

Analysis of Non-Exclusive Jurisdiction Agreement by Ontario Court

In *Sugar v. Megawheels Technologies Inc* (available [here](#)) a judge of the Ontario Superior Court of Justice has analysed the role of a non-exclusive jurisdiction agreement in favour of a foreign forum on a motion to stay proceedings in the domestic forum. The judge ends up giving the agreement relatively little weight, in part in reliance on the approach of the English Court of Appeal in the *Ace Insurance* decision (see para. 28), and the stay is refused.

Is this decision open to question? It would seem at least some English cases have relied on a non-exclusive jurisdiction agreement to stay proceedings under a *forum non conveniens* analysis, at least where the other connections were spread relatively evenly across the jurisdictions. The Ontario judge thought the approach adopted was essential to preserve the distinction between exclusive and non-exclusive jurisdiction clauses, but arguably that distinction can and has been maintained at common law without giving so little weight to a non-exclusive jurisdiction clause on a motion to stay.