

**SO YOU GOT YOUR JUDGMENT, NOW WHAT?
ENFORCING JUDGMENTS AND ORDERS THROUGH CONTEMPT,
GARNISHMENT, AND OTHER REMEDIES
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I. Contempt

a. Contempt Means Doing the Following Things “Willfully.” ORS 33.015(2).

i. Misconduct in the presence of the court that interferes with a court proceeding or with the administration of justice, or that impairs the respect due the court. ORS 33.015(2)(a).

ii. Disobedience of, resistance to or obstruction of the court’s authority, process, orders or judgments. ORS 33.015(2)(b). In *State ex rel Crown Investment v. City of Bend*, 206 Or App 453 (2006), Crown’s decision to demolish a historic building without waiting for the court to decide its mandamus action, was an obstruction of the court’s authority and process” justifying a remedial contempt sanction.

In *St. Sauver and St. Sauver*, 196 Or App 175 (2004), husband was found in contempt by misleading wife into believing that she would be allowed to retrieve her personal property after a previously agreed retrieval period. The court found that such conduct “constituted resistance to and obstruction of the court’s judgment and provided sufficient grounds for a finding of contempt.” *Id* at 186. Similarly, husband was found in contempt for repossessing the car awarded to wife. Husband claimed that wife allowed the car insurance to lapse in violation of the Marital Settlement Agreement. The court rejected husband’s claims, finding that husband’s conduct was “essentially a set up, a way to help strip her both of the mobility and her dignity,” where wife was tendering money to husband on a monthly basis for car payments and insurance until his repossession. *Id* at 187. Again the court found that his conduct constituted resistance or obstruction of the court’s judgment sufficient to support the contempt judgment.

In *Bachman and Bachman*, 171 Or. App. 665 (2000) the court held that husband could be found in contempt for violating a FAPA order. Husband allegedly willfully entered or attempted to enter the residence of Wife and was within 150 feet of Wife. In *State v. Hill*, 108 Or. App. 135, 139 (1991) the court explained that willfulness is related to a defendant’s ability to pay. Defendant is willful if he is capable of making even just partial payments but fails to do so.

iii. Refusal as a witness to appear, be sworn or answer a question contrary to an order of the court. ORS 33.015(2)(c).

iv. Refusal to produce a record, document or other object contrary to an order of the court. ORS 33.015(2)(d).

v. Violation of a statutory provision that specifically subjects the person to the contempt power of the court. Also see ORS 107.718. Violation of restraining order constitutes contempt of court.

See ORS 107.135(14)(B)(b) Vacation or modification of judgment; policy regarding settlement; enforcement of settlement terms; remedies. In proceeding under subsection (1) court can use contempt to enforce the terms set forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from a

settlement on the record or an order or judgment incorporating a settlement agreement.

vi. Willfully means:

1. A determination to act or refrain from acting. *State v. O'Malley*, 248 Or 601 (1967).

O'Malley received two subpoenas requiring his appearance at essentially the same time.

O'Malley had duty to contact authorities about the scheduling. Case remanded because trial court failed to specify a clear finding of willfulness.

2. Willfulness includes bad intent. No separate finding of bad intent is required. *Couey and Couey*, 312 Or 302 (1991). In *Couey* Father failed to make monthly child support payments despite the receipt of a significant inheritance.

3. A finding of intent is not required. Willfulness is sufficient. In *In re Chase*, 339 Or 452, 457 (2005), in a Bar disciplinary proceeding, the Court held that "willfulness" under ORS 33.015(2) is not the equivalent of "intent." Knowledge of a valid court order and failure to comply establishes "willfulness." Under ABA standards, "intent" requires "the conscious objective or purpose to accomplish a particular result." Acting "willfully" or with knowledge does not necessarily prove intent. [Note: Conduct that constitutes contempt is "contumacious," not "contemptuous." *Niman and Niman*, 206 Or App 400, 411 (2006)] b. Remedial vs. Punitive Sanctions.

i. Power.

1. Court has inherent power to impose remedial and punitive sanctions. ORS 33.025(1).

See *Oregonians for Sound Economic Policy, Inc. v. SAIF*, 218 Or App 31 (2008) for History of Contempt from medieval English common law to present (pp. 45-50); Analysis of remedial vs. punitive contempt (pp. 50-55).

ii. Confinement can be remedial or punitive.

1. Is remedial if it continues or accumulates until the defendant complies with the court's order or judgment. ORS 33.045(2)(a).

