

Doing Your Due Diligence

An aspiring student inquired about due diligence. What exactly is due diligence? As defined by the Merriam Webster dictionary, it is the care that a reasonable person exercises to avoid harm to other persons or their property. The Merriam Webster also states that due diligence is a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent person under the circumstances; not measured by any absolute standard but depends on the relative facts of the special case.

(<http://www.charlesmillsconsulting.com/due-diligence-definition.htm>)

The key words and phrases that stand out in the above definitions are “care”, “reasonable person”, “avoid harm”, and “measure of prudence”. With that in mind, how can we as practitioners ensure that we are doing our own due diligence to “avoid harm” and that proper care is being executed and maintained in our work?

Below was a reply to the student in list form. It is not an exhaustive list, but it is a good start and an important reminder for ensuring that we maintain and do our own due diligence.

We can maintain and do our own due diligence as practitioners:

- By performing excellent research and asking the right questions.
- By ensuring enough time is allocated for each case and preparing well.
- By having good time management and reminder systems.
- By seeking co-counsel or an extra opinion on more complex issues (with permission from client).
- By ensuring there is a network of support when it is needed.
- By turning down cases we are not comfortable with, not experienced enough to take on, or simply those that we do not wish to take on.
- By being honest and candid with clients about the process and steps involved.
- By making clients part of the process—engaging them, getting details, asking questions, having them review forms and submissions and getting their opinions.
- By seeking other resources in gathering all the information—experts in other areas of law or applicable issues at hand.
- By reflecting on the importance of the issue—someone’s future is in your/our hands, therefore, doing a good job is paramount.
- By reminding the client that the final decision maker is the government. We have no control over outcome. We can only promise a job well done, well written submissions, and a well-prepared file.
- By reminding ourselves and the client, that truth is paramount. Get all the facts—the good, the bad and the ugly—and then we can figure things out and determine what strategy can be done, along with future options.
- By trusting our gut—if something doesn’t feel right, it’s probably not. Scrutinize closely. Ask extra questions, seek clarification or more documentation. Talk to a colleague if necessary.

- By reviewing the College Code of ethics and bylaws regularly so we are reminded of the importance of duties and obligations: [Code of Professional Conduct \(college-ic.ca\)](http://college-ic.ca).
- By staying updated on changes, trends, and programs. Attend CPD programs and do continuous learning.
- By not being afraid to ask those tough questions, even when it may seem ridiculous.
- By keeping a positive and well-balanced attitude—maintaining professionalism, decorum and civility and treating colleagues, clients, and stakeholders with respect.
- By being proud of what we do and knowing we can provide an excellent service.
- By understanding and knowing that mistakes can occur and most importantly, to learn from those mistakes. Be honest with your client and seek strategies to solve and advise them of options. Own your mistakes. Sometimes, a simple, “I’m really sorry that I didn’t call you back right away” goes a long way to maintain trust and good will. Of course, you don’t want your mistake to adversely impact a file. However, if it does, knowing the right steps to take after the fact is important.

Add to this list or make your own but always keep at the back of your mind, the notion of due diligence. This is a great place to start!

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