

Provisional Remedies: Kentucky

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A Q&A guide to the various provisional remedies available in Kentucky state courts. This Q&A addresses the legal standards in Kentucky for obtaining provisional remedies, the application procedures for each remedy and limitations imposed on each remedy.

OVERVIEW OF STATE PROVISIONAL REMEDIES

1. List each provisional remedy available in your jurisdiction, and the statutory authority (if any) for each.

Kentucky law provides for the following provisional remedies:

- Writ of possession (*Ky. R. Civ. P. 64; Ky. Rev. Stat. Ann. §§ 425.011 to 425.056*).
- Deposit in court (*Ky. Rs. Civ. P. 67.01 to 67.03*).
- Restraining order (*Ky. R. Civ. P. 65.03; Ky. Rev. Stat. Ann. §§ 425.066, 425.071 and 425.086*).
- Temporary injunction (*Ky. R. Civ. P. 65.04; Ky. Rev. Stat. § 425.066; Maupin v. Stansbury, 575 S.W.2d 695, 698-700 (Ky. App. 1978)*).
- Attachment (*Ky. Rs. Civ. P. 69.01 to 69.03; Ky. Rev. Stat. Ann. §§ 425.301 to 425.316*).
- Receivership (*Ky. R. Civ. P. 66; Ky. Rev. Stat. Ann. § 425.600*).

2. For each remedy listed in Question 1, describe:

- The nature of each remedy.
- Whether the remedy is limited to certain categories of actions or only available under certain conditions.

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

A writ of possession is a court order directing the sheriff to both:

- Seize certain property from a party.

- During the pendency of an action, either:
 - detain the property; or
 - deliver the property to another party.

A writ of possession is available in any action in which the property is the subject matter of the dispute (*Ky. Rev. Stat. Ann. § 425.011(1)*).

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

A court may order a party to pay money or deliver particular property either to be held either by the court or by another party before the conclusion of a lawsuit.

This remedy is available in any action in which the property or fund is the subject matter of the dispute (*Ky. R. Civ. P. 67.02*).

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

A restraining order is a short-term court order directed at a party who, on the opposing party's request, was not provided notice or the opportunity to be heard by the court. A restraining order prohibits the party from taking a particular action between the time the party receives notice of the restraining order until the time that the party may be heard by the court.

Except for actions generally brought in the Kentucky District Court, this remedy is available in any action (see *Ky. Rs. Civ. P. 65.01 and 65.03*).

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

A temporary injunction is a court order that either:

- Prohibits a party from taking a particular action before the court's final judgment.
- Compels a party to take a particular action before the court's final judgment.

Except for actions generally brought in the Kentucky District Court, this remedy is available in any action (*Ky. Rs. Civ. P. 65.01 and 65.04*).



ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

An attachment is a court order that brings property into the court's custody or control and takes away the defendant's right to remove or dispose of the property pending the court's final judgment.

This remedy is available in any action in which the plaintiff seeks the recovery of money that is due (see *Ky. Rev. Stat. Ann. § 425.301*). The remedy is also available in limited cases in which money is not yet due from the defendant to the plaintiff (for example, if a party conceals or removes from the state the property intending to defraud its creditors) (*Ky. Rev. Stat. Ann. § 425.306*).

3. For each remedy listed in Question 1, provide the legal standard used by the court when deciding to grant the remedy.

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

A plaintiff must establish the probable validity of his claim for the possession of the property to obtain a writ of possession (*Ky. Rev. Stat. Ann. § 425.036*). The plaintiff must show in its motion for a writ of possession:

- That the plaintiff is entitled to possess the property.
- That the defendant has wrongfully detained the property.
- How and why the defendant came into possession of the property.
- A description of the property and its value.
- Where the property is located.
- That the property has:
 - not been taken for a tax assessment or fine pursuant to a statute;
 - not been seized under an execution against the plaintiff's property; or
 - been seized under an execution against the plaintiff's property, but the property is exempt by statute from such seizure.

(*Ky. Rev. Stat. Ann. § 425.011*.)

