

Committee Opinion  
March 26, 1999

LEGAL ETHICS OPINION 1730

ATTORNEY OFFERING DISCOUNT FEE  
TO CLIENT WHEN CLIENT IS A JUDGE  
ATTORNEY MAY APPEAR BEFORE IN  
THE FUTURE.

You have presented a hypothetical situation in which you represent a client who is a judge in a state court. As you usually do for clients who are friends or colleagues, you propose offering your client a discounted fee.

Under the facts you have presented, you have asked the committee to opine as to whether an attorney may, as a professional courtesy, reduce his fee for legal representation to a state court judge when the attorney has not appeared before the judge in state court but may do so in the future.

The appropriate and controlling disciplinary rule relative to your inquiry is DR:7-109(A), which states, "A lawyer shall not give or lend anything of value to a judge, official, or employee of a tribunal under circumstances which might give the appearance that the gift or loan is made to influence official action." Also EC:7-31 advises that "A lawyer, therefore, is never justified in making a gift or a loan to a judge . . . under circumstances which might give the appearance that the gift or loan is made to influence official action."

In the facts presented, the committee believes it is not improper for the attorney to treat the judge, a longtime friend, no differently from other friends and colleagues to whom the attorney would extend the same professional courtesy of a discounted fee for legal services rendered by the attorney. EC:2-20 commends the special consideration given in setting fees for colleagues and family members. Considered in conjunction with EC:2-14, which states that a lawyer does not cease to be a lawyer merely because of the lawyer's status as a judge, the committee concluded that it is acceptable to regard a judge as a professional colleague for whom a fee reduction is a routine courtesy.

Although the attorney has never appeared before the judge, the attorney indicates the possibility exists that such an appearance could be necessary in the future. The committee assumes that the attorney's representation of the judge has terminated before any appearance before that judge. Otherwise, a conflict would exist. The committee believes that a fee reduction now, commensurate with fee discounts given other colleagues and family members, would be unlikely to create any appearance of impropriety or appear to be an attempt to influence official action by the attorney should the attorney appear before the judge in the future.

It is beyond the purview of this committee to address any issues regarding the judge's compliance with the Canons of Judicial Ethics if the attorney were to appear in court before the same judge.