

CLIENT ALERT

Leading Judge Issues Seminal 89-Page Opinion Imposing Harsh Sanctions for Spoliation

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In a sweeping 89-page ruling issued on September 9, 2010, Chief Magistrate Judge Paul W. Grimm of the District of Maryland granted a default judgment against defendants Creative Pipe, Inc. and its president Mark Pappas based on a finding that Pappas had intentionally destroyed electronic evidence. In addition, because of the egregious conduct that he found to have taken place, Judge Grimm imposed a civil contempt sanction on Pappas of up to two years in prison unless and until he pays the plaintiff's legal fees and costs associated with the spoliation and the ensuing motions practice. (*Victor Stanley, Inc. v. Creative Pipe, Inc.*, 2010 U.S. Dist. LEXIS 93644 (D. Md. Sept. 9, 2010)).

This opinion is of particular significance, and is certain to be widely cited, because of its exceptionally thorough review of the legal standards relating to the duty to preserve and spoliation sanctions related to electronically stored information ("ESI"), because of the severity of the sanctions imposed, and because Judge Grimm is recognized nationally as one of the leading judicial authorities on electronic discovery issues. The opinion is also noteworthy in that it highlights concerns raised by the differences regarding preservation obligations and the standards for imposing sanctions among circuits and even individual courts, and observes that "many lawyers, as well as institutional, organizational, or governmental litigants, view preservation obligations as one of the greatest contributors to the cost of litigation being disproportionately expensive in cases where ESI will play an evidentiary role." Because of Judge Grimm's stature in connection with e-discovery issues, this opinion will almost certainly be cited by the chorus seeking further evolution and harmonization of these standards.

For a more detailed analysis of the opinion, [click here for the BNA Digital Discovery & e-Evidence article](#) co-authored by Jeane Thomas.

For information regarding an October 13 [BNA webinar at which Judge Grimm will discuss these issues with Jeane Thomas and others](#), [click here](#).

For a [copy of the court's full opinion](#), [click here](#).

For a [chart describing differences among federal circuits regarding legal standards relating to preservation and spoliation](#), [click here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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