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

A court may order a party to deliver money or other property to the court or to another party. The party's pleading or testimony must state that the party possesses or controls any money or other thing that:

- Can be delivered.
- Is the subject of the litigation.
- Belongs or is due to another party.

(*Ky. R. Civ. P. 67.02*.)

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

To obtain a restraining order, a party must show in a verified complaint or affidavit that:

- The adverse party is violating or will violate the moving party's rights.
- The violation will cause immediate and irreparable injury, loss or damage before the adverse party or his attorney can be heard in opposition.

(*Ky. R. Civ. P. 65.03(1)*.)

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

To obtain a temporary injunction, a party must show in a verified complaint, affidavit or other evidence that:

- The adverse party is violating or will violate the moving party's rights.
- Either that:
 - the violation will inflict immediate and irreparable injury, loss or damage on the party before a final judgment in the case can be reached; or
 - the adverse party's acts will make a final judgment ineffective.

(*Ky. R. Civ. P. 65.04*.)

Courts must consider equity when determining whether to grant a temporary injunction, including possible detriment to the public interest, harm to the defendant and whether the injunction maintains the status quo (*Maupin v. Stansbury, 575 S.W.2d at 698-99*).

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

To obtain an order of attachment, a party must show the court that the defendant whose property it seeks to attach:

- Is a foreign corporation or non-resident of Kentucky, but only for claims for a contractual debt, judgment or award.
- Has been absent from Kentucky for at least four months.
- Has left Kentucky intending to defraud its creditors.
- Has left the county of its residence to avoid being served a summons.
- Conceals itself to avoid being served a summons.
- Is about to remove or has removed all or a material part of its property from Kentucky.
- Has sold, conveyed or otherwise disposed of, or is about to sell, convey or otherwise dispose of, its property intending to fraudulently cheat, hinder or delay its creditors.

(*Ky. Rev. Stat. Ann. § 425.301*.)

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600

A party requesting the appointment of a receiver must show that:

- The party has or may have a right to either a lien on or an interest in any property or fund involved in the action.
- The property or fund is in danger of being lost, removed or materially injured.

(*Ky. Rev. Stat. Ann. § 425.600(1)*.)

APPLYING FOR STATE PROVISIONAL REMEDIES

4. For each remedy listed in Question 1, what is the procedure for applying for that relief? Include any limits placed on the method of applying for that remedy (for example, whether the state disallows applications for preliminary injunctions to be brought by orders to show cause)?

Under the Kentucky Rules of Civil Procedure, any motion that requests an order of the court, including provisional remedies, must be in writing and must state the basis of the motion with particularity (*Ky. R. Civ. P. 7.02(1)*).

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

A party seeking a writ of possession must file a motion under oath that includes all of the following:

- The basis of the party's claim, including a copy of any written instrument that forms the basis for the claim.
- That the party is entitled to possession of the property claimed.
- A showing, according to the party's best knowledge, information and belief:
 - that the defendant wrongfully detained the property;
 - of the manner in which the defendant came into possession of the property; and
 - of the reason why the defendant detains the property.
- A particular description of the property and a statement of the property's value.
- A statement, according to the party's best knowledge, information and belief, specifying:
 - the property's location;
 - showing that the property is located, in whole or in part, in a private place which may have to be entered to take possession; and
 - showing that there is probable cause to believe that the property is located at the party's specified location.
- A statement that the property has:
 - not been taken for a tax assessment or fine pursuant to a statute;
 - not been seized under an execution against the moving party's property; or
 - been seized, but the property is exempt by a statute exempt from seizure.

(*Ky. Rev. Stat. Ann. § 425.011.*)

On the request of the adverse or an intervening party, the court must conduct an evidentiary hearing in which each party must be allowed to present witnesses on its behalf and cross-examine adverse witnesses (*Ky. Rev. Stat. Ann. § 425.031*).

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

A party seeking to compel another party to deposit money or property in court or to deliver money or property to a party must file a motion requesting that the court issue an order to compel the deposit or delivery (*Ky. R. Civ. P. 67.02; J.R.E., Inc. v. Asbury*, 993 S.W.2d 960, 962 (*Ky.* 1999)).

