

MLS Lecture:

Suspicious Claims – Spotting them and managing them, a case study



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Partner

7 February 2018

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Fundamental Dishonesty

- o CPR.44.16(1) (Exception to QOCS, recovery of costs) – is applicable to cases where the Claimant has lost at trial or filed a Notice of Discontinuance and therefore has no entitlement to damages
- o S.57 Criminal Justice Act 2015 (Strike out and recovery of some costs) – is applicable where liability has been admitted or established by the court and the Claimant therefore has an entitlement to damages

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CPR.44.16(1): Checklist

- o Has the Claimant discontinued / Has the claim been lost
- o Does the dishonesty go to the core of the claim – e.g. collision didn't happen ("Zimi") / the claim had reduced by 50% ("Gosling")
- o Make the application
- o Need not be pleaded but can put on notice as a deterrent
- o No real downside / penalty save impecuniosity / brand protection?

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S.57 Criminal Justice Act 2015: Checklist

- o Was the claim issued on or after 13 April 2015?
- o Is the Claimant entitled to some damages?
- o Does any dishonesty go to the heart of the claim – not slight exaggeration
- o Make application so no need to specifically plead but may have to set out case in Counter-Schedule
- o Note - may only get proportion of costs back due to set-off
- o Careful when considering making Part 36 offers – should we hold off until surveillance?

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Exhibit 1

62, 011 Book Number Page Number 1/1 Date Completed Person completed sheet handed to:

A SEPARATE RECORD SHOULD BE FILED FOR EACH PERSON INVOLVED. It should then be returned and handed to the person or Department noted on the front or on the back for subsequent use.

ACCIDENT REPORT FORM

1. Details of person involved in accident, (for assistance see note 1 on page 2)

Name: 33 Flynn
 Address: 55 Rutland Ave
 Postcode: H05 9ES
 Occupation: DISMANTLER
 Department: UNIT 4

2. Details about person filling this report, (for assistance see note 2 on page 2)

If you did not have the accident but are filing the report, please write details below

Name: Adam Saunders
 Address: 15 Cross Green Lane
 Postcode: H05 9EN
 Occupation: WINDING UP OPERATOR
 Department: UNIT 2 & 3

3. Description of accident, (Use the back of this form if more notes required) (For assistance see note 3 on page 2)

A) Give time and date when accident occurred: Date: 7/3/11 Time: 13:30
 B) Give name of accident (from type of injury): WALK BY CARTRIDGE BY CARPET PLANT
 C) Give details of how the accident occurred with causes if known: PULLING A PULLEY TRUCK & OVER BARRE STOP AT CORNER IN TO UNIT BY LOW BANK PAIN & AMP
 D) Give details of any injury suffered by person involved: LOSS OF RIG PAIN

Sign and date this report before handing to nominated report maker, whose name is on the front of book. Please also write the date and the name of the person you handed this report to in the 2 boxes at the top of the sheet. You may take a copy of this report for your own records.

Signed: [Signature] Date: 7/3/11

4. To be completed by employer only. (For assistance see note 4 on page 2)

Only complete the section if you need to report under RIDDOR. After satisfying yourself about the facts, you should decide whether a further risk assessment is necessary and whether the accident should be reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). (See note 4 on page 2)

How was the report notified to the HSE? 03178506

Date notified: 1/1 Name (Capital): [Signature] Signature: [Signature]

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Exhibit 2

Date: 7/3/11.

To Whom It May Concern:

This is to confirm that: Jonathan Flynn.

Approved by the Accident & Emergency Department of the Huddersfield Royal Infirmary

Date: 7/3/11.

Time: 16:40 - 19:15.

Signed: [Signature]

Medical Practitioner
 Accident & Emergency Department

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Exhibit 3


 environmental recycling group

Returns to Work after Absence Form

Name: Jonathan Flynn
 Department: Huddersfield DWP: Alatu

Date of start of absence: 1/1/11
 Date of end of absence: 1/1/11
 Total number of working days absent: 1

Reason for absence: Knocked off bike - hurt back

Did you see your doctor or visit a clinic or hospital? Yes - A & E, Hospital.

