



Employees Must Preserve Documents When a Litigation Hold is in Effect

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In *Moore v. Gilead Sciences, Inc.* [PDF], the Northern District of California sanctioned a former employee/whistleblower for destroying more than 10,000 documents on his company-issued laptop. The employee had wiped his hard drive several times—both before filing a complaint against his former employer and then again once after the company issued a litigation hold notice. The court found the employee's conduct egregious and worthy of an adverse inference instruction related to Moore's disability claims where the jury would be instructed that it can infer from the fact that Moore destroyed evidence in August 2008 – that the evidence, if available, would have been favorable to Gilead and harmful to Moore regarding the existence of a disability.

This case underscores the importance of companies ensuring that their employees preserve documents on in-house computers as well as laptops and smartphones when a litigation hold is in effect.