WEST VIRGINIA CODE CHAPTER 53 ARTICLE 5

WV Legislature

§53-5-1. Injunction for protection of property.

An injunction may be awarded to enjoin the sale of property set apart as exempt in the case of a husband or parent, under articles eight and nine, chapter thirty-eight of this code, or to protect any plaintiff in a suit for specific property, pending either at law or in equity, against injury from the sale, removal, or concealment of such property.

WV Legislature

§53-5-2. Forthcoming bond may be required where removal of property from state enjoined.

A court or judge awarding an injunction to restrain the removal of property out of the state may require bond to be given before such officer and in such penalty as it may direct, conditioned to have the property forthcoming to abide the future order or decree of the court, and, unless such bond be given, may order the officer serving its process to take possession of the property and keep it until the bond be given, or until the further order of the court.

WV Legislature

§53-5-3. In what courts bill brought.

Jurisdiction of a bill for an injunction to any judgment, act or proceeding shall, unless it be otherwise specially provided, be in the circuit court of the county in which the judgment is rendered, or the act or proceeding is to be done, or is doing, or is apprehended, and the same may be granted to a judgment of a justice in like manner and with like effect as to other judgments.

WV Legislature

§53-5-4. General jurisdiction of judge to award injunction.

Every judge of a circuit court shall have general jurisdiction in awarding injunctions, whether the judgment or proceeding enjoined be in or out of his circuit, or the party against whose proceeding the injunction be asked reside in or out of the same.

WV Legislature

§53-5-5. Injunction by judge of Supreme Court of Appeals.

When a circuit court, or a judge thereof, shall refuse to award an injunction, a copy of the orders entered in the proceedings in court, and the original papers presented to the court or to the judge in vacation with his order of refusal, may be presented to the Supreme Court of Appeals, or a judge thereof in vacation, who may thereupon award the injunction.

WV Legislature

§53-5-6. Injunction by circuit court or judge where award thereof refused by court of limited jurisdiction.

When a court of limited jurisdiction authorized to grant injunctions, or a judge thereof, shall refuse to award an injunction, a copy of the orders entered in the proceedings in court, and the original papers presented to the court or to the judge in vacation, with his order of refusal, may be presented to the circuit court of the county in which such court of limited jurisdiction is, or to the judge of such circuit court in vacation, who may thereupon award the injunction.

WV Legislature

§53-5-7. To what clerk order for injunction directed.

Every order awarding an injunction by a court or judge other than the court or judge in which or before whom it is to be heard shall be directed to the clerk of the court in which it is to be heard.

WV Legislature

§53-5-8. Equity of plaintiff to be shown by affidavit or otherwise; notice to adverse party; hearing after injunction awarded or denied; certification of questions; appeals.

No injunction shall be awarded in vacation nor in court, in a case not ready for hearing, unless the court or judge be satisfied by affidavit or otherwise of the plaintiff's equity; and any court or judge may require that reasonable notice shall be given to the adverse party, or his attorney at law, or in fact, of the time and place of moving for it, before the injunction is awarded, if in the opinion of the court or judge it be proper that such notice should be given.

After an injunction is awarded or denied in any such case, at any time prior to final adjudication, any party to the proceedings, after reasonable notice to all other parties of record, which notice shall not in any case exceed five days, may move for a hearing on any particular issues or phases of the case which may properly be heard interlocutorily. Such hearing may, in the discretion of the court or judge, be had at the time the motion is made but shall be commenced within the ten days next thereafter, unless by consent of all parties appearing the hearing is continued until a later date. At any such hearing, in term time or in vacation, any party to the proceedings may be present in person or by counsel and may present such witnesses, cross-examine witnesses and offer such testimony and evidence as may be pertinent to the issues then before the court or judge, as the case may be. The court or judge, upon such hearing and the record in the case, shall render a decision without delay, and may continue or dismiss the injunction or may enlarge or modify the same, as may be warranted.

Questions may be certified and appeals may be taken in injunction proceedings as in any other cases in equity.

WV Legislature

§53-5-9. Injunction bond.

An injunction (except in the case of any personal representative, or other person from whom, in the opinion of the court or judge awarding the same, it may be improper to require bond) shall not take effect until bond be given in such penalty as the court or judge awarding it may direct, with condition to pay the judgment or decree (proceedings on which are enjoined) and all such costs as may be awarded against the party obtaining the injunction, and also such damages as shall be incurred or sustained by the person enjoined, in case the injunction be dissolved, and with a further condition, if a forthcoming bond has been given under such judgment or decree, to indemnify and save harmless the sureties in such forthcoming bond and their representatives against all loss or damages in consequence of such suretyship; or, if the injunction be not to proceedings on a judgment or decree, with such condition as such court or judge may prescribe. The bond shall be given before the clerk of the court in which such judgment or decree is, and in other cases before the clerk of the court in which the suit is wherein the injunction is awarded. If the bond be not given before the summons is issued, the clerk shall indorse thereon that the injunction is not to take effect until the bond is given, and the clerk who afterwards takes the bond shall indorse on the summons that it is given.

WV Legislature

§53-5-10. How surety in forthcoming bond may obtain additional security.

Any surety in such forthcoming bond, or his personal representative, may move for and obtain an order for other or additional security, in like manner as a defendant in the injunction may do.

WV Legislature

§53-5-11. Dissolution of injunction in vacation.

The judge of any court in which a case is pending wherein an injunction is awarded may, in vacation, dissolve such injunction, after reasonable notice to the adverse party. His order for dissolution shall be directed to the clerk of such court, who shall record the same in the order book.

WV Legislature

§53-5-12. Damages on dissolution; liability of sureties on forthcoming bond.

When an injunction to stay proceedings on a judgment or decree for money is dissolved, wholly or in part, there shall be decreed to the party having such judgment or decree damages, in lieu of interest, at the rate of ten percent per annum, from the time the injunction took effect until such dissolution thereof, on the amount of principal, interest, and costs due on the judgment or decree, proceedings on which are enjoined, and, if a forthcoming bond has been taken in the case, the amount on which such damages shall be paid shall be the sum due on such bond. And in all cases the court or judge dissolving the injunction shall ascertain and enter in the decree of dissolution the amount of principal, interest, damages and costs, including officer's fees and commissions due on the judgment or decree, at the date of the dissolution of the injunction, and shall award execution therefor against the defendant in the judgment or decree, proceedings on which were enjoined, or their personal representatives, with interest thereon from that day till paid, and the costs incurred by the defendant in the injunction in defending the same. And if a forthcoming bond has been given in the case, and the same has been or shall be forfeited, the sureties therein shall be liable for the costs incurred by the defendant in the injunction, as aforesaid, and, to the extent of their liability on such forthcoming bond, for whatever sum remains unpaid on the execution so awarded.

WV Legislature

§53-5-13. Dismissal of bill for injunction.

Where an injunction is wholly dissolved, the bill shall be dismissed with costs, unless sufficient cause be shown against such dismission.

WV Legislature