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

A party seeking a restraining order must file a motion for a restraining order (*Ky. R. Civ. P. 65.03*). A court may grant a restraining order without notifying the adverse party only if:

- The verified complaint or affidavit includes specific facts that clearly show that:
 - the moving party's rights are being or will be violated by the adverse party; and
 - the moving party will suffer immediate and irreparable injury, loss or damage before the adverse party can be heard in opposition.

- The moving party's attorney certifies to the court in writing the efforts, if any, that the moving party has made to give notice to the adverse party and the reasons supporting his claims that notice should not be required.

(*Ky. R. Civ. P. 65.03(1)*.)

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

A party seeking a temporary injunction must file a motion, which must be supported by a verified complaint, affidavit or other evidence (*Ky. R. Civ. P. 65.04(1)*). A temporary injunction may only be granted after:

- The adverse party has been notified of the injunction.
- A hearing.

(*Ky. High Sch. Ath. Ass'n v. Edwards*, 256 S.W.3d 1, 3 (*Ky.* 2008).)

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

To obtain a pre-judgment order of attachment, the party seeking the order must first:

- Deliver to the debtor a written demand and a copy of the complaint, motion and summons by registered or certified mail.
- Provide at least seven but not more than 60 days for the debtor to respond before seeking the attachment order.

(*Ky. Rev. Stat. Ann. § 425.301(3)*.)

The written demand must:

- Include a statement specifying that:
 - the debtor has seven days in which to petition the court for a hearing or to pay the claim in full; and
 - the party will seek an order to subject the debtor's property to the claim payment, unless a hearing is set or the debtor pays the claim.
- Identify the court in which the suit has been filed.
- Specify:
 - the grounds for the lawsuit;
 - the date of the demand;
 - the claim amount of the claim;
 - the moving party's name and address; and
 - the name of the moving party's attorney.

(*Ky. Rev. Stat. Ann. § 425.301(3)*.)

A party seeking an order of attachment must file a motion (*Ky. Rev. Stat. Ann. § 425.307(1)*). The motion, which must be executed under oath, must include:

- The nature of the party's claim.
- A statement noting that the claim is just.
- The amount claimed by the moving party.
- The existence of any of the grounds for an attachment under Sections 425.301 or 425.306 of the Kentucky Revised Statutes.

(*Ky. Rev. Stat. Ann. § 425.307(2)*.)

The adverse party may request an evidentiary hearing similar to that for a writ of possession (*Ky. Rev. Stat. Ann. § 425.307(3)*; see *Writ of Possession: Ky. R. Civ. P. 64 and Ky. Rev. Stat. Ann. §§ 425.011 to 425.056*).

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600

A party seeking the appointment of a receiver must file a motion requesting the court to appoint a receiver (*Ky. Rev. Stat. Ann. § 425.600(1)*).

5. For each remedy listed in Question 1, list any documents that are required as part of the application.

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

A party must attach a copy of the instrument to the motion for a writ of possession if the party's claim is based on a written instrument (for example, a contract) (*Ky. Rev. Stat. Ann. § 425.011(2)(a)*).

The written motion for a writ of possession must include certain showings (see *Question 4: Writ of Possession: Ky. R. Civ. P. 64 and Ky. Rev. Stat. Ann. §§ 425.011 to 425.056*). Although not required, the mandatory elements in a motion for a writ of possession may be based on one or more affidavits (*Ky. Rev. Stat. Ann. § 425.011(3)*).

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

A party is not required to submit additional documents when moving for an order to compel the deposit or delivery of funds or property into court. However, because the motion must be based on the adverse party's admission in a pleading or in testimony, best practice is for the moving party to submit copies of the relevant pleading or testimony as part of the motion.

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

A party is not required to submit additional documents when moving for a restraining order. However, the motion for a restraining order must include:

- Specific facts showing that the moving party's rights are or will be violated and that the violation would cause immediate and irreversible injury before the adverse party may be heard, which may, but is not required to, be shown either by a verified complaint or by an affidavit.
- A written certification detailing the efforts, if any, that the moving party had made to give notice to the opposing party and the reasons supporting any claim that notice should not be required.