A. Confinement in ten day blocks until husband complied with support order was punitive because it was for a definite time. For example if husband paid on day five of ten he still would not be released until day 10. In *The Matter of the Marriage of Miller*, 204 Or App 82 (2006).

2. Is punitive if for a definite period that will not be reduced even if the defendant complies with the court's order or judgment. ORS 33.045(2)(b).

QUERY: IF CUSTODIAL PARENT HAS DENIED NONCUSTODIAL PARENT, PARENTING TIME AND IF THE VIOLATION IS NOT CONTINUING, IS REMEDIAL CONTEMPT AVAILABLE? DOES VIOLATION CONTINUE UNTIL NC PARENT RECEIVES MAKE-UP TIME?

iii. Fines can be remedial or punitive.

1. Is punitive if for a past contempt. ORS 33.045(3)(a).

2. Is remedial if it is:

A. For a continuing contempt and the fine accumulates until the defendant complies with the court's judgment or order, or

B. If the fine may be partially or entirely forgiven when the defendant complies with the court's order or judgment. ORS 33.045(3)(b).

[Practice Suggestion: Consider seeking a remedial sanction of a suspended execution of definite sentence, suspended

for a definite period to give contemnor the opportunity to comply.]

c. What Sanctions Can You Get?

i. Remedial. Court can impose one or more of the following. ORS 33.105(1)(a)-(f).

1. Money sufficient to compensate for loss, injury, or costs suffered as a result of a contempt of court.
2. Confinement for so long as contempt continues, or six months, whichever is shorter.
3. Amount not to exceed \$500 or 1% of defendant's annual gross income, whichever is greater, for each day the contempt of court continues.
4. An order designed to insure compliance with a prior order of the court, including probation.
5. A sanction other than those listed above if the court determines that the sanction would be an effective remedy for the contempt.

ii. Punitive. Court can impose one or more of the following. ORS 33.105(2)(a)-(d).

1. Amount not to exceed \$500 or 1% of defendant's annual gross income, whichever is greater.
2. Forfeiture of any proceeds or profits obtained through the contempt.
3. Confinement for not more than six months.
4. Probation or community service.

d. Who Can Seek Sanctions?

i. Remedial. ORS 33.055(2)(a)-(e).

1. A private lawyer representing a party aggrieved by an alleged contempt of court, and a (District Attorney, City Attorney, Attorney General, or Any other person authorized by statute).

ii. Punitive. ORS 33.065(2)-(3)

1. A public lawyer (District Attorney, City Attorney, Attorney General).
2. A private lawyer who is authorized to practice law in Oregon and who is not counsel for an interested party if the public attorney declines to prosecute and the court determines that remedial sanctions would not provide an effective alternative remedy.
3. ORS 33.065(2) provides that only a city attorney, district attorney, or attorney general can initiate the instrument charging a person with punitive contempt. Thus, a private lawyer cannot even initiate a punitive contempt case. For a private lawyer to be appointed by the court to prosecute in a punitive contempt hearing three things must occur. Dahlem and Dahlem, 117 Or. App. 343, 346 (1991). First, a public lawyer has to initiate the case. Id. Second, the public lawyer has to then decline to prosecute it. Id. And third, the court must find that remedial sanctions could not provide an appropriate alternative remedy. Id.

e. Statute of Limitations.

- i. Two years from act or omission constituting the contempt. ORS 33.135(1), unless a support order then 10 years. ORS 33.135(5).
- ii. The two year time limit does not apply to an act or omission that constitutes a continuing contempt at the time the contempt proceedings are commenced. ORS 33.135(4).
- iii. Willful failure to pay a support obligation after it becomes a judgment is a contempt without regard to when the obligation became a judgment. ORS 33.135(4).
- iv. Action deemed commenced when ORS 33.055 motion is filed. ORS 33.135(5).

f. Procedures to Initiate Case.

i. Initial pleadings.

1. The court may issue an order directing the defendant to appear. ORS 33.055(5)(a).
2. Defendant must be personally served with the order to appear as provided in ORCP 7 and 9.
 - A. Unless – the court finds the defendant cannot be personally served;
 - (1) then court can order service by another method; or
 - (2) an arrest warrant can be issued instead of an order to appear. ORS 33.055(5)(a).
 - B. If defendant fails to appear the court may issue any order or warrant necessary to compel the appearance of the defendant. ORS 33.075.

