

Silvestri v. General Motors Corp.
Injured motorist (P) v. Car company (D)
271 F.3d 583 (4th Cir. 2001).

NATURE OF CASE: Appeal of dismissal for spoliation of evidence.

RULE OF LAW: A party's duty to preserve material evidence extends to the period before litigation, when a party reasonably should know that the evidence may be relevant to anticipated litigation, and therefore the object of discovery.

FACTS: Mark Silvestri (P) sued General Motors Corp. (D) after the airbag in the Monte Carlo he was driving failed to deploy when he hit a utility pole, causing him injuries. While he was in the hospital, his parents retained an attorney, who retained two accident reconstructionists to examine the vehicle. They concluded that the airbag was defective, and told Silvestri's (P) attorney that he should let General Motors (D) see the vehicle. Neither Silvestri (P) nor his lawyer took steps to preserve the vehicle or to notify General Motors of the existence of the vehicle, until almost three years later when Silvestri (P) began this action. The district court dismissed the case for the spoliation of evidence.

ISSUE: Does a party's duty to preserve material evidence extend to the period before litigation, when a party reasonably should know that the evidence may be relevant to anticipated litigation, and therefore the object of discovery?

HOLDING AND DECISION: (Niemeyer, J.) Yes. A party's duty to preserve material evidence extends to the period before litigation, when a party reasonably should know that the evidence may be relevant to anticipated litigation, and therefore the object of discovery. Silvestri (P) had access to the vehicle, and the vehicle was preserved in its post-accident condition for two to three months, or more, during which time Silvestri (P) or his lawyer and his experts recognized not only that they would be suing General Motors (D) but also that General Motors (D) should be given the opportunity to inspect the vehicle. Silvestri (P) therefore breached his duty not to spoliage evidence. And while dismissal is severe and constitutes the ultimate sanction for spoliation, it is necessary here because the prejudice to General Motors (D) is extraordinary, denying it the ability to adequately defend its case. Affirmed.

ANALYSIS: Note that it was the particular facts of the case that supported the "ultimate sanction" for spoliation in this case. The court determined that General Motors could not adequately defend its case without being given the opportunity to examine the car, the object of the litigation in this production liability case.