UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY, NORTHERN DIVISION

Burke & Herbert Bank & Trust Company v. Bare Arms Limited Liability Company, et al.

Burke & Herbert Bank · No. 0:26-CV-00032-DLB-EBA · Decided March 10, 2026

SUMMARY

The document is a magistrate judge’s Report and Recommendation addressing Burke & Herbert Bank & Trust Company’s emergency motion to appoint a receiver over collateral securing allegedly defaulted financial agreements. The court recommends granting the motion under Federal Rule of Civil Procedure 66, appointing a receiver, and excluding the defendants’ Chesapeake, Ohio property from the receivership without prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of Kentucky, Northern Division
WRITING FOR THE COURT	Edward B. Atkins, United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of Kentucky, Northern Division
DECIDED	March 10, 2026
DOCKET	0:26-CV-00032-DLB-EBA
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for appointment of a receiver and related relief under Federal Rule of Civil Procedure 66 and Kentucky Revised Statutes section 425.600. The magistrate judge issued a report and recommendation recommending that the emergency motion be granted and that the Chesapeake Property be excluded from the receivership without prejudice.
STANDARD OF REVIEW	Appointment of a receiver is an extraordinary equitable remedy committed to the court's discretion. In diversity cases, federal law generally governs appointment of a receiver. Review of the report and recommendation is governed by 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

PRECEDENTIAL VALUE	nonprecedential

TOPICS

remedies · civil procedure · commercial litigation · contracts · real estate

PRACTICE AREAS

civil procedure · commercial litigation · contracts · remedies · real estate

QUESTIONS PRESENTED

1. Whether the court should appoint a receiver over the defendants' collateral under Federal Rule of Civil Procedure 66.
2. Whether the parties' contractual agreement permitting appointment of a receiver upon default supported appointment of a receiver.
3. Whether the Chesapeake Property should be excluded from the proposed receivership order without prejudice.

HOLDINGS

1. The factors substantially favored appointment of a receiver because the collateral was allegedly undersecured, the defendants were insolvent and in default, the agreements provided for appointment of a receiver upon default, the collateral faced imminent danger of loss or diminution, and plaintiff was likely to succeed on the merits.
2. The Chesapeake Property should be removed from the scope of the proposed receivership order without prejudice.

KEY QUOTATIONS

> *"A receivership is an 'extraordinary remedy' that a court should employ with the 'utmost caution' and grant 'only in cases of clear necessity to protect plaintiff's interests in the property.'"* (at 3)

> *"Courts consider several factors when determining whether to appoint a receiver, including:"* (at 3)

> *"Based on these undisputed assertions, the undersigned agrees that, without a receiver, B&H's Collateral is in imminent danger of being lost, concealed, injured, diminished in value, or squandered."* (at 6)

FACTUAL BACKGROUND

The plaintiff entered into multiple financing agreements with Bare Arms Limited Liability Company and the individual defendants, secured by substantially all of the defendants' assets, including real property and business assets. Plaintiff alleged that defendants had been in default since April 2025 and that the collateral was undersecured, defendants were insolvent, and the properties were at risk of loss, diminution, or damage. Bare Arms previously filed a Chapter 11 bankruptcy petition, which was dismissed, and plaintiff later learned that the business continued operating despite representations made in the bankruptcy case. Defendants did not appear at the hearing on plaintiff's receivership motion.

PROCEDURAL HISTORY

Burke & Herbert Bank & Trust Company filed an action against Bare Arms Limited Liability Company and related defendants for breach of financing agreements and recovery of approximately $2,750,000 in unpaid amounts. Plaintiff then moved for appointment of a receiver. The Chief District Judge referred the motion to the magistrate judge, who held a hearing on March 6, 2026; defendants were notified but did not appear. The magistrate judge recommended granting the receivership motion and plaintiff's oral motion to remove the Chesapeake Property from the receivership scope, subject to the parties' objection rights under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- PNC Bank, Nat'l Ass'n v. Goyette Mech. Co., Inc., 15 F. Supp. 3d 754, 758-59 (E.D. Mich. 2014)
- Liberte Capital Group, LLC v. Capwill, 462 F.3d 543, 551 & n.2 (6th Cir. 2006)
- Pension Benefit Guar. Corp. v. Evans Tempcon, Inc., 630 F. App'x 410, 414-15 (6th Cir. 2015)
- Grayiel v. AIO Holdings, LLC, No. 3:15-CV-821-CHB, 2023 WL 5281933, at *22-23 (W.D. Ky. Aug. 16, 2023)
- PNC Bank, Nat'l Ass'n v. Jeffrey Land Co., LLC, No. 24-13315, 2025 WL 942834, at *3 (E.D. Mich. Mar. 28, 2025)
- United States v. Campbell, 261 F.3d 628, 632 (6th Cir. 2001)
- Thomas v. Arn, 728 F.2d 813, 815 (6th Cir. 1984)
- Cowherd v. Million, 380 F.3d 909, 912 (6th Cir. 2004)
- Miller v. Currie, 50 F.3d 373, 380 (6th Cir. 1995)
- In re Bare Arms Ltd. Liab. Co., No. 1:25-BK-10174 (Bankr. E.D. Ky. Dec. 15, 2025)