

ISSUE 09

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A View from the Bridge

The Newsletter from
The Conway Accident Law Practice



CONWAY
Accident Law Practice

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ROCK AND ROLL LEGAL

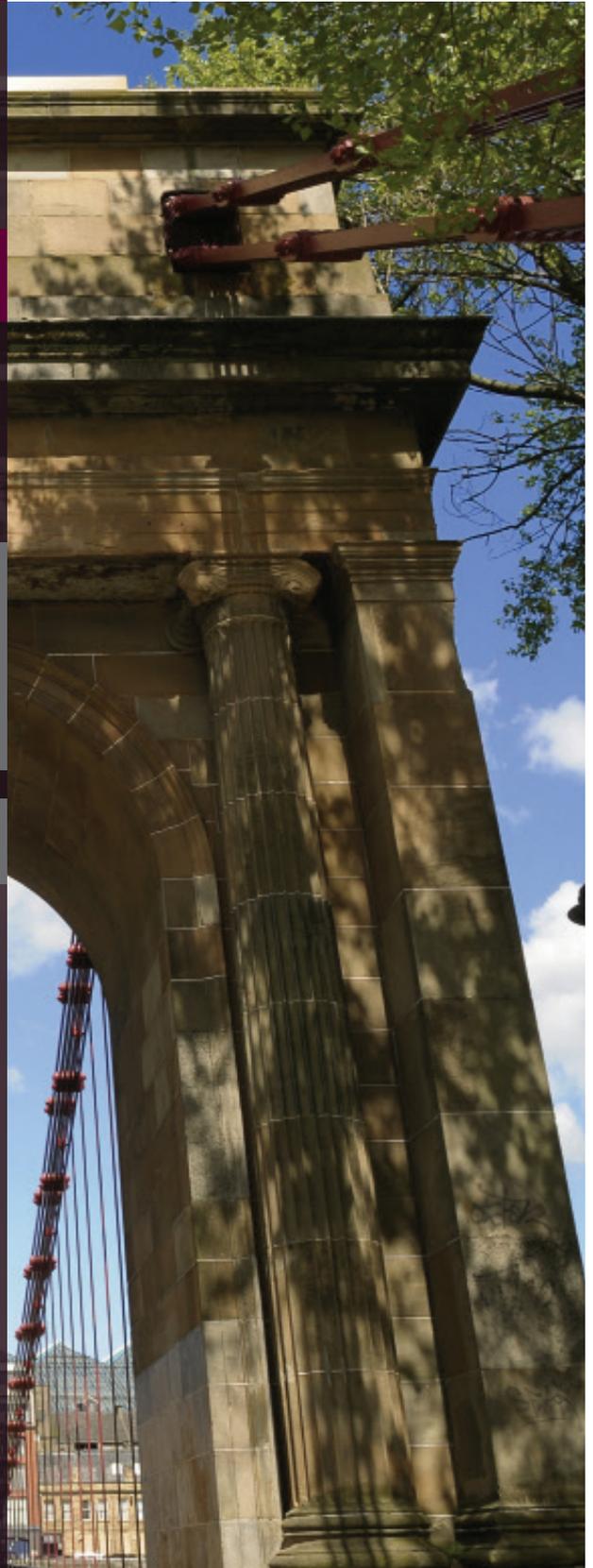
Ronnie's top five legal
themed rock songs

CASEWATCH 2019

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Rock and Roll Legal

If you hear the word Supreme, and your first thought is of Brenda Hale, Robert Reed et al, this one's probably not for you.

If on the other hand, your mind immediately turns to the diva Diana Ross, the gorgeous Mary Wilson, and the tragic Florence Ballard, read on.



I've spent a whole lifetime listening to trashy rock and roll, but I cannot bring myself to believe that a single moment has been wasted. Here are my top five legal themed rock songs in reverse order. (Like the author of this piece they are of some vintage, but four are available on Spotify, and all are available on YouTube):



5. Lawyers in Love Jackson Browne (1983)

If Brian Wilson and the Beach boys invented California as 'Paradise' in the 1960's, singer songwriter Jackson

Browne reprised it as 'Paradise Lost' in the 70's. By 1983 he had recorded around four beautifully crafted but somewhat miserabilist albums before ditching as enough already, the Jackson Agonistes. He binned his acoustic guitar and went full electric and drums on the Lawyers in Love single and album.

As you can guess, Jackson finds a certain incongruity in the stalwarts of our noble profession falling prey to the higher passions, as the lyric states:

*"Am I the only one who hears the screams
And the strangled cries of Lawyers in Love?"*

All of which poses the question in my mind "Where has he learned this?" Has Jackson been incognito at any Glasgow Bar Association function during the late 1970's? I think we should know.

Welcome to the ninth newsletter of
The Conway Accident Law Practice.

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If you want to refer a case under our lawyer fee share agreement call **0141 319 8240** or email **info@accidentlawscotland.com**



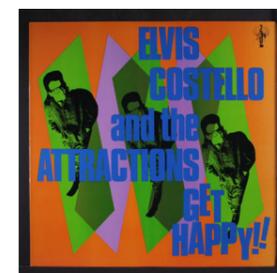
4. I'm Billing Time (YouTube)

This is a bit of a cheat as it is not an actual record, but a parody of Cyndi Lauper's "Time After Time". This is recalibrated to "I'm

Billing Time" in a brilliant and none too subtle dig at our benighted time recording colleagues whose lives are lived continuously on the clock. As it is put in one chorus:

*"If you come to my office or call my phone
- I'm billing time.
If you stop me at parties to whine or moan
- I'm billing time.
If I think of you when I am all alone
- I'm billing time.
If you're late for appointments
I will be waiting...
And billing time...
Still billing time"*

You should seek it out. You will laugh.