(*Ky. R. Civ. P. 65.03(1)*.)

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

A party must provide a verified complaint, affidavit or other evidence that the moving party's rights are or will be violated and that the violation would cause immediate and irreversible injury before either:

- There is a final judgment in the action.
- The acts of the adverse party would render a final judgment ineffectual.

(*Ky. R. Civ. P. 65.04(1)*.)

The moving party may submit the evidence in the hearing, rather than as part of the motion for temporary injunction.

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

A party must include a copy of the following documents in a motion for a pre-judgment order of attachment:

- The written demand that was delivered to the defendant along with the complaint and summons.
- An affidavit by the party or the moving party's attorney showing that the party made and delivered a written demand.

(*Ky. Rev. Stat. Ann. § 425.301(3)*.)

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600

A party is not required to submit additional documents in support of a motion to appoint a receiver.

6. For each remedy listed in Question 1, if the remedy is requested on notice, indicate:

- What notice is required.
- Any time limits applicable to the notice.
- Whether the adverse party may submit opposition, and if so, when and how.
- Whether the adverse party is entitled to a hearing.

All motions other than proper *ex parte* motions must be served on an opponent within a reasonable time before the time specified for the hearing, unless another time period is specified by a separate rule (*Ky. R. Civ. P. 6.04(1)*). An affidavit in opposition to a motion must be filed no later than one day before a hearing, unless otherwise specified by rule or court order (*Ky. R. Civ. P. 6.04(2)*). Parties are entitled to receive notice of all orders entered by the court (*Ky. R. Civ. P. 77.04*).

Kentucky's 120 counties are grouped into 47 separate judicial circuits. Practitioners should note that each circuit has its own set of local rules of trial court practice, with requirements for particular motions, notices, filing deadlines and hearings. This includes setting regular motion days and dispensing with oral hearings on certain motions (*Ky. R. Civ. P. 78*). Best practice is to check the local court rules regarding practice related to provisional remedies.

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056**Notice**

A party must provide written notice to the opposing party before a writ of possession is issued. The notice must be sent via registered or certified mail, return receipt requested. (*Ky. Rev. Stat. Ann. § 425.012(1)*; *Ky. R. Civ. P. 69.01*.)

Time Limits for Notice

A party must send the written notice of intent to seek a writ of possession at least seven and not more than 60 days before seeking the writ in court (*Ky. Rev. Stat. Ann. § 425.012(1)*).

Opposing an Application

The adverse party may oppose the motion for a writ of possession by demanding a hearing in writing (*Ky. Rev. Stat. Ann. § 425.031*). In addition, the adverse party may:

- File a bond to have the property re-delivered.

- Seek an order from the court to quash the writ and have the property released from the writ.

(*Ky. Rev. Stat. Ann. § 425.046*.)

Kentucky law does not specify when the adverse party must oppose the writ.

Hearing

The court must conduct an evidentiary hearing on the motion if the party against whom the writ is sought requests a hearing (*Ky. Rev. Stat. Ann. § 425.031*).

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

Notice

The Kentucky Rules of Civil Procedure do not specify any notice requirements for noticing a motion to order deposit or delivery of funds or property with the court.

Time Limits for Notice

The Kentucky Rules of Civil Procedure do not specify any time limits for notices of motions relating to delivering funds or property with the court.

Opposing an Application

The Kentucky Rules of Civil Procedure do not specify how and when an adverse party may oppose a motion to order deposit or delivery of funds or property with the court. The Kentucky Rules of Civil Procedure, however, generally allow an adverse party to oppose a motion (see *Ky. Rs. Civ. P. 6.04 and 7.02*).

Hearing

The Kentucky Rules of Civil Procedure do not specify when an adverse party is entitled to a hearing.

