The background of the slide is a photograph of a wooden roof with a purple overlay. The purple overlay is a large, semi-transparent shape that covers the left and top portions of the image. The wooden roof is made of light-colored wood and has a complex, geometric pattern of beams and rafters. The purple overlay is a solid, deep purple color.

# 5 Stone Buildings

Suspicious wills

Elis Gomer

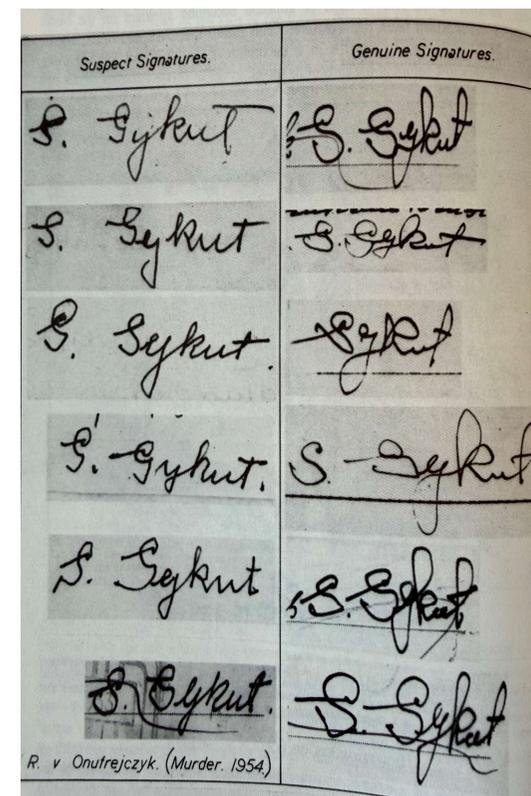
4 March 2026  
[www.5sblaw.com](http://www.5sblaw.com)

## Introduction

- Private client fraud:
  - Somewhat different in flavour to commercial fraud;
  - Unlike undue influence or fraud, has no subjective element (the document is either forged or it is not);
  - Generally involves the deception or manipulation of the vulnerable.
  
- 'Suspicious' in this context is shorthand for *"is, or is reasonably suspected to be, a forgery"*. In turn, a forgery is either:
  - A wholly fake or concocted document which has no connection to the purported testator at all; or
  - A genuine document which has been altered in some way so that it no longer reflects the original intention (adding or removing pages; changing the wording, etc).

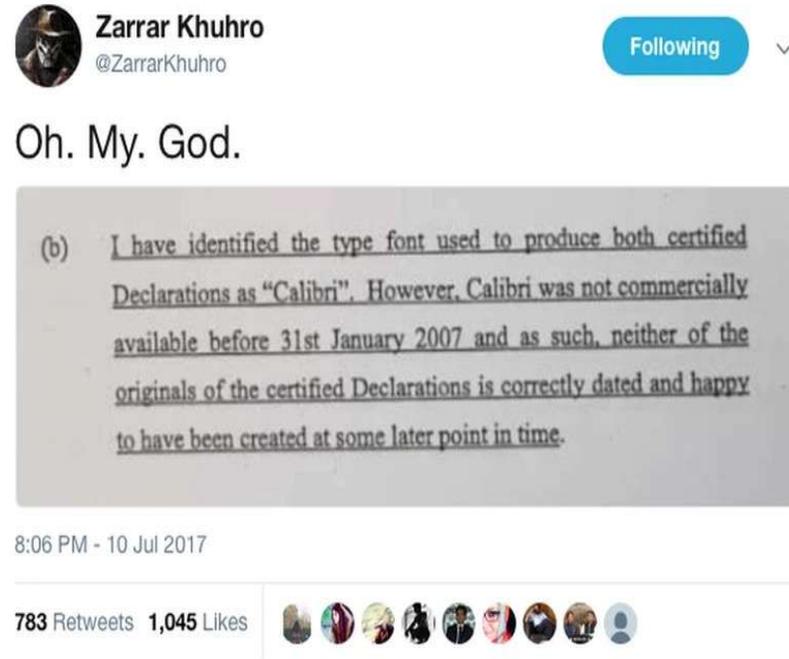
## More common than one might think...

- “‘Greedy’ sheep farmer jailed for forging will documents in £1m+ fraud” [R v Turner, Preston Crown Court, August 2023]
- “Businessman who forged his mother's will to get £40m share of family's Malaysian palm oil plantation is jailed for five-and-half years” [Patel v Patel, Southwark Crown Court, 13 April 2023]
- “Gold-digger blasted for ‘ridiculous’ fake £600k will” [Davies v Henderson, Mayor & City of London's Court, April 2017]
- “High court rules will was forgery to disinherit daughter” [Khatun v Hasan, Rolls Building, 11 July 2025]
- To say nothing of all of the cases where the forger got away with it: by definition, if someone has smelt a rat, the fraud has not been totally successful.

