

21 N.Y. Jur. 2d Contempt § 43

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Contempt

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III. Acts Constituting Contempt

C. Disobedience or Violation of Court Orders or Judgments Punishable by Civil or Criminal Contempt

§ 43. Enforcement of irregular, erroneous, or improvident order by contempt

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

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[Right to punish for contempt for failure to obey court order or decree either beyond power or jurisdiction of court or merely erroneous, 12 A.L.R.2d 1059](#)

An order that is jurisdictionally valid and not stayed during the relevant time can form the basis for contempt, even if the order is erroneously made.¹ Disobedience on order later found to be erroneous or improvidently made, or granted by the court under misapprehension or mistake, is nonetheless contempt.² A party's good-faith belief that a court's order raises a conflict and that it is misguided and erroneous does not allow the party to disregard it and decide for itself the manner in which to proceed.³ A party is obligated to comply with a court order, however incorrect the party may consider that order to be, until that order is set aside, either by appeal or otherwise, so long as the court issuing the order had jurisdiction to do so.⁴

Practice Tip:

A nonjurisdictional error in a judgment or order must be asserted by a motion to vacate or amend, or by an appeal or other method of direct review, not by a collateral attack in a contempt proceeding arising from the disobedience of the judgment or order.⁵

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Footnotes

1 Balter v. Regan, 63 N.Y.2d 630, 479 N.Y.S.2d 506, 468 N.E.2d 688 (1984); Gottlieb v. Gottlieb, 137 A.D.3d 614, 28 N.Y.S.3d 37 (1st Dep't 2016); Astrada v. Archer, 71 A.D.3d 803, 898 N.Y.S.2d 149 (2d Dep't 2010); New York City Coalition to End Lead Poisoning v. Giuliani, 248 A.D.2d 120, 669 N.Y.S.2d 552 (1st Dep't 1998); Sigmoil Resources N.V. v. Fabbri, 228 A.D.2d 335, 644 N.Y.S.2d 503 (1st Dep't 1996).

As to contempt for violation of an order void for lack of jurisdiction, see § 40.

2 Department of Housing Preservation and Development of City of New York v. Mill River Realty, Inc., 169 A.D.2d 665, 565 N.Y.S.2d 44 (1st Dep't 1991), *aff'd in part, appeal dismissed in part*, 82 N.Y.2d 794, 604 N.Y.S.2d 552, 624 N.E.2d 690 (1993); State v. Congress of Racial Equality, 92 A.D.2d 815, 460 N.Y.S.2d 58 (1st Dep't 1983).

3 Skripek v. Skripek, 239 A.D.2d 488, 658 N.Y.S.2d 62 (2d Dep't 1997).

4 *In re Executive Life Ins. Co. of New York*, 122 A.D.3d 629, 996 N.Y.S.2d 123 (2d Dep't 2014), *leave to appeal denied*, 25 N.Y.3d 909, 12 N.Y.S.3d 618, 34 N.E.3d 369 (2015); *Gloveman Realty Corp. v. Jefferys*, 29 A.D.3d 858, 815 N.Y.S.2d 687 (2d Dep't 2006).

5 Greco v. Winney, 176 A.D.2d 407, 574 N.Y.S.2d 403 (3d Dep't 1991).

A defendant who does not move to quash a presumptively valid subpoena cannot defeat a contempt proceeding merely by asserting that he did not have the records that he was required by law to maintain. *Kuriansky v. Feldman*, 141 Misc. 2d 554, 533 N.Y.S.2d 679 (Sup 1988).

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