

**Ethics Committee
December 2007**

**6. CHAPTER 1, RULE 3(9): WHETHER THERE ARE CIRCUMSTANCES WHERE
A LAWYER SHOULD DECLINE TO ACT PRO BONO**

A lawyer asked the Committee to consider this question: Is it improper for a lawyer to act for a client on a pro bono basis when doing so gives the client an advantage over the party on the other side who may be either unrepresented or of limited means to pay a lawyer?

The Committee noted that Chapter 1, Rule 3(9) advises that lawyers should avoid charges which are unreasonably high or low.

Subject to the caveat that a lawyer must not represent a client who is acting out of malice, on a pro bono basis or otherwise, it was the Committee's view that a lawyer is entitled to take account of a client's ability to pay in setting a reduced fee, or in acting without fee, and the lawyer is under no obligation to consider an opposite party's circumstances in determining the fee.