3. A motion to initiate a proceeding shall be filed in the proceeding to which the contempt is related, if there is a related proceeding. ORS 33.055(3).
4. The motion must state, UTCR 19.020:
 - A. The maximum sanction(s) that the party seeks;
 - B. Whether the party seeks a sanction of confinement; and
 - C. As to each sanction sought, whether plaintiff considers the sanction remedial or punitive.
5. The court cannot impose a sanction greater than the sanction sought. A punitive sanction is presumed greater than a remedial sanction. A punitive sanction of confinement is presumed greater than other punitive sanctions. A remedial sanction of confinement is presumed greater than other remedial sanctions. UTCR 19.020.
6. Request for attorney fees.
 - A. Motion should include a request for attorney fees. Fees may be awarded in contempt proceedings in any suit for marital annulment, dissolution, or separation and in any suit for the enforcement of a restraining order or support order. ORS 107.455.
7. Joinder of claims.
 - A. Unless the court determines that other claims should be joined for fair resolution of the contempt matter, only the following claims may be joined with a contempt complaint.
 - (1) Claims that arise out of the order or judgment that the contemnor allegedly violated;
 - (2) Claims that involve facts and issues that would necessarily be determined in a contempt proceeding; and
 - (3) Other claims of contempt arising out of a related matter.
 - ii. Person initiating proceeding must file supporting documentation sufficient to give defendant notice of the specific acts alleged to constitute contempt. ORS 33.055(4).
 1. Potential problem: UTCR 19.050(5) says that ORCP 21(D) (motion to make more definite and certain) and ORCP 21E (motion to strike) do not apply to contempt proceedings.
 2. A party may amend a pleading in a contempt proceeding only on motion and with court's approval. UTCR 19.050(4).
- g. Contempt Pre-Trial Procedures.
 - i. Discovery.
 1. ORCP discovery rules apply to contempt proceedings for remedial sanctions. UTCR 19.040(1)(b).
 2. UTCR rules that apply to criminal proceedings generally apply to contempt proceedings for punitive sanctions. UTCR 19.040(1)(c).
 - ii. Affidavits of prejudice.
 1. A judge may be disqualified from a contempt proceeding as provided for in ORS 14.210 to ORS 14.270.
 2. Except ORS 14.260(3) does not apply to contempt proceedings. Thus, a judge in a contempt proceeding can be disqualified even if he/she has already made a ruling in the underlying case.
- h. Contempt Trial Procedures.
 - i. Right to a hearing.
 1. Defendant must be afforded a hearing before sanctions can be imposed. Defendant can waive the opportunity for a hearing by filing a stipulated order with the court. ORS 33.055(6).
 - ii. No right to a jury trial.
 1. A defendant has no right to a jury trial in a contempt proceeding. ORS 33.055(7).
 - iii. Right to counsel if confinement is sought.
 1. A defendant is entitled to be represented by counsel. ORS 33.055(8). Additionally, a court shall not impose a remedial sanction of confinement unless, before the hearing is held, the defendant is:
 - A. Informed that confinement may be imposed; and
 - B. Afforded the same right to court appointed counsel as required in proceedings for the imposition of an equivalent punitive confinement.

