

7 GCA CIVIL PROCEDURE
CH. 34 CONTEMPT OF COURT

CHAPTER 34
CONTEMPT OF COURT

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§ 34101. What is Contempt of Court.

(a) The following acts or omissions are contempt of court:

(1) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to interrupt the due course of a trial or other judicial proceeding;

(2) A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the due course of a trial or other judicial proceeding;

(3) Misbehavior in office, or other wilful neglect or violation of duty by an attorney, counsel, clerk, commissioner, or other person, appointed or elected to perform a judicial or ministerial service;

(4) Abuse of the process or proceedings of the court, or falsely pretending to act under authority of an order or process of the court;

(5) Disobedience of any lawful judgment, order, or process of the court;

(6) Assuming to be an officer, attorney, or counselor of a court, and acting as such, without authority;

(7) Rescuing a person or property in the custody of an officer by virtue of an order or process of such court;

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(8) Unlawfully detaining a witness, or a party to an action, while going to, remaining at, or returning from the court where the action is on the calendar for trial;

(9) Any other unlawful interference with the process or proceedings of a court;

(10) Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness;

(11) Disobedience by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of the Supreme Court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate, or officer.

(b) Any person found guilty of a contempt of court pursuant to § 34102(a) is punishable by a fine not exceeding \$25 or by imprisonment not exceeding five days or by both. Any person found guilty of a contempt of court pursuant to § 34102(b) is subject to the same penalties as a person found guilty of a petty misdemeanor.

SOURCE: CCP § 1209; amended by P.L. 13-187:31 (Sept. 2, 1976). In Item 11, *District Court* replaced with *Supreme Court* [of Guam] in conformance with P.L. 21-147 creating the Supreme Court of Guam.

NOTE: The original CCP § 1210 through § 1218 were repealed by P.L. 13-187:32 (Sept. 2, 1976).

§ 34102. Contempt; summary disposition; disposition upon notice and hearing.

(a) A contempt may be punished summarily if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.

(b) Except as provided in subsection (a), a contempt shall be prosecuted on notice. The notice shall state the time and place of hearing; allowing reasonable time for the preparation of the defense, and shall state the essential facts constituting the contempt charged and describe it as such.

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(c) Unless some shorter time has been set by the court, three (3) calendar days notice (excluding Saturdays, Sundays, and Holidays) shall be deemed reasonable time for notice of a contempt action based in part or in whole upon an alleged assault or contempt based in whole or in part on violation of an order to leave someone alone.

(d) Unless some shorter time has been set by the court, five (5) calendar days notice (excluding Saturdays, Sundays, and Holidays) shall be sufficient reasonable notice for contempt actions which are not based in part or in whole upon an alleged assault nor based in whole or in part upon a violation of an order to leave someone alone.

(e) The notice shall be given orally in open court by the judge in the presence of the person charged with contempt ordering that person to appear at the hearing, or on application of the Attorney General, on application by an aggrieved party, or on application of a Guam attorney representing an aggrieved party. The contempt may be prosecuted by an order of arrest, by an order to show cause issued without notice ordering the contemptuous person to appear, or by motion based upon affidavit. Any such motion, order of arrest or order to show cause shall be personally served upon the person so charged; provided, however, that if it appears to the court that a person so charged is avoiding service and that person cannot be found and that person has an attorney of record who is actively at that time representing the person, then, upon ex parte motion with notice to the attorney involved, the court may authorize service on the attorney. If a motion for contempt is made, the clerk of court shall, upon ex parte request of the complaining party without notice to the person charged, issue without charge a summons directed to the person charged with contempt ordering him or her to appear at the hearing on the motion. Such summons shall be personally served on the person so charged.

(f) If the person charged with contempt is entitled to a trial by jury, such trial shall be provided.

(g) A person charged with contempt who is in custody or who is requested to be placed in custody for a contempt is entitled to be released pending hearing as provided in Chapter 40, Title 8,

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Guam Code Annotated. If the contempt is based upon violation of an order to leave someone alone, the court shall treat the alleged violation as an alleged violation of conditions of release in determining suitability and criteria for release as set forth in Chapter 40, Title 8, Guam Code Annotated. If the contempt charged involves disrespect to or a criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the consent of the person charged with contempt. Upon a verdict or finding of guilt, the court shall enter an order fixing the punishment.

(h) If an attorney admitted to practice law in Guam is convicted of a contempt or pleads guilty or nolo contendere to a contempt charge, the judge hearing the same shall immediately notify the ethics committee of the Guam Bar Association in order that disciplinary action may be taken, if appropriate. Upon receipt of such a notification, the Guam Bar Association shall undertake an investigation as to whether the attorney should be disciplined.

(i) In any contempt action involving support, if the court finds that a contempt occurred, the court may modify previous orders as may be appropriate in any contempt proceeding if such modifications are found by the court to be in the best interests of the minor child or children.

(j) In any contempt action involving support, if the court finds that a contempt occurred, the court may order the suspension of a motor vehicle operator's license, a professional or occupational license, or recreational license, or order denial of an application therefor, until the contemnor purges that person's contempt in such manner as the court directs.

SOURCE: CCP § 1211 added by P.L. 13-187:33 (Sept. 2, 1976); subsection (b) repealed/reenacted by P.L. 20-170:16 (May 15, 1990); subsections (c) through (i) added by P.L. 20-170:17. Subsection (j) added by P.L. 24-116:6 (Dec. 11, 1997), expired on Sept. 30, 1999 by operation of P.L. 24-116:13 and reenacted by P.L. 25-161:7 (Aug. 31, 2000).

2023 NOTE: Past publications of the GCA included a manifest error stating the effective date of P.L. 25-161:7 was July 10, 2000. This erroneous information has been corrected and will be omitted from future publications.

§ 34103. Imprisonment until performance.

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If the contempt is omission to perform any act, the person may be imprisoned until performance. Notwithstanding § 34101(b) of this Chapter, when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he shall have performed it, and in that case the act must be specified in the warrant of commitment.

SOURCE: CCP § 1219 amended by P.L. 13-187:34 (Sept. 2, 1976).

§ 34104. Proceedings When Party Fails To Appear.

When the warrant of arrest has been returned served, if the person arrested does not appear on the return day, the court or judge may issue another warrant of arrest, or may order the undertaking to be prosecuted, or both. If the undertaking be prosecuted, the measure of damages in the action is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct of the person for which the warrant was issued, and the costs of the proceedings.

SOURCE: CCP § 1220.

§ 34105. Illness sufficient cause for nonappearance.

Confinement under arrest for contempt. Whenever, by the provisions of this Chapter, an officer is required to keep a person arrested on a warrant of attachment in custody, and to bring him before a court or judge, the inability, from illness or otherwise, of the person to attend, is a sufficient excuse for not bringing him up; and the officer must not confine a person arrested upon the warrant in a prison or otherwise restrain him of personal liberty, except so far as may be necessary to assure his personal attendance.

SOURCE: CCP § 1221.

§ 34106. When Judgment and Orders Final.

The judgment and orders of the court or judge, made in cases of contempt, are final and conclusive.

SOURCE: CCP § 1222

NOTE: Part 3, Title V, of the Code of Civil Procedure, *Eminent Domain*, is found in Title 21 of this Code - dealing with matters involving real property.

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