration, as follows:

- a. For compensatory and punitive damages
- b. For attorney's fees and costs; and
- c. For such other and further relief as this Court may deem equitable and just.

#### **COUNT IX—UNJUST ENRICHMENT**

MICHAEL FERENCE AND KATHLEEN KAMOUYEROU FERENCE v.  
MARCUS A. LEMONIS, an individual, and ML FOODS, a Delaware Limited Liability  
Company

92. Paragraphs 1 through 91 are incorporated by reference as if fully restated.

93. Defendants have profited from the taking of Plaintiffs' franchise businesses without compensation and from the operation of The Simple Greek franchises throughout the United States, resulting from Plaintiffs' original business, recipes, know-how and experience.



94. The profits earned could not have been achieved without Plaintiffs' efforts.

95. As a result of Plaintiffs' efforts, the Defendants have been unjustly enriched at Plaintiffs' expense by an amount to be determined in the above requested accounting.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment against Defendants for unjust enrichment in an amount to be determined, which amount is in excess of the jurisdictional amount for compulsory arbitration, along with interest, costs and attorney's fees.

Respectfully submitted,

Date: December 23, 2016

/s/ W. David Slomski  
W. David Slomski, Esquire  
Counsel for Plaintiffs

Date: December 23, 2016

/s/ Gary Ogg  
Gary Ogg, Esquire  
Counsel for Plaintiffs