

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PAUL GALLAND, ET AL.

CIVIL ACTION

VERSUS

NO. 23-3392

HARVEY GULF INTERNATIONAL
MARINE, LLC, ET AL.

SECTION: D (5)

ORDER

Before the Court is a Motion for Partial Summary Judgment on Plaintiffs' Claims for Spoliation of Evidence, filed by Defendants Harvey Gulf International Marine, LLC, HGIM Corp., and Harvey Energy, LLC.¹ Paul Galland and Brennan Cubbedge ("Plaintiffs") have filed an Opposition,² to which Defendants have filed a reply.³ After careful consideration of the parties' memoranda, the record, and the applicable law, the Court **GRANTS** the Motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

Because the factual background of this matter has been set forth in previous Orders from the Court,⁴ the Court only details any factual or procedural background relevant to this motion. This dispute, however, centers around Defendants' alleged destruction, alteration, or failure to preserve Plaintiff Galland's hot work permit and other documents related to safety after the incident.⁵ In their Complaint, Plaintiffs allege that, upon information and belief, Defendants destroyed, altered, or failed to

¹ R. Doc. 44.

² R. Doc. 64.

³ R. Doc. 65.

⁴ See R. Doc. 111.

⁵ R. Doc. 44.

preserve relevant evidence after the incident.⁶ Such instances alleged, in pertinent part, include “[u]sing white-out to change or alter information on documents related to safety and hot work performed on the Vessel on the day of the incident” and “[a]ny other acts by Defendants to destroy, alter, or fail to preserve material evidence, including but not limited to missing job safety analysis and hot work permit documentation related to work being performed on the funnel deck when the incident occurred.”⁷ Plaintiffs alleged three causes of action: (1) Jones Act negligence and gross negligence; (2) Unseaworthiness; and (3) Spoliation of Evidence.⁸

On July 21, 2025, Defendants filed this instant Motion for Partial Summary Judgment on Plaintiffs’ Claims for Spoliation of Evidence.⁹ In their Motion, the Defendants aver that the Jones Act and general maritime law do not provide an independent cause of action for spoliation of evidence.¹⁰ Moreover, Defendants contend that monetary damages for spoliation of evidence are nonpecuniary under the Jones Act and general maritime law, thereby prohibiting Plaintiffs from recovering such damages.¹¹ Lastly, Defendants allege that even if spoliation of evidence was an independent cause of action under both the Jones Act and general maritime law, Plaintiffs fail to satisfy all elements of a spoliation claim.¹²

⁶ R. Doc. 1 at p. 11.

⁷ *Id.*

⁸ R. Doc. 1. Plaintiffs also sought maintenance and cure which the Court understands is not being disputed.

⁹ R. Doc. 44.

¹⁰ R. Doc. 44-1 at p. 5.

¹¹ *Id.* at p. 6.

¹² *Id.* at p. 12.

Plaintiffs filed a response, advising that they do not oppose the Motion to the extent it bars Plaintiffs from seeking separate damages based on the theory of spoliation of evidence.¹³ Plaintiffs, however, assert that “[s]hould the facts that materialize at trial through testimony of witnesses suggest spoliation of evidence, Plaintiffs should be able to argue for—and this Honorable Court is able to instruct the Jury to impose—an adverse presumption that evidence, had it not been altered or destroyed, would have been unfavorable to Defendants.”¹⁴

In their reply memorandum, Defendants maintain that because Plaintiffs cannot show that Defendants acted in bad faith or intentionally destroyed evidence related to the underlying dispute, Plaintiffs are unable to satisfy all the elements of spoliation of evidence, and thus the Court should “bar Plaintiffs from introducing any evidence or making any argument at trial of spoliation considering that Plaintiffs’ spoliation of evidence claims fail as a matter of law here at the summary judgment stage.”¹⁵

¹³ R. Doc. 64 at p. 1. (“Plaintiffs consent to the Motion for Summary Judgment to the extent it seeks to preclude plaintiffs from seeking damages based on a spoliation of evidence theory.”).

¹⁴ *Id.* at p. 8. Plaintiffs allege that “[f]rom the following facts, a reasonable juror could conclude that Harvey destroyed and/or concealed the hot work permit completed by Paul Galland for the work being performed at the time of the explosion: 1. The M/V Harvey Energy was not supposed to be running on liquid natural gas if any ‘hot work’ was being performed on board. 2. On April 28, 2023, Paul Galland and Brennan Cubbedge were tasked with chipping and grinding, requiring the use of a needle gun, on the main deck. 3. Paul completed a hot work permit in connection with similar work dated April 27, 2023, the day before the date of the explosion. 4. Paul had almost 30 years of experience working offshore as a seaman at the time of the April 28, 2023 explosion. 5. There is no evidence Paul ever failed to fill out a hot work permit at any time prior to the explosion if one was required. 6. There is no dispute that the needle gun work being performed by Paul Galland and Brennan Cubbedge on April 28, 2023 was considered hot work.” R. Doc. 64 at p. 2.

¹⁵ R. Doc. 65 at p. 10.

