

Vermont Rules of Professional Conduct
Rule 3.2 – Expediting Litigation

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*This unofficial version was last updated on **November 14, 2022.***

Kennedy's Highlights

(NOT a substitute for full research of the rule & opinions/decisions on it)

- *Rule 3.2 was last amended in 2009.*

Rule 3.2. Expediting Litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Comment

[1] Dilatory practices bring the administration of justice into disrepute. Although there will be occasions when a lawyer may properly seek a postponement for personal reasons, it is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

Reporter's Notes — 2009 Amendment

The Comment to V.R.P.C. 3.2 is amended to conform to the changes in the Comment to Model Rule 3.2. The ABA Reporter's Explanation is as follows:

TEXT:

The Commission is not recommending any change to the Rule text.

COMMENT:

[1] The Commission concluded that the reference in the second sentence to indulging delay "merely for the convenience of the advocates" is too restrictive and modified it to recognize that there are circumstances where it is acceptable for a lawyer to request a postponement for personal reasons.

Reporter's Notes

This rule goes further than the Vermont Code's mere approval of punctuality. The rule places an affirmative obligation upon the lawyer to make reasonable efforts in the client's interests to expedite litigation.

ANNOTATIONS

1. Violations. Admonishment was appropriate for an attorney who had failed to promptly and fully comply with discovery, in violation of the rules regarding diligence and expediting litigation. The attorney's conduct did not result in actual substantial harm to his client, the public, the legal system, or the profession; his violations resulted from disorganization, overreliance on his client, and lack of experience in complex litigation, not from an intent to conceal documents; and he had no prior disciplinary record and fully cooperated in the disciplinary proceedings. In re PRB File No. 2007-003, 2009 VT 82A, 186 Vt. 588, 987 A.2d 273 (mem.).

