

---

**E-85-12     Limiting liability to a client and  
requesting a client arbitrate malpractice  
claims**

---

**Facts**

A lawyer represented a client in an action. Two years ago the client received a judgment. Subsequently, the law office has handled other legal work for the client unrelated to the initial action. Recently, the client has expressed dissatisfaction with the law office on grounds unrelated to the original action and has requested the file.

**Questions**

1. May a lawyer compromise an outstanding fee in exchange for a client signing a release of legal malpractice claims against the lawyer?
2. May the lawyer request the client sign an agreement to submit legal malpractice claims the client may have against the law office to arbitration prior to beginning any legal action in exchange for compromising the fee?

**Opinion**

A lawyer may not ethically condition the return of client documents and the settlement of related fees claimed by the lawyer upon the client's release of legal malpractice claims which might arise from the past representation, or upon the client's agreeing to submit any such claims to arbitration prior to commencing any legal action unless the client is advised in writing to secure independent counsel in the negotiation and consummation of such an agreement. *See* SCR 20.33 and 20.31(6); MRPC 1.8(h); and *State v. Tadych*, 69 Wis. 2d 77, 79, 230 N.W.2d 162 (1975).