

### **Rule 1.3 Diligence**

#### **(Commission's Proposed Rule Adopted on November 13 – 14, 2015 – Clean Version)**

- (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to act with reasonable\* diligence in representing a client.
- (b) For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or without just cause, unduly delay a legal matter entrusted to the lawyer.

#### **Comment**

[1] This Rule addresses only a lawyer's responsibility for his or her own professional diligence. See Rules 5.1 and 5.3 with respect to a lawyer's disciplinary responsibility for supervising subordinate lawyers and nonlawyers.

[2] See Rule 1.1 with respect to a lawyer's duty to perform legal services with competence.

**Rule 1.3 [3-110(B)] Diligence**

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- (b) For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or ~~without just cause,~~<sup>1</sup> unduly delay a legal matter entrusted to the lawyer.

**Comment**

[1] This Rule addresses only a lawyer’s responsibility for his or her own professional diligence. See Rules 5.1 and 5.3 with respect to a lawyer’s disciplinary responsibility for supervising subordinate lawyers and nonlawyers.

[2] See Rule 1.1 with respect to a lawyer’s duty to perform legal services with competence.

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<sup>1</sup> Drafting team consensus to make change requested by COPRAC to avoid suggestion that paragraph (b) provides that there could be “just cause” to “unduly delay” a legal matter.

**Proposed Rule 1.3 Diligence  
Synopsis of Public Comments**

**TOTAL = XX**      **A = X**  
                          **D = X**  
                          **M = X**  
                          **NI = X**

No.	Commenter/Signatory	Comment on Behalf of Group?	A/D/M/NI <sup>1</sup>	Rule Section or Cmt.	Comment	RRC Response
2016-32c	Law Professors (Zitrin) (07-25-16)	Yes	A	1.3	<p>We are gratified to see the inclusion of a separate rule on diligence along with a definition of diligence.</p> <p>Moreover, the commission has corrected the overly narrow standard required for a violation MR 1.3 by adding the phrase “gross negligence” to the rule itself.</p>	No response required.
X-2016-43f	Committee on Professional Responsibility and Conduct (COPRAC)	Yes	M	(b)	<p>COPRAC supports the concept of the Rule and its comments, but has suggested revisions in syntax for subsection (b). As to proposed Rule 1.3(b), it now provides:</p> <p>For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, <b>or without just cause, unduly delay a legal matter entrusted to the lawyer.</b> (<i>Emphasis added</i>).</p> <p>COPRAC worries that the provision, as drafted, could be read as providing that there</p>	The Commission agrees with the commenter’s recommendation and has made the requested change.

<sup>1</sup> A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED

**Proposed Rule 1.3 Diligence  
Synopsis of Public Comments**

**TOTAL = XX**      **A = X**  
                              **D = X**  
                              **M = X**  
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					<p>could be “just cause” to “unduly delay” a legal matter. We believe that what we understand the intent of subsection (b) to be could be better expressed by a revision of the language as set forth below.</p> <p>COPRAC’s Suggested Revised Rule 1.3:</p> <p>(b) For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.</p>	
2016-52c	Law Professors (Zitrin) (08-24-16)	Yes	A	1.3	<p>We are gratified to see the inclusion of a separate rule on diligence along with a definition of diligence.</p> <p>Moreover, the commission has corrected the overly narrow standard required for a violation MR 1.3 by adding the phrase “gross negligence” to the rule itself.</p>	No response required.