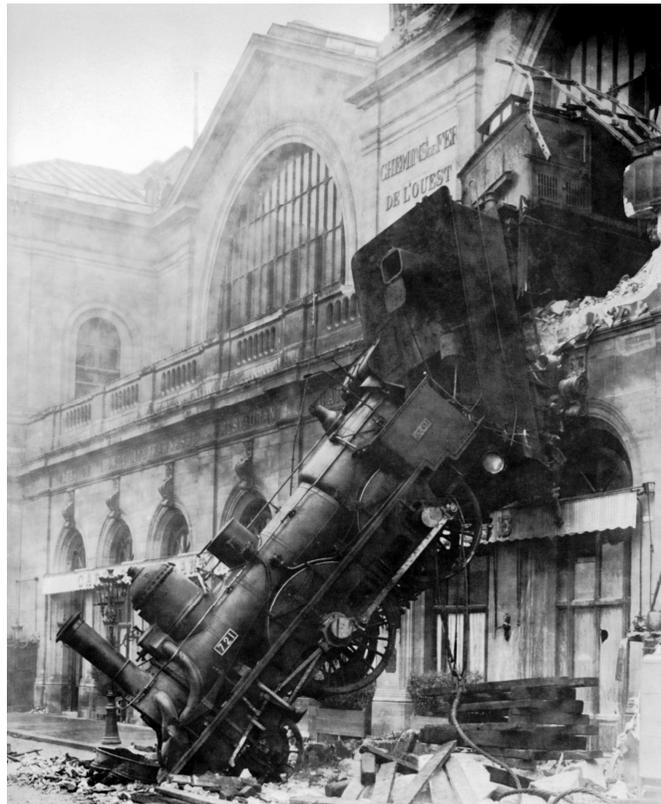


## Red flags

- By definition, if the forger has done things at all competently, the forgery generally will not be obvious – but the best laid plans can be undone by a small mistake...



## Red flags



## Red flags

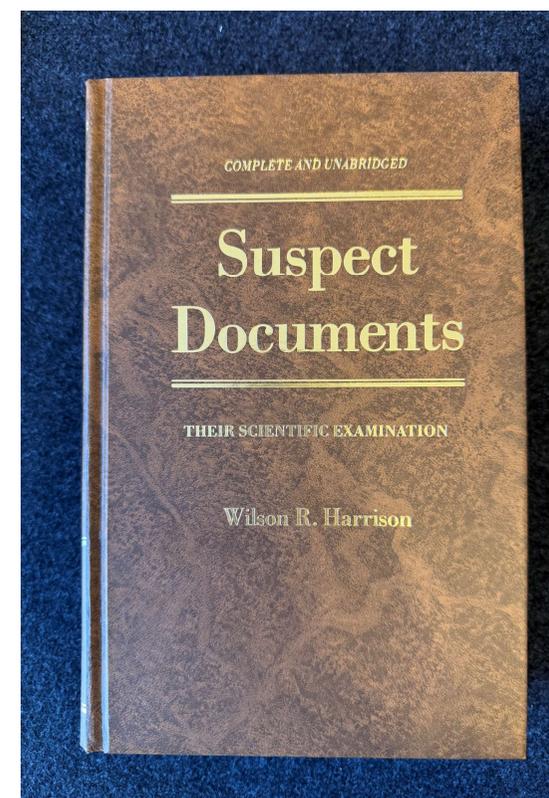
- Potential red flags include:
  - Wills appearing after death, in the hands of people who would not be expected to have custody of them and/or in unusual places (i.e. “I found this in a Doritos bag”);
  - Unusual behaviour by those people (e.g. vagueness about whether they believe a will exists; unwillingness to disclose it if they do have it);
  - Unexpected or incongruous terms in the suspicious will, and/or oddities in the drafting (such as the font issue in the previous slide);
  - A testator who had previously used solicitors to draft wills nonetheless apparently having drafted a DIY will, or asked someone else to do so (usually, though not always, the party benefiting from it);
  - Witnesses who would not be obvious people for the testator to ask to witness a will and who are more closely associated with the beneficiary/person producing the will.

