

Court Issues Reminder of Potentially Harsh Consequences for Failure to Preserve Evidence in Anticipation of Litigation

Mark Felger and Simon Fraser discuss a Delaware Superior Court opinion that demonstrates the importance of preserving evidence leading up to litigation in a *Delaware Business Court Insider* article. In *BDO USA v. Everglade Global*, the court found that the CEO and founder of the defendant who was a former BDO partner, had spoliated evidence at his former employer.

Upon analyzing the founder's laptop and related devices, it was determined that a substantial amount of evidence was destroyed. The founder later admitted to these actions during a hearing. Shortly after, the court indicated that the defendant was in litigation at the time the spoliation occurred and had a duty to preserve evidence.

Because the defendant acted in a manner that denied the plaintiff access to evidence that was at the center of its claims, the court entered a default judgment and fee shifting order in favor of the plaintiff.

To read the full article, [click here](#).



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