

Case Summary

Allstate Insurance Co. v. St. Anthony's Spine & Joint Institute

2010 U.S. Dist. LEXIS 11475 (N.D. Ill. 2010)

Defendant's Failure to Maintain Electronic Records Suggests Negligent Spoliation

In a case brought by an insurance company alleging fraud in insurance claims, the defendant's failure to maintain electronic patient records was enough to defeat his motion for summary judgment on a charge of negligent spoliation.

The insurance company alleged that the defendant chiropractor had billed patients for unnecessary testing and for higher levels of service than were rendered. The insurance company suspected that the fraudulent activity had begun in 2000, when the defendant began use of a special x-ray technique believed to be unnecessary for chiropractic patients.

At issue were electronically stored x-rays and patient studies created in 2000 and 2001, which the defendant claimed he could not produce because the computer hard drives containing the data had crashed. The insurance company's expert testified that the defendant had a professional and ethical responsibility to maintain the patient records.

Decision

The court found that the expert's testimony created a disputed material fact sufficient to defeat the defendant's motion for summary judgment on the claim of negligent spoliation. The defendant's inability to produce the records suggested negligent spoliation of evidence that he was under a duty to maintain.