

ANTI-SUIT INJUNCTIONS

Prerequisites - Who applies and why

Contract - Breach of Rules

Statutory Rules/Legislation

Context - Confidentiality issues; uneven bargaining power; financial constraints

Processes

Different Jurisdictions, Different Rules

USA

Caribbean

Bahamas

**The relevant issue here is
the National Court's
position relative to ADR.
Despite lack of legislation,
Courts are very aware of
backlog and encourage
the use of other processes**

Prerequisites

There must be a dispute

Contract, or Court Rules or Legislation
determines resolution process

Playing field usually not level

Party with greater bargaining power tries to
use Court system for financial advantage

The Bahamas has no Court annexed mediation or arbitration processes in place. Rules of Supreme Court might allow Court some flexibility so that individual Judges can encourage parties to go to Mediation or Arbitration, but no legislation.

Matters of Importance
Conduct and relationships
Independence
Interdependence
Impartiality
Cooperation and Collegiality
Imbalance of power
Saving of Time and Costs
Confidence in the system

QUO VADIS ADR?

Technological advances

Competently trained professionals

Time demands

Value for money in a timely manner

Do expectations matter?

Transparency and Compliance

Do we disagree or are we disagreeable?

On the way to the first world.....