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

Notice

A party may obtain a restraining order without notifying the adverse party (*Ky. R. Civ. P. 65.03(1)*). However, the applicant party must provide written certification specifying:

- The efforts, if any, that the party has made to provide notice to the adverse party.
- The reasons that notice should not be required.

(*Ky. R. Civ. P. 65.03(1)*.)

Once entered, a restraining order must be served on the party to be restrained in the same manner as a summons is served (*Ky. R. Civ. P. 65.03(4)*).

Time Limits for Notice

The Kentucky Rules of Civil Procedure do not specify any time limits for noticing a motion for a restraining order. However, if entered by the court, a restraining order is effective and binding only after the party to be restrained is served a copy of the restraining order or is informed of the order, whichever is earlier (*Ky. R. Civ. P. 65.03(5)*).

Opposing an Application

Although the Kentucky Rules of Civil Procedure do not provide for an opposition to a restraining order, a restrained party may file a motion to dissolve a restraining order. A restraining order remains in force until the earlier of:

- The time set for a hearing on a motion to dissolve the restraining order, unless at that time there is also a pending motion for a temporary injunction.
- The entry of an order on a motion for a temporary injunction.
- The entry of a final judgment.

(*Ky. R. Civ. P. 65.03(5)*.)

Hearing

An adverse party may file a motion requesting a hearing to dissolve the restraining order (*Ky. R. Civ. P. 65.03(5)*).

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

Notice

A party must provide notice to the adverse party for a temporary injunction to be granted (*Ky. High Sch. Ath. Ass'n, 256 S.W.3d at 3*).

Time Limits for Notice

The Kentucky Rules of Civil Procedure do not specify any time limits for noticing a motion for a temporary injunction. A temporary injunction becomes effective and binding when entered by the court (*Ky. R. Civ. P. 65.04(4)*).

Opposing an Application

The Kentucky Rules of Civil Procedure do not explicitly provide for an adverse party's opposition to a temporary injunction. However, an adverse party has an opportunity to oppose an application for a temporary injunction at a hearing, which is required before the court issues a temporary injunction (see *Ky. High Sch. Ath. Ass'n v. Edwards, 256 S.W.3d at 3*).

Hearing

A temporary injunction may only be issued after a hearing. (*Ky. High Sch. Ath. Ass'n v. Edwards, 256 S.W.3d at 3*).

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

Notice

Before a pre-judgment order of attachment can be issued, the party seeking the order must first make a written demand and deliver the demand and a copy of the complaint, motion and summons to the debtor by registered or certified mail (*Ky. Rev. Stat. Ann. § 425.301(3)*). The notice must be made in the same manner as service of a summons or a subpoena or by certified mail, return receipt requested (*Ky. R. Civ. P. 69.01*).

Time Limits for Notice

A party must provide the debtor with notice of its intent to seek attachment at least seven but not more than 60 days before seeking the attachment order in court (*Ky. Rev. Stat. Ann. § 425.301(3)*).

Opposing an Application

A defendant whose property is attached may move to quash the attachment order and for any property taken or attached to be released from the attachment (*Ky. Rev. Stat. Ann. § 425.302*).

Hearing

On request, the party against whom attachment is sought is entitled to the same type of evidentiary hearing to which a defendant is entitled when opposing a motion for a writ of possession (*Ky. Rev. Stat. Ann. § 425.307(3)*; see *Writ of Possession: Hearing*). An application to quash the attachment is entitled to an immediate hearing (*Ky. Rev. Stat. Ann. § 425.302*).

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600

Notice

Section 425.600 of the Kentucky Revised Statutes and Rule 66 of the Kentucky Rules of Civil Procedure do not address whether a party must provide notice before filing a motion to appoint a receiver.

Time Limits for Notice

Section 425.600 of the Kentucky Revised Statutes and Rule 66 of the Kentucky Rules of Civil Procedure do not address whether time limits for noticing a motion to appoint a receiver.

Opposing an Application

Section 425.600 of the Kentucky Revised Statutes and Rule 66 of the Kentucky Rules of Civil Procedure do not address whether a party may oppose a motion to appoint a receiver.