Has a responsible doctor: No

Do you feel fit enough to return to work and perform your normal duties? Yes

Details of all reasons for absence in the last 12 months

16 th - 20 th July 2010	Bronchitis
14/08/10	Upper stomach
14/08/10	Flu - stomach infection
19 th - 22 nd Oct 2010	Bronchitis
20 th - 22 nd Nov 2010	Tonsillitis
22/11/10	Shovel (filling Lewden holiday)

Name: J Flynn Signed: [Signature] Date: 2/2/11

Manager Name: _____ Signed: _____ Date: _____

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Exhibit 4

Huddersfield Examiner - News - Local West Yorkshire News - Suspended sentence for... Page 1 of 1

Suspended sentence for Dalton woman Jacqueline Flynn in brothel case

Jul 4 2010 10:30am <http://www.examiner.com/story/1181874/1181874> Laborated Day Examiner

A HUDDERSFIELD woman who used to help out as a receptionist in a brothel has been given a suspended prison sentence.

Jacqueline Flynn, 45, of Holstone Avenue, Dalton, admitted assisting in the management of the Queen Sauna between June, 2007, and December, 2008, when she acted as a receptionist on about six occasions.

Flynn also pleaded guilty to acquiring criminal property and making a false representation to obtain a mortgage on her home even she claimed that she was working as a business consultant earning £30,000 a year.

Brothel Crown Court heard yesterday that Flynn had also worked as a prostitute at the brothel and claimed to have been given large amounts of money by a private client who she formed a relationship with.

Between 2008 and 2008 deposits of over £30,000 were made into her building society account.

Flynn told police she had fled the brothel occupation because she was anxious to find proper accommodation for herself and her son.

Judge Alastair McCulloch told Flynn that operating a brothel was still a serious offence and had to be marked by a prison sentence.

But he said the eight-month term could be suspended for a year and he ordered her to do 120 hours unpaid work for the community.

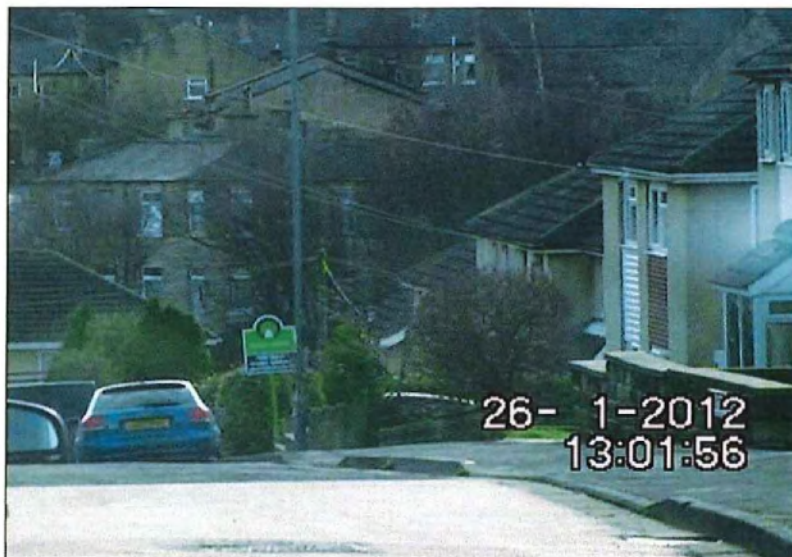
Date: 11/07/2010 10:30am <http://www.examiner.com/story/1181874/1181874>

<http://www.examiner.com/story/1181874/1181874> 2010/07/04/suspended-sen... 06/01/2012