2. If the defendant is not represented by counsel when coming before the court, the court shall inform the defendant of the right to counsel, and the right to court appointed counsel if applicable. ORS 33.055(9).
- iv. Rules of evidence.
 1. The Oregon Evidence Code applies to contempt proceedings. However, it does not apply to direct contempt (contempt committed in the immediate view and presence of the court, where court can act summarily, ORS 33.096). OEC 101(2).
- v. What has to be proven.
 1. The following elements must be proven, Couey and Couey, 312 Or 302, 306 (1991):
 - A. A valid court order, judgment, or decree. (See Section IA for other conduct that may constitute contempt, e.g., obstruction of the court's authority.)
 - B. Defendant's knowledge of the order or decree.
 - C. Defendant's voluntary (willful) non-compliance.
- vi. Standard of proof.
 1. Clear and convincing evidence for remedial sanctions. ORS 33.055(11).
 2. Except remedial confinement requires proof beyond a reasonable doubt. ORS 33.055(11).
 3. All punitive contempt sanctions require proof beyond a reasonable doubt. ORS 33.065(9)
- vii. Burden of persuasion and production of evidence.
 1. Are on the petitioning party. OEC 305 and OEC 307.
- viii. Evidence must show willfulness.
 1. Willfulness includes "bad intent." Couey and Couey, 312 Or 302 (1991).
- ix. Presumption of good faith.
 1. Defendant is presumed to have acted in good faith. State ex rel Oregon State Bar v. Wright, 280 Or 713, 720 (1977). This must be considered by the court in determining whether the defendant acted willfully. Barrell v. Holmes, 107 Or App 187 (1991).
- x. Evidence of prior contempt convictions is generally not admissible.
 1. This is because a contempt is not a felony and generally does not involve a false statement. OEC 609.
- xi. Defendant has right to present evidence.
 1. Defendant must have the opportunity to call witnesses and present evidence. Brown and Brown, 89 Or App 172 (1987).
- xii. Limitation of issues.
 1. When contempt is the sole issue before the court, the court cannot modify the decree. State ex rel Cover v. Cover, 85 Or App 178 (1985). The same is true for suspending or abating a support judgment. See In Re: Marriage of Ronnfeldt, 65 Or App 184 (1983).
- xiii. Extra-territorial enforcement of restraining orders.
 1. If a court issues a valid restraining order and the restraining order is violated in another state, the court has jurisdiction over a contempt proceeding for the out of state violation. Pyle and Pyle, 111 Or App 184 (1992). See also Bachman v. Bachman, 171 Or App 665 (2000) (Has jurisdiction over even punitive contempt if violated in another Oregon county).
 2. If the party violating the court's order has relocated to another state and the other state has UCCJEA jurisdiction, does the Oregon court have continuing jurisdiction to enforce its original order? See Kantola and Kantola, 10 Or App 266, 268-269 (1972) which has been cited as authority that the court does not have contempt jurisdiction over the relocating party. over Mother. Kantola was decided before Oregon's adoption of the UCCJEA and more specifically, the current UCCJEA (adopted 1999, Oregon Laws, Chapter 649). Compare with Medill and Medill, 179 Or App 630, 646 (2002), where the court held that the original jurisdiction court (Oregon) has continuing authority "****to enforce by contempt proceedings the only custody determination and parenting plan that currently exists." The Court of Appeals found that the trial court erred in dismissing father's motion to hold mother in contempt for violating existing custody determinations and the parenting plan, notwithstanding that the court lacked modification jurisdiction.

i. Compelling Testimony of Witnesses.

i. A private litigant can compel the testimony of a witness as provided under ORS 136.617. ORS 33.085(1).

ORS 33.085(1) references ORS 136.617. ORS 136.617 is a criminal procedure. It lists the procedure for compelling witnesses who might incriminate themselves by testifying in criminal trials or in trials over remedial or punitive contempt. Perhaps the added procedures are there because contempt proceedings are similar to criminal proceedings.

ii. If the person initiating the proceeding is not represented by a public attorney they must serve a notice of intent to compel testimony on the district attorney of the county where the contempt proceeding is pending and on the Attorney General. ORS 33.085(2).

iii. The notice shall be served not less than 14 calendar days before any hearing on the motion to compel testimony. ORS 33.085(3).
1. The notice shall include the witnesses name, date of birth, residence address and social security number, and other pending proceedings or criminal charges involving the witness.

2. The notice shall also include the case name and number of the contempt proceeding and the date time and place set for any hearing scheduled as provided in ORS 136.617.

iv. Self-incrimination.

1. In *State ex rel Leopold v. McCallister*, 106 Or App 324 (1991) the court upheld the defendant's assertion of his constitutional right against self-incrimination in a remedial contempt proceeding related to the non-payment of child support. The defendant's compelled testimony could subject him to criminal prosecution for Criminal Nonsupport under ORS 163.555(1).

j. Defenses.

i. Inability to comply.

1. Is an affirmative defense:

A. Inability to comply with an order of the court is an affirmative defense. ORS 33.055(10).

B. See also *State v. Hill*, 315 Or 452 (1992). Making inability to comply an affirmative defense is constitutional even in a criminal contempt case.

C. In *Clark and Clark*, 171 Or. App 205 (200) once Wife had presented a prima facie case that Husband was in contempt Husband had burden of affirmatively showing that he could not comply with order. Husband was supposed to pay off Wife's mortgage. It was Husband's burden to show he did not have the money to pay.

