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The Dog Ate My Homework

On January 4, 2016 a federal judge in Seattle vacated a \$21.5 million verdict to a man injured by a closing cruise ship door in 2011. The verdict was vacated because the plaintiff, James Hausman, deleted e-mails that were requested by the defendant, Holland America, during discovery. Making good on her threat to ruin Hausman's life upon her firing, a disgruntled ex-employee contacted Holland America after the trial and told them that Hausman deleted emails that dealt with the severity of the alleged injuries and failed to disclose a personal email account. She claimed she witnessed him deleting the messages and she later recovered them from her computer.

Although the award was vacated, it was clear that counsel had no involvement or knowledge of the deletions. Had counsel been involved there undoubtedly would have been severe monetary sanctions and possibly ethical sanctions against counsel.

Counsel must alert clients not to destroy email communications which have a bearing on their claims. Personal injury defense counsel make it a practice to request Facebook access and information. Rather than deleting emails or social media updates, counsel should alert their clients not to prepare them in the first instance. Destroying or spoliating the evidence can result in extreme sanctions for the attorneys and reversed decisions for winning parties. The defense of the dog ate my homework will not work in this instance.



Don Adams's practice focuses on civil litigation in the area of medical defense litigation, transportation, maritime and wrongful death and injury. He counsels clients on risk management and quality assurance matters. Don has successfully tried numerous jury trials, bench trials, and arbitrations as lead counsel in state and federal courts in Ohio and Kentucky.