

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

TIMOTHY COMANS

NO. 2019 CW 1173

VERSUS

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,  
TIMBERLINE TRADING OF  
MISSOURI, LLC AND MICHAEL  
GLOBE

**DEC 06 2019**

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In Re: Timberline Trading of Missouri, LLC, Timberline Trading, Inc., Timberline Trading of Texas, LLC & Dotson Logging of Missouri, LLC, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 653,413.

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**BEFORE: McCLENDON, WELCH, AND HOLDRIDGE, JJ.**

**WRIT GRANTED.** The district court's August 19, 2019 judgment, ordering an adverse presumption against defendant, Timberline Trading of Missouri, LLC, is hereby reversed. Spoliation of evidence is an evidentiary doctrine that generally refers to an intentional destruction of evidence for the purpose of depriving opposing parties of its use. **BancorpSouth Bank v. Kleinpeter Trace, L.L.C.**, 2013-1396 (La. App. 1st Cir. 10/1/14), 155 So.3d 614, 639. Further, the obligation or duty to preserve evidence arises from the foreseeability of the need for the evidence in the future. **Clavier v. Our Lady of the Lake Hospital Inc.**, 2012-0560 (La. App. 1st Cir. 12/28/12), 112 So.3d 881, 885. Plaintiff, Timothy Comans, has not presented sufficient evidence to establish any drug test results were intentionally destroyed, or that Timberline could foresee the possibility of future litigation. Accordingly, the Motion for Adverse Inference Due to Spoliation, filed by Comans, is denied.

**PMc**  
**JEW**  
**GH**

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