

§ 1-567.39. Interim relief and the enforcement of interim measures.

(a) In the case of an arbitration where the arbitrator or arbitrators have not been appointed, or where the arbitrator or arbitrators are unavailable, a party may seek interim relief directly from the court as provided in subsection (c). Enforcement shall be granted as provided by the law applicable to the type of interim relief sought.

(b) In all other cases, a party shall seek interim relief under G.S. 1-567.47.

(c) In connection with an agreement to arbitrate or a pending arbitration, the court may grant, pursuant to subsection (a) of this section, any of the following:

- (1) An order of attachment or garnishment.
- (2) A temporary restraining order or preliminary injunction.
- (3) An order for claim and delivery.
- (4) The appointment of a receiver.
- (5) Delivery of money or other property into court.
- (6) Any other order that may be necessary to ensure the preservation or availability either of assets or of documents, the destruction or absence of which would be likely to prejudice the conduct or effectiveness of the arbitration.

(d) In considering a request for interim relief or the enforcement of interim measures, the court shall give preclusive effect to any finding of fact of the arbitral tribunal in the proceeding, including the probable validity of the claim that is the subject of the interim relief sought or the interim measures granted.

(e) Where the arbitral tribunal has not ruled on an objection to its jurisdiction, the court shall not grant preclusive effect to the tribunal's findings until the court has made an independent finding as to the jurisdiction of the arbitral tribunal. If the court rules that the arbitral tribunal did not have jurisdiction, the application for interim relief or the enforcement of interim measures shall be denied. Such a ruling by the court that the arbitral tribunal lacks jurisdiction is not binding on the arbitral tribunal or subsequent judicial proceedings.

(f) The availability of interim relief under this section may be limited by prior written agreement of the parties in a record. (1991, c. 292, s. 1; 2017-171, s. 1.)