3. I Stand Accused Elvis Costello (1980)

This is the penultimate track on his brilliant Stax/Motown homage album "Get Happy!". In the time honoured fashion, he is accused

of loving you. He can only plead guilty in the traditional mode. Unfortunately for "Four Eyes One Vision" Elvis, he was accused of something substantially more serious just before the album shipped.

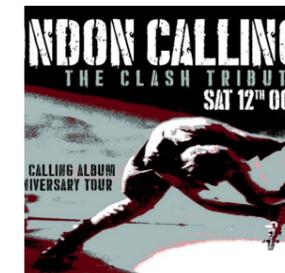
He had become involved in a late night drunken argument and rant with Stephen Stills and Bonnie Bramlett, his US tour co-stars, on the relative merits of British and American rock music. In the heat of the argument, he dropped the "N" word on at least two occasions. Anyone who knows his work realises this is completely out of character. But unfortunately for Elvis, what went on tour did not stay on tour, and he has been apologising for the incident ever since.



2. Can I Get a Witness? Marvin Gaye (1963)

The cry of every personal injury litigant, and the basis for the Conway Accident Law Practice mantra: "It's not what happened to you, it's what you can prove". This

Holland-Dozier-Holland track sees Marvin at his early Motown imperious pomp, in a raucous call and response complaint about his mistreatment by the fairer sex. Marvin Gaye dizzied? As if!



1. I Fought the Law Bobby Fuller Four (1966) The Clash (1980)

This sets up a generational clash in our house and perhaps also in yours. I like The Clash version, but I absolutely love the Bobby

Fuller Four original 1966 US hit single, with its spacious Tex Mex and Buddy Holly vibe. Needless to say, my offspring do not agree. I do have to concede that The Clash make rather more convincing ou tlaws. In 1989 when the US military surrounded the hideout of Manuel Noriega, the corrupt strongman of Panama, they played The Clash version again and again to break his spirit and persuade him to give himself up. He surrendered to the US after 10 days unrelenting of the law winning at maximum volume. He later died in prison.

The Bobby Fuller Four are one of the 60's undiscovered gems. At the height of his fame and success and aged only 24, Bobby Fuller was found dead in his car. Since then there has been endless speculation about a recording contract dispute and a Mafia style hit. The single "Let Her Dance" was recently credited as the lead song in the film "Fantastic Mr Fox". It is three minutes of aural sunshine. Check it out on YouTube.

In the track "Vegetables" from the Beach Boys 'Smile Sessions' the song closes to:

*"I know that you'll feel better when
You send us in your letter and
Tell us the name of your,
Your favourite vegetable."*

If you have a legal rock favourite, let me know. You will appear in a future edition of the Newsletter. ■

**☞ Danielle Weddle -v- Glasgow City Council
[2019] SC EDIN 42**

The female pursuer was unfortunate enough to be in George Square at the time of the bin lorry crash. The facts were that the bin lorry driven by Harry Clarke struck and pushed forward a silver taxi in the direction of and finally stopping at the Millennium Hotel. The pursuer did not appear to be in direct line with the moving vehicles, but at one point, was only twelve metres away. It is a matter of public record that six people were killed and nineteen persons injured.

The pursuer suffered no physical injury but had continuing psychiatric symptoms.

Could she recover? The traditional policy obstacles on proximity meant that there were no real prospects for recovery by her as a bystander or secondary victim. These principles are summarised by practitioners as the “Hearness, Nearness and Dearness test”, the first two being proximity in space and time such as to witness the event, and the third a close relationship with the injured party. The pursuer would clearly fail on the third ie the Dearness test.

Could she recover as a “primary victim?” ie as part of the catastrophe. The distinction throughout was between “terrified”, which might found liability as being in fear of physical injury, and “horrified”, which the law would be expect a person to deal with , and would not found liability.

The sheriff subjected the evidence to a detailed forensic analysis. He found as a matter of fact that it was not reasonably foreseeable that the pursuer was in the danger zone, that she herself did not believe that she was in danger, and that even if she had such a belief, it was objectively wrong.

Absolvitor was granted. The case presents a helpful review of the current jurisprudence on liability for psychiatric injury.

☞ Pauline Sullivan -v- Dunnes Stores UK Limited – Court Reference: PN-2311/18

Pauline Sullivan slipped and fell on a wet floor in the Cumbernauld branch of Dunnes Stores. It had been raining, and matting which had been put in place did not cover a critical area at the entrance and exit to the store. Primary liability for the creation of a slipping hazard was admitted. An argument on contributory negligence was pursued but assessed at nil.

The pursuer suffered a particularly serious ligamentous injury with a damages award of £41,835.55. A particular point of interest is the way the court approached the question of future loss relating to risk of osteoarthritis. The medical evidence was that clinical signs of osteoarthritis would be likely to materialise within ten years of the accident circumstances, necessitating a possible further operation. But what could not be said on the evidence was that such an operation was likely on the balance of probabilities. The pursuer argued that the risk of a further operation was a real risk, and that further s. 8 services would be required during the recuperation period . The court accepted that the test for future loss was not the balance of probabilities (the 51% test) but whether a real risk had been established. Whilst the court was prepared to accept a notional risk there was no real evidential basis for quantification and that head of claim failed. In substantial cases the advice was that provisional damages should be claimed. ■



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