2019 IL App (1st) 181590-U

Nos. 1-18-1590, 1-18-1620 & 1-18-1712 (Consolidated)

Order filed March 29, 2019

Fifth Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

In re PARENTAGE OF A.H., *et al.*, Minors (Wipaporn T. a/k/a/ Chirathip T., Indiv. and as Parent and Next Friend on Behalf of Minors A.H. a/k/a H.H., A.H. a/k/a H.H., and A.H. a/k/a/ W.H.,	)	Appeal from the Circuit Court of Cook County.
Petitioners-Appellees,	)	
v.	)	No. 11 D 6475
Harlow H.,	)	Honorable Jeanne Cleveland Bernstein,
Respondent-Appellant.)	)	Judge, presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Rochford and Justice Hoffman concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not abuse its discretion when it ordered the biological father of the minor children to fund a trust for interim attorney fees, appointed a receiver to effectuate the order concerning the funding of the trust, and entered a preliminary injunction.

¶ 2 This court has jurisdiction of this consolidated and interlocutory appeal pursuant to Illinois Supreme Court Rule 307(a)(1), (a)(2), and (a)(3) (eff. Nov. 1, 2017), wherein respondent

Harlow H. appeals the circuit court's orders that required him to fund a trust account, appointed a receiver, granted the receiver additional powers, and entered a preliminary injunction.

¶ 3 On appeal, Harlow argues that the circuit court's orders should be reversed and the cause remanded for further proceedings before a different judge because (1) the court exceeded its statutory authority by ordering him to create and fund a trust for interim attorney fees; (2) the court did not follow statutory requirements concerning notice, holding a full hearing, and requiring a bond before the court appointed the receiver; (3) the court converted a temporary restraining order into a preliminary injunction without an underlying pleading by petitioners, holding an evidentiary hearing, or making the requisite findings; and (4) the court impermissibly granted petitioners a prejudgment attachment over all of Harlow's income and assets.

¶ 4 For the reasons that follow, we affirm the judgment of the circuit court.[1]

¶ 5 I. BACKGROUND

¶ 6 This appeal arises from ongoing litigation involving the financial and other obligations of Harlow to the petitioners, his three minor biological sons and their mother, Wipaporn T. In January 2017, this court affirmed the judgment of the circuit court that extended comity to the judgment of the Thailand court, which established Harlow's paternity of the children and imposed support obligations. *In re A.H.*, 2017 IL App (1st) 133703.

¶ 7 Thereafter, petitioner Wipaporn filed a three-count amended motion to modify child support and other relief (the operative pleading), seeking a modified order increasing child support (count I), an injunction requiring Harlow to execute the requisite paperwork to allow the minor children to be recognized as United States citizens and an order requiring him to pay

[1] In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order.

Wipaporn's attorney fees and costs incurred in bringing this motion (count II), and an order to ensure the registration of the 2010 Thailand judgment in Cook County, Illinois, *instanter* (count III). Harlow filed a section 2-615 motion to dismiss the operative pleading, Wipaporn filed a response, Harlow filed a reply, and the motion to dismiss was argued in August of 2017.

¶ 8 In October 2017, the circuit court *sua sponte* appointed a representative for the children and later converted that representative to a *guardian ad litem* (GAL). In March of 2018, the court approved the GAL's costs to travel to England to investigate on behalf of the court, meet with the minor children, Wipaporn, her husband and other collaterals, and prepare a report regarding the GAL's findings.

¶ 9 In May 2018, Wipaporn filed an emergency motion for hearing *instanter* on count II of the operative pleading, alleging that Harlow engaged in several years of dilatory tactics and illegitimate litigation and stating that she and the children were facing potential deportation from England to Thailand due to their inability to show sufficient means and proof of financial support. Wipaporn asked the court to use its authority to ensure that the minor children are adequately cared for, protected, and allowed to live a normal and peaceful life without the threat of being deported or subjected to financial ruin. Specifically, Wipaporn asked the court to order Harlow to set up a trust with a minimum of £80,000 on behalf of the children and pay the necessary costs to enroll the children in private school and a private insurance policy.

