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Cowan Leibowitz & Latman, P.C. v. Kaplan

The Florida Supreme Court has receded, albeit slightly, from the longstanding bright-line rule that legal malpractice claims are not assignable. In Cowan Leibowitz & Latman, P.C. v. Kaplan, case No. SC03-59 (Fla. March 17, 2005), the Court recognized a narrow exception for claims against an attorney for preparing a private placement memorandum: "We agree that because lawyers preparing private placement memoranda, like independent auditors, owe a duty to those who rely on statements contained in their published documents, parties may assign claims for legal malpractice committed in preparing them."

In carving out this narrow exception, however, the supreme court reiterated and stressed the general prohibition against such assignments: "We therefore recede from the broad dicta . . . purporting to prohibit the assignment of all legal malpractice claims. Nevertheless, we stress that the vast majority of legal malpractice claims remain unassignable because in most cases the lawyer's duty is to the client."

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