## Whose burden?

- In most historic authorities, the burden of proof has been treated as being on the person alleging forgery, with the standard of proof being the usual balance of probabilities but subject to the guidance given by Lord Nicholls in Re H (Minors) [1996] AC 563 (i.e. that the inherent improbability of an event should be taken into account in assessing the cogency of the evidence. See e.g. Patel v Patel [2017] EWHC 133 (Ch).
- However, in Khatun v Hasan [2025] EWHC 1658 (Ch), the more recent view advanced in Face v Cunningham [2020] 3119 (Ch) was adopted, namely that *"where forgery or fabrication is raised the obligation on those propounding the will in question will be to negative that contention, as part of the process of establishing the validity and due execution of the will."*

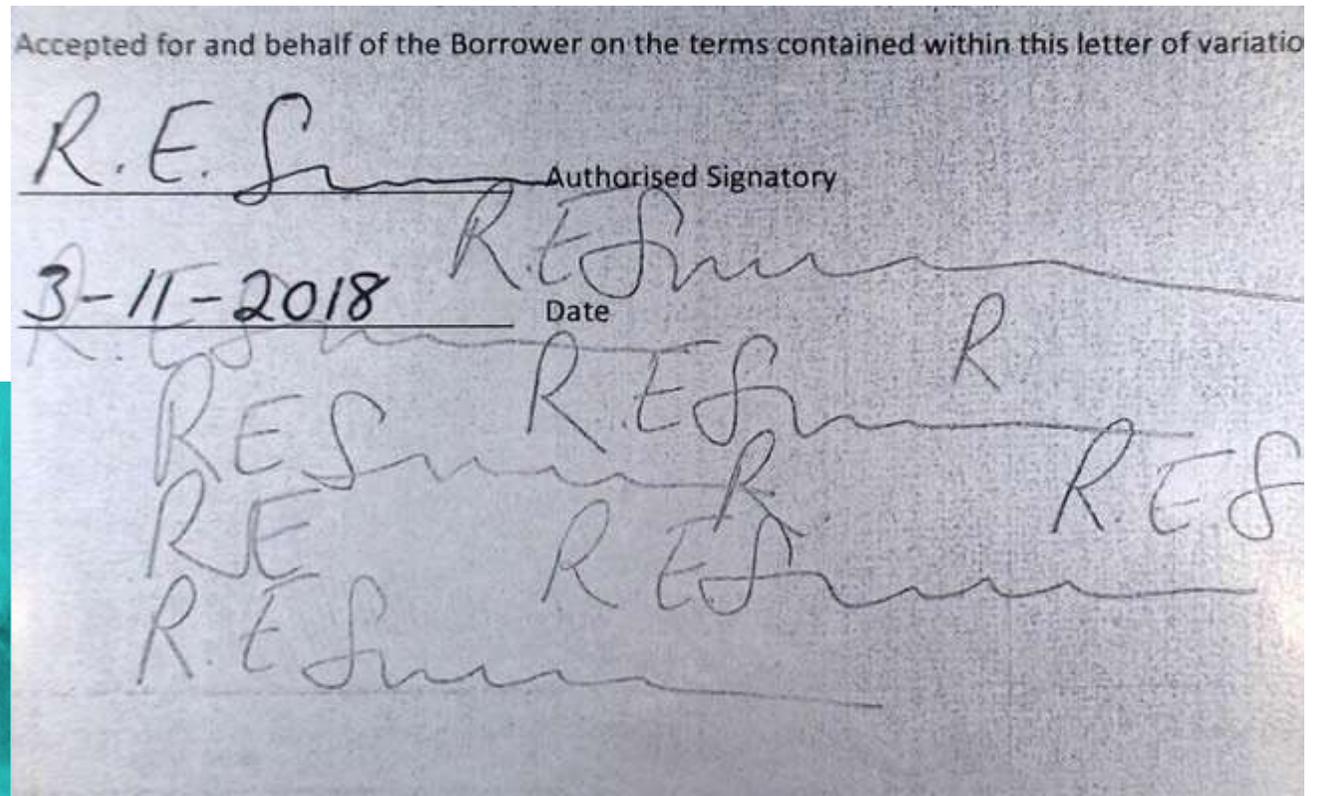
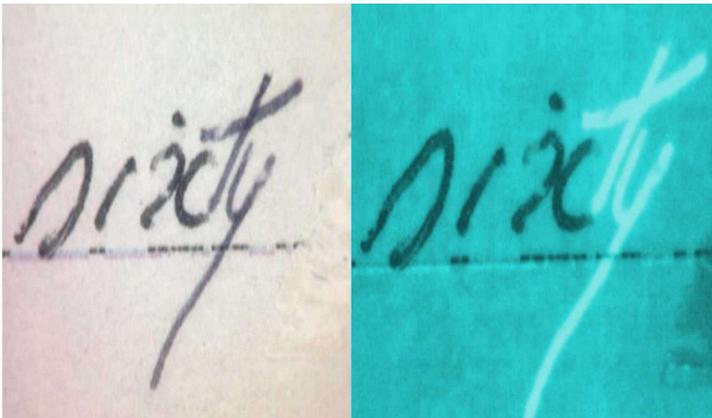
## Expert evidence (1)

