

**LGST 1455 - Civil Procedure**  
**Discussion Topic 3**  
**Spoliation of Evidence**

Read the court's opinion in *Foust v. McFarland*, 698 N.W.2d 24 (Minn. Ct. App. 2005). Pay particular attention to the court's discussion on the topic of spoliation of evidence. Start the discussion by considering these questions:

1. Do you agree with the court that there is no difference between a negligent destruction of evidence and an intentional destruction of evidence?
2. Do you agree with the court that the sanction of an adverse instruction to the jury was appropriate in this case? If you were on the jury how would you view such an instruction? Would it matter to you in determining whether the defendant had been negligent or not?