

MINUTES

COMMITTEE: Ethics Committee

DATE: September 4, 1997

9. CHAPTER 8, RULE 9: WHETHER LAWYER VIOLATES RULE BY ACTING FOR COMPANY IN WHICH HE HAS AN INTEREST

A lawyer is a shareholder in a company. The lawyer formerly acted for the company but the company has now filed a Notice of Intention to Act In Person in an action to collect rent from a former tenant. The lawyer will be required to give evidence at the trial.

Because the company does not wish to incur the expense of retaining counsel, it has requested the lawyer to argue the case on the company's behalf. It is the lawyer's wish to conduct the matter on the company's behalf without fee, and as a shareholder, not as a lawyer. Because he will be required to give evidence, the lawyer asks whether, although he would not be acting as counsel, he would be bound by Chapter 8, Rule 9.

Provided it is clear to the court that the lawyer is not acting as lawyer for the company, but is appearing in the matter as a person with a shareholder's interest in the company, the lawyer is not prohibited from appearing on the company's behalf and is not bound by Rule 9. It was the Committee's view that it is not prudent for the lawyer to conduct himself in this way on behalf of the company, but he is not prohibited from doing so.

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