Navigating the SIU Minefield

Dawnde L. Pence, CPCU, CIFI, SCLA
Interinsurance Exchange of the Auto Club

Ulises Castellon, CPCU - Fire Cause Analysis

SIU Minefield

A. Life in the trenches
B. Intelligence Gathering
C. Trip Wires
D. DMZ

Data Collection - Alarms

Hard Time	Event
18:57:31	Central monitor alarm
18:58:33	FD Alarm time
19:04:43	FD arrives on scene

COROLLA LE
4YQV345

Fire Dept. - Engine 85

- “Smoke from one mile away”
- “Fully involved house fire” upon arrival

Detail View of Clock Section from Alarm Activation to FD Arrival on Scene

*Enroute E85 observed smoke showing 1 mile out. When E85 arrived on scene found 1 story single family dwelling *fully* involved in smoke and flames

Front load your team

- Origin and Cause, Infotainment, Cellular, EDR
- Legal counsel with technical expertise
- Professional Experts, Accountants, Engineers, Doctors

Witness Perspective

Tripwires

Watch your steps…

FCA

12-14583
SIU FIRE
3 VALLEY DRIVE
PITTSBURG, CA
D/LOSS:
D/INV:

"NOT TO SCALE"
1/4" = 2'

Witness

Time & Motion documentation

With Permission: FCA

Furnishings
N.W. Bedroom
Night Stand
Chair
TV
N.E. Bedroom
Dresser
Shelves
Storage
Bathroom
Furnace
S.W. Bedroom
Desk
Bunk Beds
Living Room
Coffee Table
End Table
Entertainment Center
End Table & Lamp
Entry
Kitchen
Refrigerator
Rice Dispenser
Cooler
Rack
Dishwasher
Fulton
Family Room
Hutch
Table
Sun Room
Ab Lounge
End Table
Coffee Table
Bookshelf
Air Compressor
Box Fan
Water Heater
HW
Dryer
Washer
Freezer
Closet
Garage
Racks
Tub
Tub
Tool Box
Fire Cause Analysis
A DIVISION OF IFT INC.
(800) 726-5839
(510) 649-1300
(510) 649-3099 Fax
935 Pardee St.
Berkeley, CA 94710
Sui House Fire
FCA #: 12-14583-C
Fire Investigator: Powell & Hauser
Claim #: 05M516343
Date of Loss:
Date of Investigation:
Δ π EXHIBIT 5
Deponent R. Siu
Date
Rptr.
WWW.DEPOBOOK.COM

Furnishings
Night Stand
N.W. Bedroom
Chair
TV
TV
TV
Bathroom
Furnaces
Desk
S.W. Bedroom
Shelves
Bunk Beds
TV
End Table
Living Room
Coffee Table
Entertainment Center
End Table & Lamp
N.E. Bedroom
Dresser
Shelves
Storage
Bathroom
Refrigerator
Rice Dispenser
Cooler
Kitchen
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Futon
TV
HW
Water Heater
Dryer
Washer
Freezer
Shelves
Closet
Racks
Garage
Tub
Tub
Tool Box
CS1
CS2
CS3
CS4
CS5
CS6
CS7
CS8
CS9
CS10
CS11
RS1
RS2
RS3
RS4
D1
D2
D3
K1
K2
K3
H
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Δ π EXHIBIT 2
Deponent C. Siu
Date Rptr.
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N

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925 Parker St.
Berkeley, CA 94710

Sui House Fire	
FCA #:	12-14583- C
Fire Investigator:	Powell & Hauser
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Date of Investigation:	

Δ π EXHIBIT 3
Deponent T. Siu
Date _____ Rptr. JV
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Managing the Case

- Communicating with counsel, PA, insured, landlords, etc etc etc
- Locating and interviewing witnesses;
- Documents

Everything is Evidence

The Power of “Please” and “Thank You”

Truth Seeker

Timing

You Can’t Handle The Truth

The Insured is In Control of the Timing

Trial Board © Doug Wood

Key Forks in the Road

- Event Driven
  - DOI Complaint
  - EC Letter
- Claims Driven
  - Reservation of Rights
  - EUO
- Communication
  - Why
  - Why now

Reservation of Rights Letters

- Another opportunity to communicate effectively ("Creating Evidence")