Hearing

Section 425.600 of the Kentucky Revised Statutes and Rule 66 of the Kentucky Rules of Civil Procedure do not address whether either party may request a hearing related to a receivership.

7. For each remedy listed in Question 1, please describe:

- Whether *ex parte* applications are allowed.
- The procedure for obtaining *ex parte* relief.
- Any additional standard that must be met if the remedy is sought *ex parte*.

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

Ex Parte Applications

Kentucky courts may issue *ex parte* writs of possession (*Ky. Rev. Stat. Ann. § 425.076*).

Procedure for Ex Parte Relief

To obtain an *ex parte* writ of possession, the moving party must submit a motion for a writ of possession at the time of or after the complaint and summons are filed. The moving party must also support the motion with an affidavit showing that the party will suffer great or irreparable injury if the writ is delayed until the matter can be heard on notice (*Ky. Rev. Stat. Ann. § 425.076(1), (2)*; see *Additional Standards for Ex Parte Applications*). Once issued, an *ex parte* writ of possession must be served on the defendant with:

- A copy of the summons and complaint.
- A copy of the motion for the writ of possession.
- Any affidavit supporting the motion.

(*Ky. Rev. Stat. Ann. § 425.076(3)*.)

A plaintiff may also apply for an *ex parte* in writing to the court for an endorsement on the writ directing the sheriff to seize the property at a private place not specified in the original writ (*Ky. Rev. Stat. Ann. § 425.051(1)*). The plaintiff must establish by affidavit that there is probable cause to believe that the property or some part of it may be found at that place (*Ky. Rev. Stat. Ann. § 425.051(2)*).

Additional Standards for Ex Parte Applications

A party may only obtain an *ex parte* writ of possession if it submits an affidavit showing facts indicating that the moving party would suffer great or irreparable injury if the writ is not issued until the matter can be heard on notice. Examples of a great or irreparable injury include that:

- The property would be concealed, placed beyond the court's jurisdiction or substantially impaired in value if the writ was not issued until the matter could be heard on notice.
- The defendant gained possession of the property by wrongfully taking the property from the moving party, unless the defendant fraudulently appropriated property that was entrusted to him or obtained possession by false pretense or by embezzlement.
- The property is a credit card.

(*Ky. Rev. Stat. Ann. § 425.076(2)*.)

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

Ex Parte Applications

Ex parte orders are not allowed for a court order compelling the deposit of funds or delivery of property to the court.

Procedure for Ex Parte Relief

See *Ex Parte Applications*.

Additional Standards for Ex Parte Applications

See *Ex Parte Applications*.

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

Ex Parte Applications

Restraining orders may be obtained and are generally issued *ex parte* (see *Ky. R. Civ. P. 65.03(1)*).

Procedure for Ex Parte Relief

The moving party must certify in writing to the court the efforts, if any, that the party has made to notify the adverse party and the reasons supporting any claim as to why notice should not be required (*Ky. R. Civ. P. 65.03(1)*).

Additional Standards for Ex Parte Applications

There are no additional standards for *ex parte* applications for a restraining order.

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066**Ex Parte Applications**

Temporary injunctions cannot be granted *ex parte* (Ky. High Sch. Ath. Ass'n, 256 S.W.3d at 3).

Procedure for Ex Parte Relief

See *Ex Parte Applications*.

Additional Standards for Ex Parte Applications

See *Ex Parte Applications*.

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316**Ex Parte Applications**

A party may obtain an *ex parte* order of attachment (Ky. Rev. Stat. Ann. § 425.308).

Procedure for Ex Parte Relief

A party seeking an order of attachment (*ex parte* or otherwise) must file a written motion for an order of attachment specifying:

- The nature of the moving party's claim.
- That the moving party's claim is just.
- The claim amount.
- The grounds for an attachment as specified in either Section 425.301 or 425.306 of the Kentucky Revised Statutes.

(Ky. Rev. Stat. Ann. § 425.307.)

Additional Standards for Ex Parte Applications

To obtain an *ex parte* order of attachment, a moving party must also submit an affidavit showing that it would suffer great or irreparable injury if the order is delayed until the matter can be heard on notice (Ky. Rev. Stat. Ann. § 425.308).