- Handwriting evidence is often key in forgery claims – however, its importance can be overstated, for a number of reasons:
  - Even at best, the conclusions of handwriting experts will rarely be conclusive;
  - Getting a reliable expert opinion is dependent on obtaining a sufficient number of genuine signatures as a 'control' group; that is an increasingly difficult task in an age where far fewer documents are signed in wet ink;
  - There can often be a lack of consensus as regards the sample documents, with each side sending different documents;
  - It is necessary for the original documents to be available for inspection; often they will not be;
  - A genuine signature does not necessarily mean a genuine document!



## Expert evidence (2)

- Also: not the only relevant kind of expert evidence; consider e.g. metadata analysis of the electronic file if the will was typed; ESDA analysis, etc.



## ***Khatun v Hasan* [2025] EWHC 1658 (Ch)**

- *Khatun v Hasan* does not break new ground for forgery claims; it was a successful claim by the daughter of the deceased for a declaration that the document being advanced as his last will was a forgery. Where it is helpful to practitioners is as a worked example of how not to run a probate claim (with problems on both sides):
  - The original will was not produced before trial (contrary to CPR 57.5) and none of the parties seemed to know where it was; it was eventually tracked down in the Court office.
  - When it was finally inspected, it was found to have a crucial additional page (specifically the attestation page, which had been believed to be missing) which altered the complexion of the case.



## ***Khatun v Hasan (continued)***

- The position in relation to expert evidence was even more unsatisfactory:
  - The Claimant had permission to rely on a handwriting report (by a Dr Ruth Myers) which was supportive of her case. The Defendants had not sought permission to rely on an expert and thus Dr Myers was not going to be called to give oral evidence.
  - A week before the trial was due to start, the Defendants' counsel was instructed and advised that a report should be obtained. An application was issued on the day before trial for (a) permission to rely on that report; and (b) an order that both experts attend for cross-examination (upon it being appreciated by the Defendants that Dr Myers was not attending as matters stood).
  - That application was dismissed, in part because it was impractical for the Claimant to arrange for Dr Myers to attend at such short notice and in part because it would be unfair for the Claimant to deal with the late expert evidence. This meant that the Defendants could not counter Dr Myers' report.

## ***Khatun v Hasan (continued)***

- The Defendants sought to adjourn the trial on various grounds, including the fact that the original will had not been available at trial. These applications were dismissed (*"The Court is not required to manage the preparation or presentation of the parties' respective cases for them, much less waste court resources by ordering adjournments so that parties can attempt to improve their position in circumstances where they frankly accept there was no reason, much less any good reason, for their omission to do so."*)
- In the event, the Defendants failed to prove that the suspicious will was valid, and it was pronounced against.

## **Litigating forgery claims**

- What do we take from this? Most obviously, that failing to think through the requirements of a case in good time will lead to problems. It should have been obvious (to all parties) that the original will was a key document. It should have been equally obvious to the Defendants that once there was an unfavourable expert report in the Claimant's hands, they should have taken steps to obtain their own.
- That insight is hardly unique to will forgery claims. However, it has particular resonance where success in the claim will rely on unpicking the misleading claims of at least one and probably three witnesses, all of whom are prepared to lie in support of the suspicious document.

## **Litigating forgery claims (2)**

- The most common 'way in' to a forgery claim will be inconsistencies between the date that a will was allegedly executed and the circumstances of its purported execution. Look for diaries, appointments, or other potentially conflicting information.
- Always 'pay out the rope'. Get the defendants to commit to a version of events before showing it can't be true; the impact of the evidence can be lost if it is presented prematurely.
- Strictly speaking it isn't necessary to prove how the forgery was in fact carried out. However, trials are all about narratives; it greatly assists the exposition of the case if there is a plausible explanation as to what really happened.



# 5 Stone Buildings

## Thank you

Elis Gomer

020 7242 6201

[egomer@5sblaw.com](mailto:egomer@5sblaw.com)

4 March 2026

[www.5sblaw.com](http://www.5sblaw.com)