

What can happen if I do not comply with a court order?

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In some instances, failure to comply with a court order is a criminal violation in and of itself. For example, if you violate a restraining order, that alone is a criminal act and carries with it criminal penalties. Mass. Gen. Laws. ch 209A § 7.

In other instances, failure to comply is not a criminal violation, but it is contempt of court. This is known as civil contempt. The purpose of civil contempt is different than criminal contempt. Civil contempt is focused on the harm to the adversarial litigant (the other party or parties in civil litigation). Civil contempt's has two purposes. The first is to coerce a party to comply with the court order. For instance, an order that includes a dollar amount to be assessed for every day of non-compliance or simply holding a party in jail until he complies (remember Susan McDougel?). The second purpose is to compensate the opposing party or parties for harm for the violation.

So what is the result if the person violating the order (referred to as the "contemptor") complies with the court order belatedly, can he argue that there is no basis for contempt now that he has complied? For both criminal contempt and civil contempt, the answer is no. Because the purpose of criminal contempt is punitive, the belated performance does not cure or absolve the violation. Civil contempt too can still be found, but not to coerce the person to comply because this has already happened, but to compensate the contemptor's adversary for damages that flow from the violation.

This post does not address discovery sanctions that could arise for violation of a court's order related to discovery (the process of gathering information in a civil suit). In those instances, there are many different sanctions a court can impose, the most drastic sanction usually being dismissal of a plaintiff's case or issuing judgment against a defendant.

A common difficulty for people is being unsure exactly what you are supposed to do to comply with the court order. Sometimes the details emerge as you attempt to comply with the order, or what seems clear in court to all the parties did not consider certain circumstances that have arose later. These issues can cause doubt and confusion at a time when severe consequences could be encountered if you make the wrong choice. If there is any doubt, get legal counsel on board immediately.

Another even more complicated issue is whether you and the opposing party, usually the party the order was intended to benefit, can agree to change (usually relax) the terms of the order. Or can the opposing party waive performance of the order, either partially or entirely? This is another instance that calls for legal advice you can have confidence in.

The two main points of this post generally are that you should comply with court orders and you should obtain quality legal advice if there is any uncertainty or doubt with respect to compliance with a court order. If you would like assistance with any of these issues, feel free to give us a call.

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