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600**Ex Parte Applications**

Section 425.600 of the Kentucky Revised Statutes does not specify whether a party may obtain a receivership *ex parte*.

Procedure for Ex Parte Relief

See *Ex Parte Applications*.

Additional Standards for Ex Parte Applications

See *Ex Parte Applications*.

OTHER ISSUES FOR PROVISIONAL REMEDIES

8. For each remedy listed in Question 1, are any limits placed on the duration of the remedy (for example, whether a temporary restraining order is limited by statute to a certain number of days)?

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

Kentucky law does not specify any limits on the duration of a writ of possession.

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

Kentucky law does not specify any limits on the duration of an order for deposit in court.

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

Unless a restraining order provides for an earlier termination date, a restraining order is effective until the earlier of either:

- The time set for a hearing on a motion to dissolve the restraining order, unless there is then pending a motion for a temporary injunction.
- The entry of an order on a motion for a temporary injunction.
- The entry of a final judgment.

(Ky. R. Civ. P. 65.03(5).)

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

A temporary injunction is effective until either:

- Modified or dissolved on motions.
- A permanent injunction is granted or denied.

(Ky. R. Civ. P. 65.04(4).)

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

Kentucky law does not specify any limits on the duration of an order for attachment.

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600

Kentucky law does not specify any limits on the duration of the appointment of a receiver. Rule 66 of the Kentucky Rules of Civil Procedure provides that an action in which a receiver has been appointed can be dismissed only by order of the court (Ky. R. Civ. P. 66).

9. For each remedy listed in Question 1, state whether a bond or other form of security must be provided if the remedy is granted, and include any guidelines for the amount and form of the bond or security.

WRIT OF POSSESSION: KY. R. CIV. P. 64 AND KY. REV. STAT. ANN. §§ 425.011 TO 425.056

A party seeking a writ of possession must provide a written bond stating that if it fails to recover judgment in the action, it will:

- Return the property to the other party, if ordered.
- Pay all costs and damages caused by the loss of possession of the property.

The bond must be for at least twice the value of the property as determined by the court. (Ky. Rev. Stat. Ann. § 425.111.)

DEPOSIT IN COURT: KY. RS. CIV. P. 67.01 TO 67.03

A party is not required to provide a bond for a deposit of money or property in court.

RESTRAINING ORDER: KY. R. CIV. P. 65.03 AND KY. REV. STAT. ANN. §§ 425.066, 425.071 AND 425.086

The party seeking the restraining order must post a bond for the payment of all costs and damages incurred by any person who is found to have been wrongfully restrained (*Ky. R. Civ. P. 65.05(1)*).

The adverse party may move for additional security. The court may vacate the original restraining order if the security amount is deemed insufficient unless sufficient security is given in a reasonable time. (*Ky. R. Civ. P. 65.05(3)*.)

TEMPORARY INJUNCTION: KY. R. CIV. P. 65.04 AND KY. REV. STAT. ANN. § 425.066

See *Restraining Order: Ky. R. Civ. P. 65.03 and Ky. Rev. Stat. Ann. §§ 425.066, 425.071 and 425.086*.

ATTACHMENT: KY. RS. CIV. P. 69.01 TO 69.03 AND KY. REV. STAT. ANN. §§ 425.301 TO 425.316

A party seeking an order of attachment must post a bond of at least double the amount of the claim (*Ky. Rev. Stat. Ann. § 425.309(1)*).

RECEIVERSHIP: KY. R. CIV. P. 66 AND KY. REV. STAT. ANN. § 425.600

No bond is required (*Whitlock v. Ponder, No. 2008-CA-000979-MR, 2009 WL 1491380, at *3 (Ky. Ct. App. May 29, 2009)*).

QUASI-PROVISIONAL REMEDIES

10. Are there any additional remedies available in your jurisdiction (such as *lis pendens* or seizure of chattel) that are not considered provisional remedies but function similarly?

There are no additional remedies available in Kentucky.

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