¶ 10 The court deemed the matter an emergency, ordered Harlow to complete the documentation concerning the minors' citizenship, denied Harlow's 2-615 motion to dismiss the operative pleading, granted him 28 days to respond to counts I and III of the operative pleading and the GAL's amended fee petition, and granted him 14 days to respond to Wipaporn's request

for financial and other relief in her emergency motion, stating that the court was "particularly interested" in his response as it relates to creating a trust for the children and providing them with private school and a private insurance policy. The court set the hearing on Wipaporn's emergency motion for June 22, 2018, and set the trial for counts I and III of the operative pleading for August 27, 2018.

¶ 11 On May 23, 2018, petitioners filed a fee petition that sought a ruling on prior fee petitions, which were briefed, argued and pending since October 2017, and additional interim and prospective fees totaling $171,606. The court set this fee petition for a hearing for June 29, 2018, and Harlow filed a section 2-615 motion to strike the fee petition.

¶ 12 At the hearing sessions on June 22 and 25, 2018, concerning Wipaporn's emergency motion, the court stated that it would focus on the best interests of the children, their healthcare, dental care and education. The GAL, Harlow, Harlow's wife, and Wipaporn testified.

¶ 13 On June 26, 2018, counsel for the children asked the court to establish an attorney fees trust and order Harlow to fund it because he was using his relative wealth as a litigation tool and it was necessary for the court to "level the playing field" in the interests of fairness. The court's order continued the cause "for status or ruling regarding the creation of an attorneys' trust to July 20, 2018.

¶ 14 On June 27, 2018, petitioners filed an amended fee petition, which asked the court to (1) order Harlow to fund a trust for $1 million for petitioners' incurred and prospective legal fees, and (2) pay and distribute those funds subject to the court's orders and discretion. Harlow filed responses to the fee petition and amended fee petition, arguing that the circuit court could

not award interim fees and lacked statutory authority to create a trust to secure the payment of interim or prospective attorney fees.

¶ 15 On July 20, 2018, the circuit court ordered Harlow to tender $1,750,000 to the IOLTA account of the GAL by July 25, 2018. This order warned that if Harlow failed to comply by the deadline, the court "may" appoint a receiver to effectuate the creation and funding of the trust. When Harlow did not comply with that order, the circuit court, on July 25, 2018, appointed a receiver over Harlow's income and assets and temporarily enjoined (TRO) him from transferring or otherwise disposing of his income and assets (the initial receiver order). Harlow filed an emergency motion to stay the initial receiver order.

¶ 16 On July 27, 2018, at a hearing on Harlow's emergency motion and the status of other pending matters, the circuit court amended the initial receiver order and detailed the scope of the receiver's authority (the amended receiver order). This authority included the receiver's power to take exclusive custody and control of Harlow's real and personal property; obtain full access to his assets, including bank accounts; employ professionals to assist the receiver in performing his duties; and pay $1,750,000 owed by Harlow into the IOLTA account of the children's court-appointed representative.

¶ 17 On July 30, 2018, Northern Trust Bank transferred $1.85 million into the receiver's deposit account, representing the $1.75 million Harlow was ordered to pay to the IOLTA account and the receiver's court-approved $100,000 retainer. The receiver transferred the $1.75 million to the GAL's IOLTA account and recommended to the court that it keep the receiver in place but stay his collection of Harlow's assets because the IOLTA account was funded.

¶ 18 On August 1, 2018, the court stayed prior orders with respect to the receiver collecting and directing Harlow's income and assets; however, the TRO that was part of the initial receiver order would remain in place except to the extent necessary for Harlow to pay monthly child support payments.

¶ 19 On August 6, 2018, the court entered a preliminary injunction (injunction order) enjoining Harlow from transferring, withdrawing, or otherwise disposing of his assets subject to a cap of $30,000 per month for necessary living expenses and child support payments. The court also required him to provide proof of all transfers and expenses and give the receiver copies of all monthly statements for all accounts in Harlow's control or held in his name or for his benefit.

¶ 20 Harlow filed interlocutory appeals of the circuit court's initial receiver order, amended receiver order, and injunction order, and this court has consolidated these appeals.