2. Is a complete defense:

A. See *State ex rel Fry v. Fry*, 28 Or App 403 (1977).

B. No sanction should be imposed if parent has done the best he can to comply with a support obligation. *State v. Francis*, 126 Or 253, 265 (1928).

(1) Even if partial payment is made defendant can be guilty of contempt if he could have paid more. *State ex rel Wolf v. Wolf*, 11 Or App 477 (1972);

State ex rel Mikkelsen v. Hill, 108 Or App 135 (1991).

In *State ex rel Wolf v. Wolf*, 11 Or. App. 477 (1972) Husband was ordered to pay \$300 in alimony per month. Husband's income fell from \$1200 to \$500 per month and husband stopped paying. Even though Husband could not have afforded to pay \$300 per month he could afford to pay more than zero so he can be held in contempt.

In *State ex rel Mikkelsen v. Hill*, 108 Or. App. 135 (1991) the trial court found defendant in contempt for failure to make child support payments of \$150 per month. Defendant listed his income at \$100 per month. The trial court observed that defendant was able bodied and could have made

more. Appeals court reversed holding that insufficient to hold defendant as able to pay more and thus in contempt.

(2) Inability to comply cannot be self imposed. Even for religious reasons. *Berry and Berry*, 95 Or App 433 (1989). In *Berry*, Father was ordered to pay child support. Father did not make payments because he was in a religious-group that forbids the support of nonmembers. Father was held in contempt.

ii. Invalidity of order or decree.

1. If the underlying order is void for lack of jurisdiction the defendant cannot be in contempt of it. *State v. Crenshaw*, 307 Or 160 (1967).

2. However, if the underlying order is not yet void it must be obeyed until it is vacated or reversed. Oregon law is exceptionally clear that a party may obey a judgment, even if the party believes the judgment is wrong. A party may not unilaterally violate an Oregon Judgment. In *Patchett and Patchett*, 156 Or App 69, 72 (1998), the Court held:

“The integrity of the judicial process demands compliance with court orders until such time as they are altered by orderly appellate review. Litigants are not entitled to sit in judgment on their own cases, and they must follow the appropriate channels for review of decisions they believe to be invalid. Unless and until an invalid order is set aside, it must be obeyed.”

See also *Wilson and Wilson*, 186 Or App 515 (2003), and *State ex rel Mix v. Newland*, 277 Or 191, 200 (1977).

iii. Lack of merit of underlying order.

1. The merits of the underlying order usually cannot be challenged unless there was no opportunity to previously litigate the underlying order. *State v. Crenshaw*, 307 Or 160 (1967). *State ex rel Mix v. Newland*, 277 Or 191 (1977).

iv. Lack of knowledge of order or decree.

1. Defendant cannot be held in contempt if he had no knowledge of the order or decree. *State ex rel Oregon State Bar v. Lenske*, 243 Or 477 (1965).

2. Defendant cannot be held in contempt for violating a condition that was never imposed by the court. *Harris and Harris*, 199 Or App 300 (2005). Wife ordered to vacate residence upon receiving money from Husband. Wife vacated but didn't inform husband. Husband had been subject to a restraining order prohibiting contact with wife. Court of Appeals reversed trial court because wife was not ordered to inform husband when she vacated.

v. Not willful.

1. In *Patchett and Patchett*, 156 Or App 69, 72 (1998), the court overturned the trial court's finding of contempt where there was insufficient evidence to establish that wife “acted willfully to prevent husband's corporation from reclaiming Skippy.” [A wallaby which escaped from his cage and disappeared]. *Id.* at 72. Husband testified he made several attempts to recover the animal but there was no evidence that “wife willfully prevented husband's recovery of Skippy.” *Id.*

vi. Equitable estoppel.

1. A defendant's good faith reliance upon a prior agreement will not bar a contempt proceeding. *Wyllie and Wyllie*, 95 Or App 109 (1989); *Forrester and Forrester*, 147 Or App 319 (1997). So modifications should be made formally by court order before relied on.

vii. Choice of evils.

1. The contemptuous conduct must meet the qualifications of the “choice of evils” defense as set out in ORS 161.200.

A. This requires that the conduct is necessary as an emergency measure to avoid an imminent public or private injury. ORS 161.200(a).

viii. Bankruptcy?

