

ARBITRATION REMEDIES—PUNITIVE DAMAGES

- The arbitrators will have no authority to award punitive damages or any other damages not measured by the prevailing party's actual damages and may not, in any event, make any ruling, finding, or award that does not conform to the terms and conditions of the Agreement.

[**Comment by Ed Costello:** This clause, of course, precludes punitive damage awards against either party in any dispute covered by the ADR agreement of which it will be part. To introduce this clause by itself, however, may be negotiation suicide. It sends the message, among others, that there may be worries about punitive damages because: (a) they have been awarded against that party before, and/or (b) that party may be planning something which might merit them receiving punitive damage. The *mutuality* of the clause should be emphasized.]