

COURT SANCTIONS, CONTEMPTS, AND DEFAULTS

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1 **1 Introduction**

2 Those who are fighting corruption in government face an uphill battle. In many cases courts will attempt to sanction them
3 or hold them in contempt for conduct that in most cases is perfectly proper and lawful. Most freedom researchers are not
4 equipped to recognize why they such sanctions and contempts are illegally imposed. This memorandum of law will
5 therefore describe in detail the legal authority for imposing sanctions and the most frequent modes in which they are
6 imposed illegally with the hope of giving freedom fighters standing and grounds to eliminate the sanctions.

7 **2 Contempt of court**

8 The power of federal courts to enforce contempt orders is found in [18 U.S.C. §401](#). Contempt findings upon parties are
9 limited to the following circumstances:

- 10 1. Contempt of court under [18 U.S.C. §402](#).
- 11 1. Criminal contempt under [Federal Rule of Criminal Procedure 42](#)
- 12 2. Violation of a release condition under [18 U.S.C. §3148](#).
- 13 3. Failure of parents of a juvenile to appear at a hearing under [18 U.S.C. §922\(x\)\(6\)](#).
- 14 4. Publication by anyone of a sealed grand jury report of malfeasance of a public official under [18 U.S.C. §3333\(c\)](#) .
- 15 5. Violation of an order relating to secrecy or custody of wire tap evidence under [18 U.S.C. §2518\(8\)](#).
- 16 6. Failure to obey a subpoena.
- 17 6.1. [Fed.Rul.Civ.Proc. 45\(e\)](#).
- 18 6.2. [Fed.Rul.Crim.Proc. 17\(g\)](#).
- 19 7. Submitting an affidavit in bad faith or with the purpose to delay. [Fed.Rul.Civ.Proc. 56\(g\)](#)
- 20 8. Violations of [Fed.Rul.Crim.Proc. 6](#) relating to Grand Juries. See [Fed.Rul.Crim.Proc. 6\(e\)\(7\)](#).

21 [18 U.S.C. §402](#) describes the punishment for indirect contempt, which is jail time or a maximum \$1,000 fine (for a natural
22 person) or both. An indirect contempt is one that is committed not physically within the court or during a court proceeding.

23 A district court’s decision whether to hold a party in contempt is reviewed under an abuse of discretion standard
24 [Diamontiney v. Borg, 918 F.2d 793 (9th Cir. 1990); Harris v. City of Philadelphia, 47 F.3d 1311, 1320 (3rd Cir. 1995)].

25 Special procedural protections apply where the contempt occurs outside the court’s presence. [International Union,
26 UMWA v. Bagwell, 512 U.S. 821, 833, 114 S.Ct. 2552, 2560 (1994)—due process requirements prohibit summary
27 adjudication of indirect contempts].

28 The particular procedural safeguards required, however, differ depending on the nature of the contempt. [See Cook v.
29 American S.S. Co., 134 F.3d 771, 775 (6th Cir. 1998); Florida Ass’n for Retarded Citizens, Inc. v. Bush, 246 F.3d 1296
30 (11th Cir. 2001) (outlining proper procedure for civil contempt)].

31 By contrast, civil procedural safeguards are sufficient when the indirect contempt involves “discrete, readily ascertainable
32 acts” that do not require extensive, impartial factfinding (e.g., failure to comply with document discovery or make payment
33 on a judgment). [International Union, UMWA v. Bagwell, 512 U.S. at 833, 114 S.Ct. at 2560; Santibanez v. Wier
34 McMahon & Co., 105 F.3d 234, 243 (5th Cir. 1997)].

35 Contempts Involving Complex Factfinding: But civil procedural protections may be insufficient for contempts requiring
36 “elaborate and reliable factfinding” (e.g. contempts involving out-of-court disobedience to complex injunctions).
37 [International Union, UMWA v. Bagwell, 512 U.S. at 833-834, 114 S.Ct. at 2560].

38 Notice requirements: Where a party is charged with indirect contempt, due process requires notice containing enough
39 information to advise the alleged contemnor “of the nature and particulars of the contempt charged.” [See United States v.
40 Linney, 134 F.3d 274, 279 (4th Cir. 1998)].

41 Order to Show Cause (OSC): Notice is generally given in the form of an order to show cause (OSC). [See Florida Ass’n
42 for Retarded Citizens, Inc. v. Bush, 246 F.3d 1296, 1298 (11th Cir. 1002); United States v. Pozsgai, 999 F.2d 719, 736, fn