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26- 1-2012
17:00:30

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28- 2-2012
7:02:16

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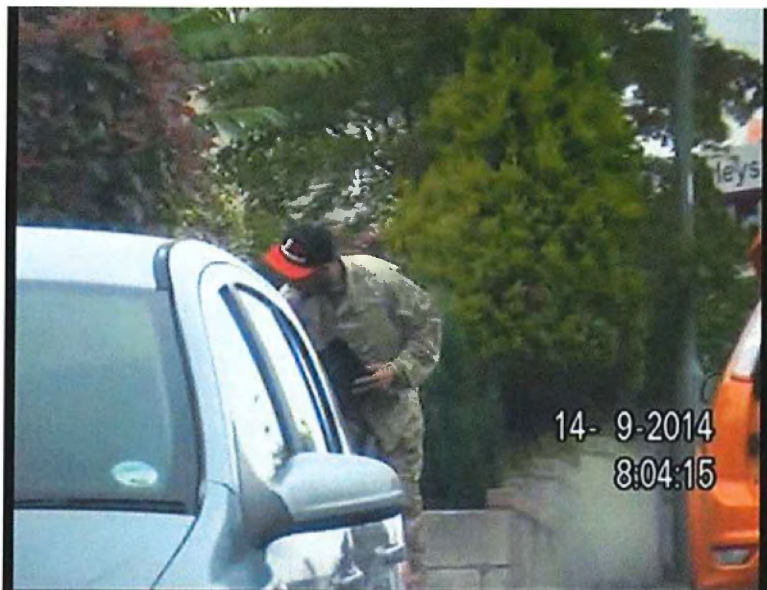
Pause and reflect:

- o Conclusions on surveillance so far?
 - Return on investment with surveillance team?
 - Whether C is genuine/guarded/hyper-vigilant?
 - How best can we approach any further deployment?
 - What might give us an edge?

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Let's try again... 14 September 2014