¶ 21 II. ANALYSIS

¶ 22 As an initial matter, we address Harlow's October 2018 motion under Illinois Supreme Court Rule 329 (eff. July 1, 2017) for leave to supplement the record on appeal to add certain pleadings, transcripts, orders and exhibits from the June 2018 circuit court proceedings. Harlow filed the supporting record for this interlocutory appeal in September 2018 pursuant to Illinois Supreme Court Rule 328 (eff. July 1, 2017) and does not believe this supplement is necessary for this court's review of the issues raised in this interlocutory appeal. Nevertheless, he wishes to file the supplement to dispel petitioners' arguments in their October 2018 appellate brief that he has failed to file a sufficient record.

¶ 23 Petitioners object to the motion, arguing that granting it would be unfair to them because they had already filed their brief and thus had no opportunity to address or employ any of the

materials contained in the proposed supplement. Petitioners also argue that the proposed supplement still fails to include all the documents, exhibits and transcripts from the circuit court proceedings related to this matter. Petitioners have attached an affidavit from counsel that lists several missing documents, exhibits and transcripts, which they allege are necessary or relevant to this appeal.

¶ 24 We grant Harlow's motion to file the supplement to the record. However, because appellant Harlow has the burden to present a sufficiently complete record of the circuit court proceedings to support his claims of error, if any doubts arise due to the absence of a sufficiently complete record, then those doubts will be resolved against him and we will presume that the circuit court's orders conform with the law and have a sufficient factual basis. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984).

¶ 25 A. Creation of the Trust

¶ 26 Harlow argues that the circuit court exceeded its statutory authority when it ordered him to tender $1,750,000 to the IOLTA account of the GAL because the court failed to conduct a hearing and had no authority to require him to fund a trust for petitioners' interim and prospective attorney fees and costs.

¶ 27 Harlow cites several statutory provisions to support his argument that the circuit court exceeded its statutory authority when it created the trust. For example, he contends that section 313(b) of the Uniform Interstate Family Support Act, 750 ILCS 22/313(b) (West 2018), provides for an award of reasonable attorney fees when the petitioner has *prevailed*, but here the claim of petitioners' operative pleading to modify the child support award from the Thailand court was still pending. He also contends that section 508(a) of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act), 750 ILCS 5/508(a) (West 2018), and section 501 of the Illinois

Parentage Act of 2015 (Parentage Act), 750 ILCS 46/501 (West 2018), which allow a court to award interim attorney fees, do not mention, and thus do not give, any power for the court *to create a trust* for the purpose of awarding interim attorney fees and costs. He adds that when the legislature provided in the Marriage Act for the establishment of trusts in certain circumstances, such as section 503(g), 750 ILCS 5/503(g) (West 2018), which permits the establishment of a trust for "the support, maintenance, education, physical and mental health, and general welfare" of minor children, and section 513(e), 750 ILCS 5/513(e) (West 2018), which permits the creation of a trust for higher education expenses and to secure support for adult disabled children, the legislature made no express provision that allowed for the creation of a trust to secure attorney fees for the children's mother. Harlow argues that, if the legislature intended to empower courts to order the establishment of an interim fee trust, then the legislature would have enacted such a provision; courts may not craft a remedy the legislature did not include in the statute.

¶ 28 Harlow also argues that petitioners clearly and explicitly requested only attorney fees and "[n]o amount of legal gymnastics can alter the fact" that the court's true purpose in creating the trust was to award petitioners' interim attorney fees. Harlow argues that there is no statutory basis to create an interim fee trust and the efforts by petitioners and the court to retroactively justify a plainly prohibited act by attempting to "transmogrify" petitioners' interim attorney fee request into a request for the general welfare of the children does not "pass muster."

¶ 29 According to the record, petitioners' amended fee petition asked the court to order Harlow H. to fund the trust "for all the reasons as set forth in the current fee petitions" because pursuant to section 802(d) of the Parentage Act, the court "if necessary to protect and promote the best interests of the child, may set aside a portion of [a party's estate] in a separate fund or

trust for the support, education, physical and mental health, and general welfare of a minor or mentally or physically disabled child of the parties." 750 ILCS 5/802(d) (West 2018).

