





For Lawyers

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### Rule 1.3—Diligence and Zeal

(a) A lawyer shall represent a client zealously and diligently within the bounds of the law.

(b) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of a client through reasonably available means permitted by law and the disciplinary rules; or

(2) Prejudice or damage a client during the course of the professional relationship.

(c) A lawyer shall act with reasonable promptness in representing a client.

#### Comment

[1] The duty of a lawyer, both to the client and to the legal system, is to represent the client zealously within the bounds of the law, including the Rules of Professional Conduct and other enforceable professional regulations, such as agency regulations applicable to lawyers practicing before the agency. This duty requires the lawyer to pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and to take whatever lawful and ethical measures are required to vindicate a client’s cause or endeavor. A lawyer should act with commitment and dedication to the interests of the client. However, a lawyer is not bound to press for every advantage that might be realized for a client. A lawyer has professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. A lawyer’s workload should be controlled so that each matter can be handled adequately.

[2] This duty derives from the lawyer’s membership in a profession that has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of laws and not of individuals, each member of our society is entitled to have such member’s conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense.

[3] The bounds of the law in a given case are often difficult to ascertain. The language of legislative enactments and judicial opinions may be uncertain as applied to varying factual situations. The limits and specific meaning of apparently relevant law may be made doubtful by changing or developing constitutional interpretations, ambiguous statutes, or judicial opinions, and changing public and judicial attitudes.

[4] Where the bounds of law are uncertain, the action of a lawyer may depend on whether the lawyer is serving as advocate or adviser. A lawyer may serve simultaneously as both advocate and adviser, but the two roles are essentially different. In asserting a position on behalf of a client, an advocate for the most part deals with past conduct and must take the facts as the advocate finds them. By contrast, a lawyer serving as adviser primarily assists the client in

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107 of Professional Conduct, Rule 1.3—Diligence and Zeal determining the course of future conduct and relationships. While serving as advocate, a lawyer should resolve in favor of the client doubts as to the bounds of the law, but even when acting as an advocate, a lawyer may not institute or defend a proceeding unless the positions taken are not frivolous. See Rule 3.1. In serving a client as adviser, a lawyer, in appropriate circumstances, should give a lawyer's professional opinion as to what the ultimate decision of the courts would likely be as to the applicable law.

[5] To prevent neglect of client matters in the event that a sole practitioner ceases to practice law, each sole practitioner should prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client that the lawyer is no longer engaged in the practice of law, and determine whether there is a need for immediate protective action. See D.C. App. R. XI, § 15(a) (appointment of counsel by District of Columbia Court of Appeals, on motion of Board on Professional Responsibility, where an attorney dies, disappears, or is suspended for incapacity or disability and no partner, associate or other responsible attorney is capable of conducting the attorney's affairs).

[6] In the exercise of professional judgment, a lawyer should always act in a manner consistent with the best interests of the client. However, when an action in the best interests of the client seems to be unjust, a lawyer may ask the client for permission to forgo such action. If the lawyer knows that the client expects assistance that is not in accord with the Rules of Professional Conduct or other law, the lawyer must inform the client of the pertinent limitations on the lawyer's conduct. See Rule 1.2(e) and (f). Similarly, the lawyer's obligation not to prejudice the interests of the client is subject to the duty of candor toward the tribunal under Rule 3.3 and the duty to expedite litigation under Rule 3.2.

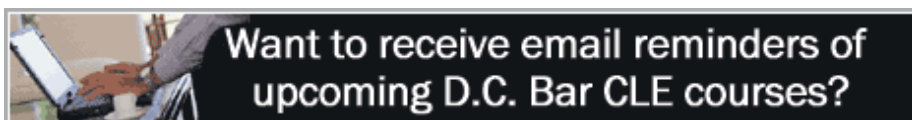
[7] The duty of a lawyer to represent the client with zeal does not militate against the concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of needless harm. Thus, the lawyer's duty to pursue a client's lawful objectives zealously does not prevent the lawyer from acceding to reasonable requests of opposing counsel that do not prejudice the client's rights, being punctual in fulfilling all professional commitments, avoiding offensive tactics, or treating all persons involved in the legal process with courtesy and consideration.

[8] Perhaps no professional shortcoming is more widely resented by clients than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. Neglect of client matters is a serious violation of the obligation of diligence.

[9] Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be eliminated by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has

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 lawyer is looking after the client's interests when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client but has not been specifically instructed concerning pursuit of an appeal, the lawyer should advise the client of the possibility of appeal before relinquishing responsibility for the matter.

[10] Rule 1.3 is a rule of general applicability, and it is not meant to enlarge or restrict any specific rule. In particular, Rule 1.3 is not meant to govern conflicts of interest, which are addressed by Rules 1.7, 1.8, and 1.9.

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