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TABLE 2

BASIC CHARACTERISTICS OF PROVISIONAL REMEDIES

WHEN AVAILABLE

HOW GRANTED

EFFECTIVITY

HOW DISSOLVED/DISCHARGED

1. Preliminary Attachment

At any stage of the action but before entry of final judgment

Ex-parte/or upon motion and hearing

During the pendency of the case unless earlier discharged or quashed by the court

By order of the court after notice and hearing on the ground that the preliminary attachment was improperly or irregularly issued or enforced or the bond is insufficient and when the adverse party makes a cash deposit or files a counterbond executed to the attaching party with the clerk of court where the application is made in an amount equal to that fixed by the court in the order of attachment, exclusive of cost

2. Preliminary Injunction

At any stage of the action but before judgment or final order

Upon motion and hearing

During the pendency of the case unless earlier discharged or quashed by the court

By order of the court upon affidavit of the party enjoined or if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer and the former files a counterbond

3. Temporary Restraining Order (TRO)

During the pendency of the application for a writ of preliminary injunction

General Rule: Inter-partes

(Summary hearing)

Exception: TRO granted by Judge for 72 hours – Ex-parte

Not more than 20 days from service upon the person sought to be enjoined

- a. Upon resolution by the court of the application for a writ of preliminary injunction or the expiration of the 20-day period from service of the writ upon the party, whichever comes first;
- b. Upon affidavit of the party enjoined or after hearing if it appears that although the applicant is entitled to a TRO, the issuance or continuance thereof, would cause irreparable damage to the party enjoined while the applicant can be fully compensated for such damage as he may suffer upon the applicant's filing of a counterbond

4. Receivership

At any stage of the proceeding and even after finality of judgment

Inter-partes

Until discharged by the court

- a. Filing by the adverse party of a counterbond;
- b. If it is shown that the appointment of a receiver was obtained without sufficient cause;
- c. The court motu proprio or on motion shall determine that the necessity of a receiver no longer exists

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