

Rule 6.2 Accepting Appointments [Sorted by Commenter]						
No.	Commentator	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
1	San Diego County Bar Association Legal Ethics Committee	A	Yes		Support as drafted.	No response required.
2	Orange County Bar Association	M	Yes		OCBA notes that Comment [1] to Proposed Rule 6.2 contains reference to Rule 6.1, but we understand that Rule 6.1 has not been adopted. We simply express the concern that the Commission should revisit this citation in Comment [1], to conform, when a final decision has been made regarding the adoption of Proposed Rule 6.1.	
3	Office of Chief Trial Counsel	M	Yes		OCTC appreciates the intent of this rule, but is concerned that it is not enforceable. By allowing attorneys to avoid appointments by claiming that the representation or cause is repugnant to them it would appear to be impossible to enforce this rule.	
				Comments [1] & [2]	OCTC finds Comments [1] and [2] more appropriately belongs in a treatise, law review article, or ethics opinion.	
				Comment [1]	Further, Comment [1] cites to proposed rule 6.1, which was deleted by the Board of Governors and is, thus, not currently part of the proposed rules	

TOTAL = 4 Agree = 2
Disagree =
Modify = 2
NI =

¹ A = AGREE with proposed Rule D = DISAGREE with proposed Rule M = AGREE ONLY IF MODIFIED NI = NOT INDICATED

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TOTAL = 4 Agree = 2
Disagree =
Modify = 2
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4	COPRAC	A	Yes		Support as drafted.	No response required.

Rule 6.2: Accepting Appointments
(Commission's Proposed Rule – CLEAN)

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:

- (a) representing the client is likely to result in violation of these Rules, the State Bar Act, or other law;
- (b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or
- (c) the client or the cause is so repugnant to the lawyer as to be likely to impair the lawyer-client relationship or the lawyer's ability to represent the client.

[2] An appointed lawyer has the same obligations to the client as retained counsel, including the obligations of loyalty, confidentiality, and competence, and is subject to the same limitations on the lawyer-client relationship, such as the obligation to refrain from assisting the client in violation of these Rules or the State Bar Act. See Rule 1.2(d).

[3] Paragraph (c) does not apply to public defenders or federal public defenders or a subordinate lawyer in their offices where appointment is governed by statute. See Cal. Government Code section 27706; Penal Code section 987.2(e); 18 U.S.C. section 3006A(g); Fed. R. Crim. Proc. 44. See also Rule 5.1, Comment [6].

COMMENT

[1] A lawyer ordinarily is not obliged to accept a client whose character or cause the lawyer regards as repugnant. The lawyer's freedom to select clients is, however, qualified. See Business & Professions Code section 6068(h). Every lawyer, as a matter of professional responsibility, should assist in providing pro bono publico service. See Rule 6.1. An individual lawyer fulfills this responsibility by accepting a fair share of unpopular matters or indigent or unpopular clients without expectation of compensation other than reimbursement of expenses. A lawyer may also be subject to appointment by a tribunal to serve unpopular clients or persons unable to afford legal services.

Appointed Counsel