

13-1650. Spoliation of evidence.

_____ (*name of plaintiff*) says in this case that _____ (*name of defendant*) intentionally [disposed of, destroyed, mutilated or significantly altered] evidence relevant to a [potential lawsuit] [lawsuit]. In order to prove intentional spoliation of evidence, _____ (*plaintiff*) must prove each of the following:

1. There was [a lawsuit] [the potential for a lawsuit];
2. _____ (*defendant*) knew there was [a lawsuit] [the potential for a lawsuit];
3. _____ (*defendant*) disposed of, destroyed, mutilated or significantly altered potential evidence;
4. By its conduct _____'s (*defendant's*) sole intent was to disrupt or defeat a potential lawsuit;
5. The destruction or alteration of the evidence resulted in _____'s (*plaintiff's*) inability to prove [his] [her] case;
6. _____ (*plaintiff*) suffered damages as a result of the destruction or alteration.

USE NOTES

This instruction is to be used when the plaintiff brings a claim for intentional spoliation of evidence.

[Approved, effective March 21, 2005.]