¶ 30 The circuit court's July 20, 2018 order states that a hearing was held on interim fees pursuant to the mother's petitions, the emergency motions filed for the children, and the GAL's petition. The order states that due notice was given and counsel for the parties, the children's attorney, and the GAL were all present. The court ordered Harlow to "fund an interim and prospective attorney fees and costs trust for the benefit of the attorneys for Petitioner and attorneys for the minor children and for the general welfare of the minor children in the amount of $1,750,000" by July 25, 2018. If Harlow failed to comply with this provision, "the court may appoint a receiver to effectuate the terms of this order, as indicated on the record." The fund was established pursuant to sections 501 and 503(g) of the Marriage Act and section 802(d) of the Parentage Act. The court would administer the trust, and funds would be distributed from time to time only upon the court's discretion and order.

¶ 31 At that hearing, the court explained its reasons for creating the trust, stating that after seven years' experience with this litigation and hearing testimony about the parties' finances, it was necessary to establish the trust because Harlow was transferring his extensive wealth to his current wife to divest petitioners of any assets they might obtain from this litigation and Harlow's actions would leave petitioners in dire need. Furthermore, Harlow's counsel failed to disclose their attorney fees in this litigation even though counsel for all the other parties disclosed their past due fees as $1,700,000. Consequently, the court found that the representation by the other parties' counsel of $1,700,000 in past due fees was generally accurate and ordered Harlow to contribute that amount to fund the trust. The court added that it would appoint a receiver to collect Harlow's income if he failed to fund the trust by the deadline.

¶ 32 We review *de novo* issues of statutory construction. *Hayashi v. Illinois Department of Financial & Professional Regulation*, 2014 IL 116023, ¶ 16. The primary rule of statutory construction is to give effect to the intent of the legislature. *Id*. The most reliable indicator of legislative intent is the statutory language itself, which must be given its plain and ordinary meaning. *Id*.

¶ 33 Section 809(a) of the Parentage Act, relating to the right to counsel, provides:

> "[T]he court may order, *in accordance with the relevant factors specified in Section 508 of the Illinois Marriage and Dissolution of Marriage Act, reasonable fees of counsel*, experts, and other costs of the action, pre-trial proceedings, post-judgment proceedings to enforce or modify the judgment, and the appeal or the defense of an appeal of the judgment to be paid by the parties." (Emphases added.) 750 ILCS 46/809(a) (West 2018).

Although section 809(a) of the Parentage Act does not use the words "interim fees," it refers to payment of "reasonable fees of counsel" for every stage of the proceedings and then directs the court to the "relevant factors specified in Section 508" of the Marriage Act.

¶ 34 Section 508 of the Marriage Act provides:

> "(a) The court from time to time, after due notice and hearing, and after considering the financial resources of the parties, may order any party to pay a reasonable amount for his own or the other party's costs and attorney's fees. Interim attorney's fees and costs may be awarded from the opposing party, in a pre-judgment dissolution proceeding in accordance with subsection (c-1) of

> Section 501 [(750 ILCS 5/501) (West 2018)] ***." 750 ILCS 5/508(a) (West 2018).

Thus, section 508 does not specify any relevant factors. Instead, it points to section 501(c-1) for the way "interim attorney's fees and costs may be awarded from the opposing party." *Id.*

¶ 35 Section 501(c-1) provides:

> "As used in this subsection (c-1), 'interim attorney's fees and costs' means attorney's fees and costs assessed from time to time while a case is pending, in favor of the petitioning party's current counsel, for reasonable fees and costs either already incurred or to be incurred, and 'interim award' means an award of interim attorney's fees and costs. Interim awards shall be governed by the following:
>
> > (1) Except for good cause shown, a proceeding for (or relating to) interim attorney's fees and costs in a pre-judgment dissolution proceeding shall be nonevidentiary and summary in nature. All hearings for or relating to interim attorney's fees and costs under this subsection shall be scheduled expeditiously by the court." 750 ILCS 5/501(c-1) (West 2018).

Then, subsections (A) through (I) of 501(c-1)(1) set forth nine factors for the court to consider when making an award. 750 ILCS 5/501(c-1)(1)(A)-(I) (West 2018).

