

The Role of the “Antis”: Anti-Suit, and Anti-Arbitration Injunctions

Philip W. “Whit” Engle, FCI Arb
Attorney, Solicitor, Arbitrator, Mediator
Nassau, Bahamas
January 29th, 2018

Anti-Suit vs Anti Arbitration Injunctions

- *Purpose of Anti-Suit Injunction*: To prevent a party from proceeding with litigation
- *Purpose of Anti –Arbitration Injunction*: To prevent a party from proceeding with arbitration
- Process for either is similar to procedure to obtain an injunction in Federal (US) court.
- NB: Also “Counter Anti Suit Injunctions”: to prevent a party from seeking or enforcing anti-suit injunction. Aka “anti-anti Suit injunction”

Anti-Suit

- Jurisdiction
- Venue – paired with motion to compel arbitration
- Timing
- Elements:
 - Same parties
 - Issues in foreign and US proceedings the same

Anti-Injunction

- Grounds?
 - No arbitration agreement between parties
 - Tenuous connection between signatories
 - Jurisdictional issues
 - Failure to meet condition precedent
- Process?
 - Application for preliminary Injunctive Relief
 - Substantial likelihood of success on merits
 - Irreparable injury
 - Threatened injury outweighs damage proposed injunction may cause to opposing party
 - Injunction not adverse to public interest

Thank you!

Philip W. Engle, FCI Arb
Attorney, Solicitor, Arbitrator, Mediator
Atlanta, Georgia, USA

+1- 770-653-1441

englelaw@comcast.net

Deals. Disputes. Done!