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**E-82-2      Destruction of client's files**

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**Facts**

An attorney for a client in a divorce matter has possession of a client's file containing information on assets of the client currently owned or owned by the client in the past, which the client does not wish the spouse or the spouse's attorney to discover. The information in such file is not within the attorney-client privilege. The client requests the attorney to destroy 90 percent of the file, including those portions of the client's file relating to the assets. The spouse and/or attorneys know that the asset information exists but have not yet requested the production of such file, although such request for production is reasonably anticipated.

**Question**

May an attorney destroy the contents of a client's file at the client's request under the facts submitted?

**Opinion**

There are several principles contained in the Wisconsin Supreme Court Rules (1982) which bear on the resolution of this issue. SCR 20.34(3)(i) (1982) says in material part:

"Because it interferes with the proper administration of justice, a lawyer should not suppress evidence which he or she or his or her client has a legal obligation to reveal or produce."

SCR 20.36(1)(c) provides: ". . . A lawyer may not: conceal or knowingly fail to disclose that which the lawyer is required by law to reveal."

SCR 20.43(1) provides: "A lawyer may not suppress any evidence that the lawyer or the lawyer's client has a legal obligation to reveal or produce."

Under the present circumstances, if the attorney has reasonable belief that the information contained in the client's file will be sought by the client's spouse

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and/or attorneys, those relevant portions of the client's file may not be destroyed by the attorney at the request of the client.