  - "the Frankenstein letter"
  - Tone & substance
  - Lessons apply equally well to non-SIU coverage questions
  - Different jurisdictions / implications

EUO - Randy

- Randy opened D2 saw 6-7 foot flames
- Pushed button … nothing happened
- Stepped down to manually open
  - table in the way
- Didn’t continue as D3 opened part way

EUO - Randy

- D3 opened part way
- Randy went to front
  - Got hose - sprayed.
- Door opened the rest of the way…

EUO - Cynthia

- Heard alarm saw Randy at keypad
  - Followed Mr. to the garage
  - He was moving stuff away from the fire
  - Mrs. turned to kitchen to call 911
  - Timothy got the kitchen landline
    - Said the phone was dead

EUO - Cynthia

- Back to D2
  - “My husband was still in there.”
- She tried to open garage door.
  - Mr. directed her to do so
  - Door did not open

EUO - Cynthia

- Evacuated and saw Mr. with hose
  - Garage door opened ‘by itself’
  - Timothy was with her from D2 to evac

EUO Timothy

- To garage twice.
- First time observed fire.
  - Did not see either parent.
  - Picked up Moomoo and placed into sun room.
  - Heard mom say ‘open garage door’.

EUO Timothy

- Second time pushed button multiple times.
  - Door did not open.
- Evacuated and restrained mom from reentering to get her purse.
- Saw garage door open all the way.

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Entry
Hutch
Table
RS
Shelves
Tool Box
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Sui House Fire
FCA #: 12-14583-C
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Claim #: 05M516343
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NOT TO SCALE

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NOT TO SCALE	

Fire Cause Analysis
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(800) 726-9838
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(510) 649-3089 Fax

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Berkeley, CA 94710

Sul House Fire	
FCA #:	12-14583-C
Fire Investigator:	Powell & Hauser
Claim #:	05M516343
Date of Loss:	6/18/2011
Date of Investigation:	6/21/2011
NOT TO SCALE	

Evidence Collection Sites #
N.W. Bedroom
N.E. Bedroom
Sun Room
Bathroom
Furnace
Bathroom
S.W. Bedroom
Kitchen
Family Room
HW
Garage
Living Room
Entry
20
35
9
11
1
2
3
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Fire Cause Analysis
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835 Panoras St.
Berkeley, CA 94710
Sul House Fire
FCA #: 12-14583-C
Fire Investigator: Powell & Hauser
Claim #: 05M516343
Date of Loss: 6/18/2011
Date of Investigation: 6/21/2011
NOT TO SCALE

Legal Considerations

- Interaction with:
  - Fire agencies/law enforcement
  - Other Insurers
  - Other interested parties?

FCA

Expectation and Confirmation Bias

What is "**expectation bias**"?

What is "**confirmation bias**"?

Why should you care?

Watch out for reporting gaffes!

> "Responded to the scene of this reported arson."

FCA

Collection and preservation of evidence

Notice to interested parties

- Opportunity to inspect
  - Preserve the alternate sources of ignition
  - Further examination
  - Qualified examiner or other side

#5
GALLON
15
15

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Preserve the alternate sources of ignition

With Permission: FCA

Evidence Spoliation

- Joint Expert Investigation
  - Notice to interested parties
- Sharing Investigation
  - Test results, work product, etc.

FCA

What is… Spoliation?

"Spoliation occurs when one destroys or materially alters evidence or fails to preserve property for another's use as evidence in pending or reasonably foreseeable litigation."

Hynix Semiconductor Inc. v. Rambus, Inc., 897 F.Supp.2d 939, 975 (N.D. Cal. 2012).

ECA

Sunroom
Heat Detector 1 - Randy
Heat Detector 1 - Cynthia
Kitchen
Family
Room
Garage
0.0

Tenability Limits - Temperature

	Exposure Temperature (C)	Without Incapacitation (min.)
176°F	80	3.8
	75	4.7
	70	6.0
	65	7.7
	60	10.1
	55	13.6
	50	18.8
	45	26.9
104°F	40	40.2

Table 3. Maximum Expsoure Time Before Encapatation

Figure 1. Tolerance Time for Exposure to Convected Heat

BAD FAITH “SET UP” LETTERS

How to recognize when…

…you’re being “set up.”

- The obvious “set up”
- The more subtle (dangerous) “set up”

Photos courtesy of FCA

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