

Court Imposes Sanctions for Destruction of Information Contained on BlackBerry® Smartphones

Se. Mech. Servs., Inc., v. Brody, 2009 WL 2883057 (M.D. Fla. Aug. 31, 2009). The plaintiff requested sanctions alleging the laptops and BlackBerry smartphones belonging to the defendants were wiped of data. The defendants argued that all evidence was preserved on the servers and that e-mails were produced in hard copy from the servers. Relying on explanations provided by computer forensics experts that the “wiped” state of the BlackBerry smartphones was attributed to intentional and deliberate actions, the court disagreed with the defendants' arguments and held that sanctions were appropriate. Given the nature of the destroyed evidence, including personal e-mails, telephone records, text messages and calendar entries, the court determined the evidence was likely unfavorable to the defendants and therefore issued an adverse inference instruction.

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