¶ 36 We do not construe section 809(a) of the Parentage Act in isolation; it must be read with sections 508 and then 501(c-1) of the Marriage Act. Although section 809(a) makes no specific reference to interim fees, it refers to section 508, which does. Moreover, nothing in section 809(a) limits the application of the subparagraphs of section 508.

¶ 37 The legislature enacted the Parentage Act to further the public policy of Illinois to recognize the right of every child to the physical, mental, emotional and monetary support of his parents, without regard to the parents' marital status. *In re Paternity of an Unknown Minor*, 2011 IL App (1st) 102445, ¶ 2. In *In re Stella*, 353 Ill. App. 3d 415, 420-21 (2004), the court recognized that the policy considerations underlying the Marriage Act's attorney fee provisions apply equally to Parentage Act cases. The court considered whether interim fees, made available to attorneys under the 1997 amendments to the Marriage Act, are also available to attorneys in proceedings brought under the Parentage Act. In concluding that they are, the court noted that a "fundamental reason" for the 1997 amendments permitting an interim-fee system was to "prevent a party from using his or her relative wealth as a litigation tool." (Internal quotation marks omitted.) *Id.* at 420. The court noted that the Parentage Act and the Marriage Act address overlapping issues, such as custody, child support, guardianship, and visitation. *Id.* Therefore, the court reasoned, it would not have escaped the legislature's attention that allowing interim fees in both dissolution and parentage actions would result in similar public policy benefits, including "encouraging attorneys to undertake parentage actions." *Id.*

¶ 38 Based on the plain language of section 809(a) of the Parentage Act and sections 508 and 501(c-1) of the Marriage Act, we conclude that the circuit did not exceed its statutory authority when it created a trust for the support and general welfare of the three minor boys and ordered Harlow to contribute $1.7 million to the trust for petitioners' interim attorney fees and costs.

¶ 39 B. Appointing the Receiver

¶ 40 Harlow argues that the circuit court *sua sponte* appointed a receiver and granted the receiver additional authority without following mandatory statutory requirements concerning providing adequate notice, holding an evidentiary hearing, or requiring a bond. To support his

argument, Harlow cites section 2-415 of the Code of Civil Procedure (Code), 735 ILCS 5/2-415(a) (West 2018), for the proposition that it is not proper for the court to appoint a receiver without either requiring a bond or making a finding "for good cause shown, and upon notice and full hearing" that a bond is not required.

¶ 41 A "receiver" is an indifferent person appointed by the court on behalf of all parties to take possession and hold property for the benefit of the party ultimately entitled. *Firebaugh v. McGovern*, 404 Ill. 143, 148-49 (1949); *Compton v. Paul K. Harding Realty Co.*, 6 Ill. App. 3d 488, 498 (1972). The object of appointing a receiver is to prevent injury and avoid injustice. *Simpson v. Adkins*, 311 Ill. App. 543, 550 (1941). The appointment of a receiver is an exercise of equity jurisdiction and rests largely in the discretion of the trial court. *People ex rel. Scott v. Pintozzi*, 50 Ill. 2d 115, 123 (1971). Section 2-415(a) of the Code provides:

> "Before any receiver shall be appointed the party making the application shall give bond to the adverse party in such penalty as the court may order and with security to be approved by the court conditioned to pay all damages including reasonable attorney's fees sustained by reason of the appointment and acts of such receiver, in case the appointment of such receiver is revoked or set aside. Bond need not be required, when for good cause shown, and upon notice and full hearing, the court is of the opinion that a receiver ought to be appointed without such bond." 735 ILCS 5/2-415(a) (West 2018).

While certain statutes provide for the appointment of a receiver, the power to appoint a receiver is part of the inherent equity jurisdiction of the court and is not dependent on any statute. *Compton*, 6 Ill. App. 3d at 498; *Chicago Title & Trust Co. v. Mack*, 347 Ill. 480, 483 (1932).

Moreover, a court may appoint a receiver without a motion from any party. *Schroeder v. Meier-Templeton Associates, Inc.*, 130 Ill. App. 3d 554, 561 (1984).

