

## **The Importance of Diligence and Avoiding Procrastination**

**by**  
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An attorney was retained to probate an estate. The matter was substantially finished with only the filing of receipts and closing documents remaining. Before these were filed, however, the attorney misplaced the file and failed to take any further action for a year.

An attorney agrees to assist a client in filing for bankruptcy. A couple of months after accepting the advance fee for his services, the attorney closed his practice in Minnesota and moved out of state. The attorney did not inform his client of the move or provide contact information, nor did he complete the bankruptcy work – to the point of not even filing a petition. When the client eventually found a phone number for the attorney, a dozen calls for a status report went without response. The attorney finally refunded the fee 10 months after being retained and only a short time after the filing of an ethics complaint.

An attorney was retained to represent a client in a post-decree marriage dissolution matter. At the hearing, a stipulated agreement was entered into and the attorney agreed to draft an order memorializing the agreement. The attorney did not begin drafting the order for five months. (Again, the work began shortly after the filing of an ethics complaint.)

An attorney was retained to assist a client in the start-up of a business. Among the required actions was filing with the IRS before business could be commenced. The attorney failed to obtain and send to the client the necessary tax forms until almost a year and a half after being retained. This delayed the opening of the business.

These are four situations that last year gave rise to the issuance of admonitions to attorneys for, amongst other things, lack of diligence. The director of the Office of Lawyers Professional Responsibility issued 130 admonitions in 2001, with 39 of them involving a finding of a violation of Rule 1.3 of the Minnesota Rules of Professional Conduct.

The rule is really quite simple: "A lawyer shall act with reasonable diligence and promptness in representing a client."

There is, however, something about the practice of law that makes this difficult at times for some practitioners. Whether the lack of diligence is caused by market and economic pressures, the complexity of the law, or the paralyzing tendencies that arise out of dealing with the inherently ambiguous nature of relationships among people, it is hard for some lawyers to get everything that must be done accomplished in a timely fashion. In some cases, attorneys have taken on more work than they can handle. In others, some sort of psychological stumbling block has been reached that is seemingly insurmountable.

Regardless of the cause, the tendency to procrastinate (defined by Don Marquis as the art of keeping up with yesterday) must be overcome. As noted in the comment to Rule 1.3, "Perhaps no professional shortcoming is more widely resented than procrastination." There is much more to be said on this topic, but

we've got some rapidly aging files we need to attend to.