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In Conditt v. Morato, 2007 WL 1776063 (Tex. App. -- Fort Worth 2007, n.p.h.), Morato sued Conditt for negligence following an automobile collision. Conditt testified in a deposition that her insurance company had taken photographs of her vehicle. She produced photostatic copies of photographs of Morato's vehicle. The court subsequently ordered Conditt to produce color photographs of Morato's vehicle. Conditt did not. The trial court gave a spoliation instruction to the jury allowing a presumption that the nonproduced evidence would have been unfavorable to the nonproducing party. The Fort Worth court of appeals held that the trial court's spoliation instruction was not an abuse of discretion. The Court noted that no clear explanation had been given why Conditt's counsel had clear color photos of her car but only photo static copies of the photos of Morato's car.

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