¶ 42 The appointment of a receiver is appropriate when it has been shown that a party has a right to an asset and there is a danger of loss or harm to that asset. *Bagdonas v. Liberty Land & Investment Co.*, 309 Ill. 103, 110 (1923). Generally, it must be shown that (1) the party not in possession of the property has a clear right to it or has some lien upon it, or that the property constitutes a special fund to which he has a right to resort for the satisfaction of his claim, and (2) that the possession of the property by the other party was obtained by fraud, or that the property itself, or the income arising from it, is in danger of loss from neglect, waste, misconduct or insolvency. *Id.*

¶ 43 We reject Harlow's assertion that the court appointed the receiver without notice, a full hearing, or a showing of good cause that a bond was not required. Concerning notice, the record establishes that the court's July 20, 2018 order clearly stated that the court "may" appoint a receiver if Harlow failed to create and fund the trust by July 25, 2018. The record also establishes that Harlow did not create and fund the trust account as ordered by the court. Under these circumstances, Harlow cannot claim that he was taken by surprise when the court appointed the receiver on July 25, 2018.

¶ 44 The record also establishes that the court held several hearing sessions in June 2018, during which time the court heard the testimony of the GAL, Harlow and others, before the court decided on July 25, 2018 that it was necessary to appoint a receiver to effectuate the circuit court's July 20, 2018 order, which provided for the welfare of the three boys by, *inter alia*, providing for interim attorney fees to prevent Harlow from using his relative wealth as a

litigation tool. When the court appointed the receiver, the evidence presented at the June 2018 hearing sessions established that Harlow had transferred large amounts of his wealth to his current wife. Furthermore, he testified that he believed he should not have to provide his three biological sons with financial support beyond an amount that would be adequate for them to live a modest life in Thailand because, according to Harlow, Wipaporn had tricked him somehow into agreeing to the gamete intrafallopian transfer procedure necessary to conceive these children and then blackmailed him about their relationship as part of a scheme to extract money from him. Harlow also told the court that he would continue to litigate the issue of support without regard for the litigation expenses he incurred.

¶ 45 The circumstances at the time the receiver was appointed clearly warranted the appointment of a neutral party to preserve the remaining assets. A further hearing would not have served any purpose other than to delay the court's necessary decision concerning the welfare of the children. There is no dispute here as to Harlow's ownership of the funds or property used to create the trust, and Harlow made no offer of proof before the circuit court regarding any relevant evidence or argument he would have presented if he had been afforded additional time to formulate some written or oral argument concerning the receiver's appointment.

¶ 46 Harlow argues that there was no discussion about whether a bond would be required *before* the court appointed the receiver. The record, however, shows that when Harlow later raised the issue of a bond with the circuit court, counsel for the other parties stated that a bond need not be required "for good cause shown," and the court concluded that a bond was not necessary. In reaching that decision, the court considered the financial situation of Wipaporn and the children. The court also considered the evidence that Harlow had lied in court, had failed to

disclose financial information, had expressed his intent to prolong this litigation, had demonstrated a profound lack of concern about his obligation to support his three sons, and had taken actions to transfer his wealth beyond the reach of Wipaporn and the children before the issue of modified support was adjudicated.

¶ 47 Where there is evidence to support an application for a bond waiver, the objector must present some evidence or argument to demonstrate that his interests will be jeopardized if a bond is not posted. *Witter v. Hicks*, 338 Ill. App. 3d 751, 758-60 (2003). Harlow failed to make that showing. The circuit court found that he had transferred assets to his current wife and there was a legitimate fear that he would do so again to the detriment of his three sons. When he refused to comply with the court's clear requirement to fund the trust for the welfare of his children, the court properly appointed the receiver to ensure the funding of the trust and prevent any further depletion of Harlow's assets pending the outcome of this litigation. See *Hurst v. Papierz*, 16 Ill. App. 3d 574, 582 (1973) (the court reasonably feared that joint venture property might be placed beyond the jurisdiction of the court or transferred so as to render it more difficult for the court to give and enforce the final relief to which a party may have been found entitled at the conclusion of the accounting).

¶ 48 We conclude that the circuit court did not abuse its discretion when it appointed a receiver in this matter.