1. A defendant probably cannot be found in contempt for discharging a court imposed obligation in bankruptcy, but the party harmed may be able to modify an existing child or spousal support order, citing an unanticipated change of circumstances, to meet the new financial obligation imposed. See *In re Siragusa*, 27 F.3d 406 (9th Circuit, 1994); *In Dickson v. Dickson*, 474 S.E. 2d 165 (Va. App. 1996); *In Marden v. Marden*, 546 N.W. 2d 25, 27 (Minn. App. 1996).

k. Judgment.

i. Form.

1. The imposition of a sanction for contempt shall be by a judgment. ORS 33.125(1).

A. A judgment is not an order. ORCP 67(A). Therefore, it should never be written as a "judgment order." *State v. Carrillo*, 311 Or 61 (1991).

ii. Time for entry of judgment.

1. If sanctions granted before related proceeding finished.

A. If a motion to initiate proceedings to impose remedial sanctions is filed in a related proceeding under ORS 33.055(3) before entry of a judgment in the related proceeding, and the court determines that the defendant is in contempt, the court may suspend imposition of sanctions and entry of judgment on the contempt until entry of judgment in the related proceeding. ORS 33.125(3)(a).

2. If sanctions denied before related proceeding finished.

A. If a motion to initiate proceedings to impose remedial sanctions is filed in a related proceeding under ORS 33.055(3) before entry of judgment in the related proceeding, and the court denies the motion or declines to impose sanctions, the court shall enter judgment on that denial or determination only as part of the judgment in the related proceeding. ORS 33.125(3)(b).

iii. Judgment must specify statutory basis for contempt.

1. Judgment is defective if it does not specify the statutory basis for the contempt. *Bonebrake v. Eccles*, 113 Or App 154 (1992). In *Bonebrake* the Court of Appeals held that order finding ex-husband in contempt and ordering payment of \$200 fine was defective because it did not state statutory grounds that supported it or recite circumstances that justified penalty in excess of \$100 fine.

iv. Judgment must include specific findings of fact.

1. Judgment is fatally defective if it does not include findings of fact. *Goldschmidt and Goldschmidt*, 86 Or App 610 (1987).

[Practice Suggestion: Requested ORCP 62 Findings of Fact and Conclusions of Law at the outset of the hearing; better yet, be prepared with proposed findings and conclusions for the court.]

l. Property Division.

i. Generally contempt proceedings cannot be used to enforce property divisions. *State ex rel Stirewalt v. Stirewalt*, 7 Or App 544 (1971).

[Practice Suggestion: The way around this is to get a court order directing a party to perform a specific task at a specific time and then undertake contempt proceedings if the order is not obeyed. *Drake and Drake*, 36 Or App 53 (1978). For example deliver piece of property X at X o'clock.]

m. Visitation Rights.

i. Court can use contempt to enforce visitation. *Goldshmidt and Goldshmidt*, 86 Or 610 (1987), but see discussion re: alternative of parenting time enforcement. In *Goldshmidt* court found that Wife could be held in contempt for violation of visitation provisions regarding visitation during holidays. But Wife cannot be held in contempt for willful violation of the dissolution judgment in regards to the first major holiday. The judgment was not sufficiently specific about who was to receive visitation on that holiday.

n. Money Judgments Not for Support. [SEE ALSO MATERIALS, SECTION III - "LIQUIDATING DEBTS OBLIGATIONS TO MONEY JUDGMENTS"]

- i. Contempt cannot be used to enforce the payment of money unless it is for support, maintenance, nurture, education, or attorney fees, in:
1. Actions for dissolution or annulment of marriage or separation from bed and board; or
 2. Proceedings upon support orders entered under ORS Chapters 108, 109, or 110, or under ORS 416.400 to 416.470, 419B.400 or 419C.590. [ORCP 78C]

o. Contempt for Violation of Statutory Restraining Orders

ORS 107.093 is the mandatory statutory restraining order in dissolution and separation proceedings and is effective upon service. Until the 2007 amendment, it was uncertain whether contempt was available as an enforcement tool. The law is now clear and provides for a remedial contempt sanction:

ORS 107.093(6) A party who violates a term of a restraining order issued under this section is subject to imposition of remedial sanctions under ORS 33.055 based on the violation, but is not subject to:

- (a) Criminal prosecution based on the violation; or
 - (b) Imposition of punitive sanctions under ORS 33.065 based on the violation. [2003 c.414 §2; 2007 c.22 §3]
- [Practice Suggestion: Where there is a risk of violation and financial or other loss due to conversion of specific (or unusual) protected assets, also obtain ex parte and serve a formal and detailed restraining order.]