

A wooden gavel with a dark handle and a light-colored head rests on a stack of several books. The books have yellowed pages and are bound in various colors. The background is a warm, textured brown. A semi-transparent white rectangular box is overlaid on the center of the image, containing the text.

*5<sup>th</sup> Annual  
Arbitration and Investment Summit  
– Caribbean, Latin America and Other Emerging Markets*

# Construction Adjudication and Lessons of Baha Mar

MODERATOR: H.E. TONY JOUDI AMBASSADOR TO UAE AND QATAR  
AND DR. PETER D. MAYNARD, HEAD OF LAW DEPARTMENT, THE  
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## PANELISTS:

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MARKETS

# ADR Adjudication

Construction alternative dispute resolution ('ADR') includes:

**Mediation:** parties agree to have a third party attempt to facilitate a settlement;

**Conciliation:** often used interchangeably with mediation, but the facilitator may end up issuing a recommendation if there is no settlement;

**Mini-Trial:** both parties present their cases in a summary form to senior management of both organizations with an independent 3rd party acting as referee;

**Med-Arb:** first mediation and if a settlement is not achieved, then arbitration (preferable to have different persons in each role);

**Early Neutral Evaluation:** the parties submit their respective cases to a neutral 3rd party who then provides his opinion on the matter;

**Expert Determination:** the parties agree to submit their (technical or valuation) dispute to a 3rd party who then issues a binding determination; and

# Adjudication:

- contractual, statutory or both.
- Parties agree or are obliged to submit their claims to a 3rd party (including a Dispute Adjudication Board or Dispute Review Board), which then makes a decision which is binding until overturned by a successful challenge.

# Benefits of ADR

Avoid cash flow problems. “Pay now, argue later.”

Avoid the cost, time and inflexibility of litigation or arbitration.

Confidential

# Common Contract Features

- Performance bond
- Retention
- Lien
- Payment bond is little used

# A New Adjudication Bill?

Statutory and contractual

Adjudicator/ Arbitrator/ Mediator appointments  
and standards set by IWHAM

Compulsory for contracts of >\$1 million, and  
encouraged for smaller contracts

# Thank you!

By – Dr. Peter Maynard

Head of Law Department of The University of The Bahamas



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