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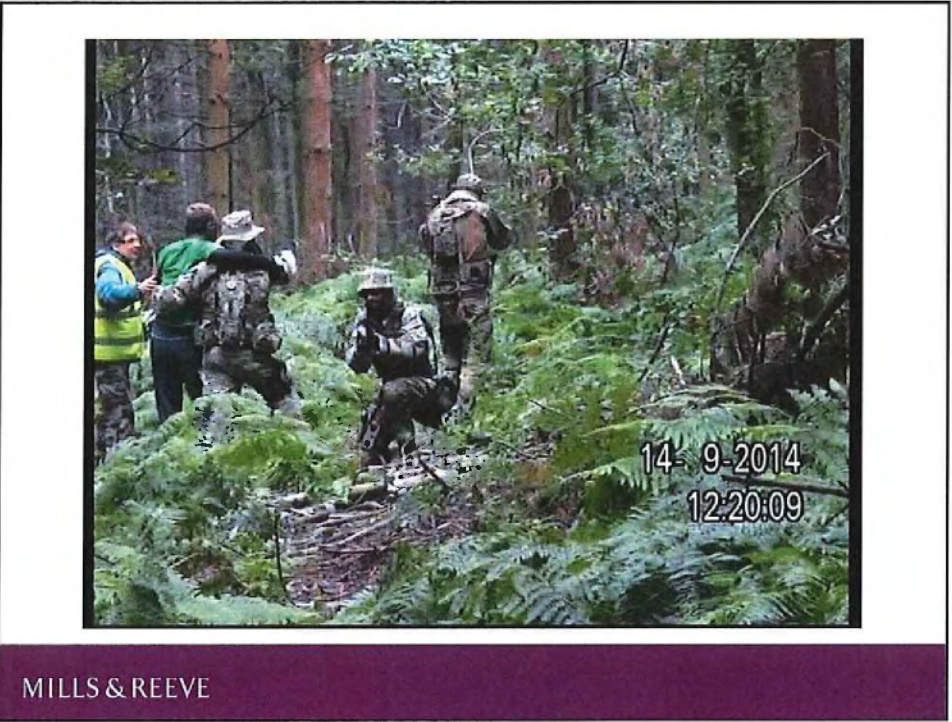
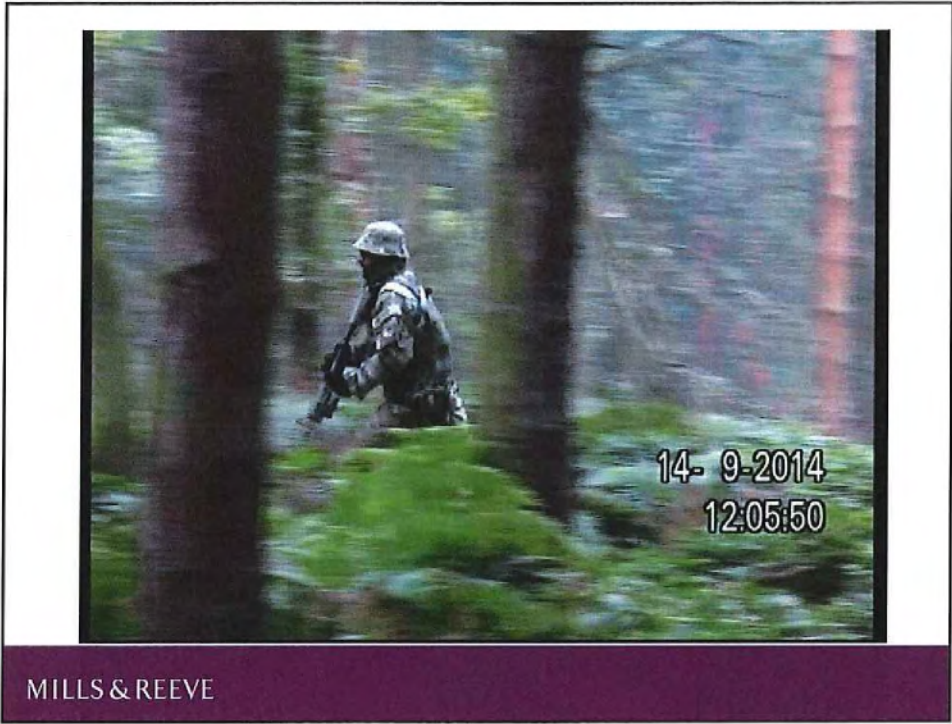
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Moving on to the next round...2nd
November 2014

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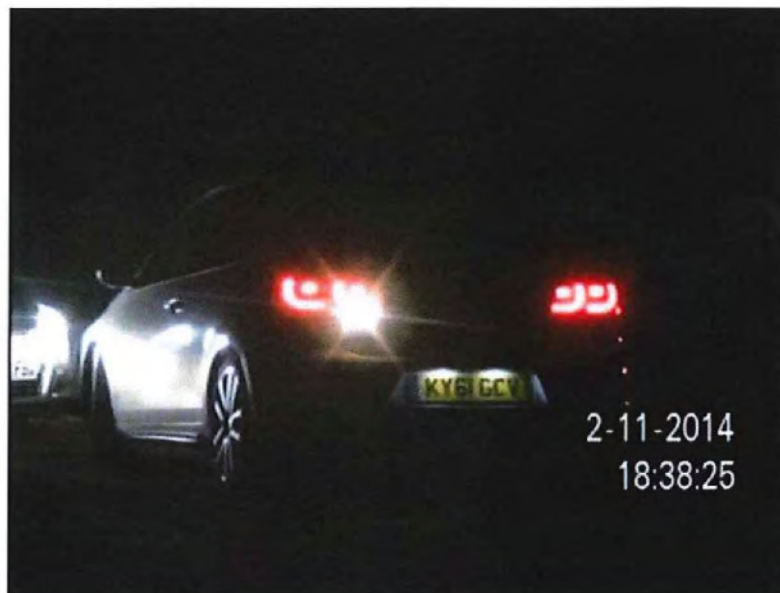
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Make your own luck...

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thank you



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