II. LEGAL STANDARD

Summary judgment is appropriate where there is no genuine disputed issue as to any material fact, and the moving party is entitled to judgment as a matter of law.¹⁶ A party moving for summary judgment must inform the Court of the basis for the motion and identify those portions of the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, that show that there is no such genuine issue of material fact.¹⁷ If the moving party carries its burden of proof under Rule 56, the opposing party must direct the Court's attention to specific evidence in the record which demonstrates that the non-moving party can satisfy a reasonable jury that it is entitled to a verdict in its favor.¹⁸

This burden is not satisfied by some metaphysical doubt as to alleged material facts, by unsworn and unsubstantiated assertions, by conclusory allegations, or by a mere scintilla of evidence.¹⁹ Rather, Rule 56 mandates that summary judgment be entered against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof at trial.²⁰ In resolving a motion for summary judgment, the Court must review the facts and inferences in the light most favorable to the non-moving party, and the Court may not evaluate the credibility of witnesses, weigh the evidence, or resolve factual disputes.²¹

¹⁶ Fed. R. Civ. P. 56; *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986).

¹⁷ *Celotex Corp.*, 477 U.S. at 322.

¹⁸ *Anderson*, 477 U.S. at 248.

¹⁹ *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994).

²⁰ *Celotex Corp.*, 477 U.S. at 323.

²¹ *International Shortstop, Inc. v. Rally's, Inc.*, 939 F.2d 1257, 1263 (5th Cir. 1991).

III. ANALYSIS

As noted, Plaintiffs concede that they are barred from seeking damages based on the theory of spoliation of evidence.²² Thus, the sole issue before the Court is whether Plaintiffs are entitled to seek an adverse presumption for spoliation of evidence against Defendants pertaining to Galland's hot work permit. Based on the record before it, the Court finds that Plaintiffs are precluded from doing so.

The spoliation of evidence doctrine concerns the intentional destruction of evidence by a party.²³ "Allegations of spoliation, including the destruction of evidence in pending or reasonably foreseeable litigation, are addressed in federal courts through the inherent power to regulate the litigation process, if the conduct occurs before a case is filed or if, for another reason, there is no statute or rule that adequately addresses the conduct."²⁴ To properly allege spoliation, a plaintiff must show that a defendant intentionally destroyed evidence to deprive opposing parties of its use.²⁵ A mere showing of negligence, as opposed to intent, is insufficient to establish spoliation.²⁶

"A party seeking the sanction of an adverse-inference instruction based on spoliation of evidence must establish that: (1) the party with control over the evidence had an obligation to preserve it at the time it was destroyed; (2) the evidence

²² R. Doc. 64 at p. 8.

²³ *Coastal Bridge Company, L.L.C. v. Heatec, Incorporated*, 833 Fed. Appx. 565, 573 (5th Cir. 2020).

²⁴ *Id.* (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–46 (1991)).

²⁵ *Id.*

²⁶ *Id.* at 574. ("A spoliation claim has three elements: (1) the spoliating party must have controlled the evidence and been under an obligation to preserve it at the time of destruction; (2) the evidence must have been intentionally destroyed; and (3) the moving party must show that the spoliating party acted in bad faith.").

was destroyed with a culpable state of mind; and (3) the destroyed evidence was ‘relevant’ to the party’s claim or defense such that a reasonable trier of fact could find that it would support that claim or defense.”²⁷

Here, Plaintiffs concede that, at this juncture, they do not have direct evidence that Defendants intentionally destroyed evidence pertaining to Galland’s hot work permit and other safety documents.²⁸ The Fifth Circuit has determined that when the spoliation of evidence theory is inapplicable, a jury should not be instructed that destroyed evidence is unfavorable to a defendant.²⁹ Thus, the Court declines to undercut precedent.

Therefore, based on the record before it, the Court finds that Plaintiffs are barred from seeking to impose an adverse presumption against Defendants for spoliation of evidence.

²⁷ *Id.* (citing *Rimkus Consulting Group, Inc. v. Cammarata*, 688 F. Supp. 2d 598 (S.D. Tex. 2010)).

²⁸ R. Doc. 64 at pp. 7–8.


²⁹ *Caparotta v. Entergy Corp.*, 168 F.3d 754, 756 (5th Cir. 1999)(“Entergy correctly points out that under this court's holding in *Vick v. Texas Employment Commission*, 514 F.2d 734, 737 (5th Cir.1975), an adverse inference drawn from the destruction of records is predicated on bad conduct by the defendant. Because the district court found no bad faith, Entergy argues that evidence of the inadvertent destruction of documents should not have been presented to the jury. Entergy is correct to the extent that it argues the spoliation doctrine did not apply and that the jury could not be instructed that the destroyed evidence was unfavorable to Entergy.”).

IV. CONCLUSION

For the above reasons, **IT IS HEREBY ORDERED** that the Motion³⁰ is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs' claims for spoliation of evidence are **DISMISSED WITH PREJUDICE**.

New Orleans, Louisiana, September 12, 2025.


WENDY B. VITTER
United States District Judge

³⁰ R. Doc. 44.