

## **Legal Stuff**

### **Court Injunctions:**

For those not familiar with the American legal process, an injunction is a court order requiring a person to do or stop doing something under penalty of contempt of court, which can include jail.

An injunction takes three forms: (1) a temporary restraining order (“TRO”); (2) a preliminary injunction, and (3) a permanent injunction.

A TRO can be obtained without a hearing upon the filing of a lawsuit and an affidavit showing irreparable harm to the plaintiff will otherwise occur. A TRO is temporary and not difficult to obtain only because a hearing must be promptly held to allow the defendant an opportunity to appear in court and refute the plaintiff’s showing. If the defendant fails to do so, a preliminary injunction can be issued and remain in effect until a trial on the merits is held at which the court can determine whether a permanent injunction should be ordered.

An injunction in any form can only be issued by a judge sitting in a court of full powers; it cannot be issued by a court of limited jurisdiction, such as a small claims court. Nor can it be issued by an arbitrator or through arbitration. And this last point is an important one.

### **Summary Judgment:**

A summary judgment is a judgment rendered by a court prior to a verdict because no material issue of fact exists. To obtain one, a party must file a motion requesting it. The motion must be supported by admissible evidence, which is usually provided through affidavits.

Any evidence presented in opposition to the motion that shows a dispute exists on any material fact is sufficient to defeat a motion for summary judgment.

Courts are reluctant to grant summary judgments because they deprive a party of a trial, which is considered a fundamental element to due process of law. State and federal constitutions in America require due process of law before a person may be deprived of life, liberty or property. Monetary awards deprive persons of their property; injunctions not to speak out deprive them of their liberty to speak.