

Chapter 09

CONSUMER PROTECTION

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27.0901 Authority and purpose.

This rule is issued pursuant to authority granted in ASCA 27.0402(c) for the purpose of insuring the director of the Consumer Protection Bureau will avoid competition with private attorneys in the representation of clients.

History: Rule 5-85, eff 30 Dec 85.

27.0902 Definitions.

(a) "Appeal" means any appellate proceeding in an action as defined by law or usage in American Samoa or the High Court of American Samoa.

(b) "Appropriate civil actions" shall include cases filed in court on behalf of individual consumers as well as groups or classes of consultants.

(c) " Director" means the director of the Consumer Protection Bureau or his designated representation.

(d) "Fee-generating case" means any case or matter which, if undertaken on behalf of a consumer by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

History: Rule 5-85, eff 30 Dec 85.

27.0903 Prohibition.

The Consumer Protection Bureau shall not provide legal assistance in a fee-generating case unless other adequate representation is unavailable.

History: Rule 5-85, eff 30 Dec 85.

27.0904 Authorized representation in a fee-generating case.

Other adequate representation is deemed to be unavailable when:

(a) The director has determined the case or matter involves restitution pursuant to ASCA 22.1501 et seq., 27.0405, 27.-0701 et seq. and any other restitution provision pursuant to law involving the director.

(b) The director has determined referral is impossible because:

(1) The case has been rejected by two private attorneys; or

(2) The case is the type of case that attorneys have regularly rejected following a referral; or

(3) Emergency circumstances compel immediate action before referral can be made, but the consumer is advised that if appropriate, and consistent with professional responsibility, referral will be attempted at a later time, or

(c) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counter-claims.

History: 5-85, eff 30 Dec 85.

27.0905 Acceptance of fees.

The Consumer Protection Bureau may seek and accept a fee awarded or approved by a court or included in a settlement if the requirements of Section 27.0904 are met. Such fees are to be made payable to "ASG Treasurer-Consumer Protection Bureau".

History: Rule 5-85, eff 30 Dec 85.

27.0906 Acceptance of a case.

The Consumer Protection Bureau may accept an appropriate civil action in accordance with this rule whether the action involves broad policy issues or not and may, in the discretion of the director, decline representation to any consumer.

History: Rule 5-85, eff 30 Dec 85.

27.0907 Appeals.

The director may file an appeal on behalf of a consumer if the requirements of Section 27.0904 are met, whether the action was initially instituted by the Consumer Protection Bureau.

History: Rule 5-85, eff 30 Dec 85.

27.0908 Amicus curiae.

The director may file an amicus curiae at the request of a private attorney in an appropriate civil action in accordance with the rules of the court in which an action is filed.

History: Rule 5-85, eff 30 Dec 85.