¶ 49 C. Converting the TRO to a Preliminary Injunction

¶ 50 Harlow argues that the circuit court converted the TRO into a preliminary injunction without requiring an underlying pleading, holding an evidentiary hearing, or making any requisite findings showing that petitioners established their right to injunctive relief.

¶ 51 TROs and preliminary injunctions require the same elements of proof (*County of Du Page v. Gavrilos*, 359 Ill. App. 3d 629, 634 (2005); *Jacob v. C&M Video, Inc.*, 248 Ill. App. 3d 654, 664 (1993)) but have different purposes and, correspondingly, different durational limits. A TRO:

> "is a drastic remedy which may issue only in exceptional circumstances *and for a brief duration.* [Citation.] The purpose of a temporary restraining order is to preserve the status quo *until the court can conduct a hearing to determine whether it should grant a preliminary injunction*." (Emphasis added.) *American Federation of State, County & Municipal Employees v. Ryan*, 332 Ill. App. 3d 965, 966 (2002).

¶ 52 By contrast, " '[a] preliminary injunction * * * is not necessarily of extremely brief duration since its primary purpose is to provide relief to an injured party and maintain the status quo until a trial on the merits.' " *New York Life Insurance Co. v. Sogol*, 311 Ill. App. 3d 156, 159 (1999) (quoting *Bullard v. Bullard*, 66 Ill. App. 3d 132, 135 (1978)). Thus, another hallmark of a preliminary injunction besides notice and a hearing is the lack of a definite duration for the injunctive relief. See *Peoples Gas Light & Coke Co. v. City of Chicago*, 117 Ill. App. 3d 353, 356 (1983)).

¶ 53 "The party seeking a preliminary injunction or temporary restraining order must establish that it has a protectible right, that it will suffer irreparable harm if injunctive relief is not granted, that its remedy at law is inadequate, and that there is a likelihood of success on the merits." *Jacob*, 248 Ill. App. 3d at 664. The party seeking relief is not required to make out a case which would entitle him to relief on the merits; rather, he need only show that he raises a "fair

question" about the existence of his right and that the court should preserve the status quo until the case can be decided on the merits. *Id*. In evaluating these factors, we are mindful that the scope of review in an interlocutory appeal pursuant to Rule 307(a) is normally limited to determining whether the circuit court abused its discretion in granting or refusing the requested interlocutory relief. *Id*.

¶ 54 Harlow's argument lacks merit. We find no abuse of discretion by the circuit court when it determined, after reading many written submissions by the parties and hearing extensive argument about the entry of the TRO, to convert it to a preliminary injunction. The evidence, as discussed above, concerning Harlow's dilatory tactics, use of his wealth as a litigation tool, failure to disclose his assets, and actions to transfer assets beyond petitioners' ability to enforce any award by the circuit court, supports the circuit court's decision that petitioners met their burden to show that they raise a fair question about the existence of their right to injunctive relief and that the court should preserve the status quo until the case can be decided on the merits.

¶ 55 D. Prejudgment Attachment

¶ 56 Harlow argues that the circuit court impermissibly granted petitioners a prejudgment attachment over all of his income and assets. According to Harlow, petitioners received what is tantamount to a prejudgment attachment on his property when the court enjoined his use and enjoyment of his income and assets and placed nearly $2 million of those assets beyond his control "based solely on the pendency of [petitioners' unadjudicated claims against him] for increased child support." Harlow argues that no authority suggests that a party in a proceeding to modify a foreign judgment can obtain injunctive relief enjoining another party's assets in order to secure a putative support obligation.

¶ 57 Harlow's argument lacks merit. The injunctive relief granted by the circuit court here did not constitute a prejudgment attachment. As discussed above, the circuit court, consistent with its equitable jurisdiction and statutory authority, properly created a trust to protect the rights of the three children to support from Harlow.

¶ 58 III. CONCLUSION

¶ 59 For the foregoing reasons, we affirm the judgment of the circuit court that ordered Harlow to fund a trust account, appointed a receiver, granted the receiver additional authority, and entered a preliminary injunction.

¶ 60 Affirmed.