

ON LOOKING BEFORE YOU LEAP, NOT STEPPING IN COW PIES AND EMBARRASSING YOURSELF OR YOUR FIRM

Poor Agnes. Bless her heart. She was a real sweetheart, well loved by all her family members. But boy did she get used. No sooner had she graduated from law school and landed a great job as an associate at a major law firm, than Bobbie called. Bobbie was her cousin and the oldest son of Agnes' Aunt Mae. Aunt Mae was 96 years old and living in an assisted living facility at the Golden Age Center in Millersville, Iowa. It seems that Aunt Mae had been having problems with her managed care provider. The issue concerned whether Aunt Mae was entitled to insurance coverage for a medical procedure she needed to address an arthritic condition in her spine. Several surgeons suggested the procedure, but her managed care provider responded that the procedure was not medically justified. Moreover, the insurer suggested she was too old for surgery.

Well—that last comment is what really twisted off Aunt Mae and Bobbie. So Bobbie called Agnes and implored her to take some initiative and see that justice was done. As a brand new lawyer Agnes said she was not really qualified to initiate litigation against a large managed care provider, but she would be glad to send a terse letter to the carrier threatening legal action. Maybe she could scare the insurer into action. After all her firm had lots of clout and a letter written on its stationery might have some effect on the insurer. Maybe that would inspire the company to treat Aunt Mae fairly.

So Agnes performed research on an insurer's liability, deceptive trade practices, and fraud, and sent a very terse demand letter to the insurer on the firm's letterhead.

Well—you guessed it. It wasn't three days before Agnes was summoned to the managing partners' office. Waiting for her there were the head of the firm, the head of the litigation section, and the partner in charge of the firm's representation of the insurance company to whom she had directed her demand letter. It seems the insurer/managed care provider was the firm's second largest client.

Believe it or not, situations like this occur. It's not because our lawyers are not smart. After all, they would not be with the firm if they were not. Rather, it is because often times people just do not seem to think before they act. At times we seem to act impulsively and lose sight of the fact that we are part of a very large and well-respected institution. Not only must we look before we leap, as Agnes failed to do, but we must also remember that we are each just one of over 400 lawyers working together towards the common goal of providing quality legal services to our varied and numerous clients. Never lose sight of the fact that you must not only strive to perform quality legal services, but also, not embarrass yourself, the firm, or other lawyers with whom you practice in the eyes of firm clients.

Never take action like Agnes did without first running a conflicts check and following the file opening process of your firm. Had she initiated a conflicts check, Agnes would have quickly determined that she was conflicted from taking any action against the insurer client. Moreover, in connection with the file opening process, she would have been required to obtain approval of a supervising lawyer/staffing attorney before she launched her strike. Agnes did neither and caused herself and her firm unnecessary embarrassment.

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