

An engaged couple broke up one month before their planned wedding. Upon the breakup, the man asked the woman to reimburse him for the costs associated with the wedding and to return the engagement ring that had belonged to his great-grandmother. The woman, who had moved to another state after the breakup, refused to return the ring.

The man sued the woman in a federal district court to recover the expenses and the engagement ring, which totaled over \$100,000. He seeks to possess the ring pending the outcome of the litigation on the merits.

Which of the following provisional remedies would most likely accomplish the man's goal?

- A. Garnishment.
- B. Receivership.
- C. Replevin.
- D. Temporary restraining order.

Explanation:

Provisional remedies*

Preliminary injunction	Court order commanding or prohibiting specified action while the case is pending
Temporary restraining order	Court order commanding or prohibiting specified action for 14 days or until preliminary-injunction hearing can take place (whichever occurs first)
Attachment	Seizure of person's property to secure or satisfy future judgment
Replevin	Seizure of personal property in defendant's possession that is transferred to plaintiff's possession pending outcome of suit
Garnishment	Court order directing third party to hold indebted party's assets (eg, wages) until further judicial notice
Receivership	Appointment of neutral third party to manage & administer disputed assets/property

*A federal court can issue any provisional remedy provided under the law of the state where the court is located.

Provisional remedies are temporary remedies issued *before* trial that are designed to maintain the status quo until a final judgment is rendered. Such remedies include, but are not limited to, the following:

- Garnishment – a court order directing a third party (eg, bank or employer) to hold onto an indebted party's assets (eg, employee's wages) until the court provides further notice (**Choice A**)
- Receivership – a court order appointing a neutral third party (ie, receiver) to manage and administer disputed assets and/or property (often used against companies in bankruptcy proceedings) (**Choice B**)
- Temporary restraining order – a court order commanding or prohibiting specified action for 14 days or until a preliminary-injunction hearing can take place—whichever occurs first
- **Replevin** – a court order **seizing property possessed by the defendant and transferring it to the plaintiff** pending the outcome of the lawsuit

Here, the man (plaintiff) seeks to possess his great-grandmother's ring for the duration of his suit against the woman (defendant). Since a court order of replevin would force the woman to physically turn over the ring to the man pending the outcome of the litigation—not just for 14 days or until a preliminary-injunction hearing occurs—replevin would best accomplish the man's goal **(Choice D)**.

Educational objective:

Provisional remedies are temporary remedies that maintain the status quo until a final judgment is issued. Replevin is a provisional remedy that allows the court to seize property possessed by the defendant and transfer it to the plaintiff pending the outcome of the lawsuit.

References

- Fed. R. Civ. P. 64 (provisional remedies).

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