

Forgery and the Handwriting Expert

by Sheila R. Lowe

According to a 2003 Federal Trade Commission Survey, "The most commonly reported form of Identity Theft involves the misuse of an existing credit card or credit card number." The American Bankers Association 0 reports that incidents of check fraud increased by 34 percent between 1999 and 2001, with losses amounting to nearly \$700 million. Identity theft is also on the rise, with more than 12% of the adult population having been victimized over the past five years. In 2001, check fraud was the most common type of forgery in the banking industry (aba.com Press room, News Release 2002: Attempted Check Fraud Doubles to \$4.3 Billion).

With statistics like these, chances are, many attorneys will soon find themselves with a client whose signature has been forged on a check, credit card receipt, or other legal document. Or, he or she may be called upon to defend a client accused of forging a signature or of writing an anonymous note. In either case, the help of a handwriting expert will be required to help uncover the truth.

When retaining a handwriting expert, some important questions need to be addressed: Where to find such an expert; how to know whether the expert is a "good" one? What information is important to help the attorney avoid embarrassment and worse, when it turns out that the so-called expert is anything but?

Since there is currently no licensing in the field of handwriting analysis, this is a case of Buyer Beware. Anyone is free to read a book on the subject and set themselves up as an expert, whether or not they have actually qualified in

court, and some do, without bothering to do the work required to become competent before hanging out their shingle.

A search of the Internet through Google brings up 147,000 references to handwriting experts. Creating a good-looking web site is as easy as writing a check to a talented web designer. Some of these handwriting examination sites advertise themselves in impressive-sounding but misleading ways, calling themselves schools or universities, and offering courses that they promise will make their students an expert in just a few minutes of study. Thus, even though a person may claim to have received some form of "training," it may be sadly inadequate once the practitioner gets into the courtroom. Expert directories won't be of much help in weeding out poorly trained handwriting examiners either, unless they require documentation of claimed credentials.

There is no substitute for properly checking out an examiner's claims. Regrettably, as in other fields, there are handwriting examiners who have been shown to egregiously inflate or even manufacture credentials for their curriculum vitae, claiming degrees never earned, classes never taught, books never written. Therefore, after locating a prospective handwriting expert, the attorney will want to request a CV, then verify its veracity with a few phone calls or Emails to the organizations with whom the expert claims to be affiliated, and confirm that s/he is indeed an active member.

There have been instances where someone joined an organization for one year only, yet continued to list the affiliation long after their

membership lapsed. One examiner claimed to be president of the local chapter of an organization whose format did not provide for chapters! Another made patently untrue claims of advanced university degrees. Another claimed to train the FBI at Quantico in document examination, but the head of the document examination laboratory at the FBI had never heard of that individual.

By contacting a reputable organization such as the National Association of Document Examiners (NADE), information might be uncovered that could help a client-attorney avoid impeachment of his/her DE. In some cases, even if the document examiner is not a member, important information may be available. The document examination community is a small one, and when someone behaves badly, the word spreads quickly.

Some document examination organizations, such as International Association of Questioned Document Examiners (IAQDE) and Association of Forensic Document Examiners (AFDE), limit their membership to law enforcement-trained examiners. The National Association of Document Examiners (NADE), on the other hand, has members from various backgrounds, including retired FBI practitioners. For a supposed expert not to be affiliated with a credible document examination organization should raise an immediate red flag.

There are two basic types of document examiners (DE's): law-enforcement trained DE's and graphology-trained DE's. Training for the law enforcement DE usually takes place in a police laboratory and focuses solely on the comparison of handwriting for the purpose of authentication (this type of DE may

also learn about ink and paper analysis and typewriter comparison, but for the purposes of this article, we will focus on the examination of handwriting only). The graphology-trained DE first learns about handwriting movement and its relation to behavior and personality, and then augments that training with information on handwriting comparison. In the latter case, it is important to note that the graphology-trained DE does not use his or her knowledge of behavioral traits in handling a handwriting authentication case; the two are strictly kept separate.

Because no courses in document examination are offered to the public through higher education programs, most DE's get on-the-job training. This may be accomplished formally, the DE serving an apprenticeship in a police laboratory, or informally, with a mentor who has experience of long standing in the field. At least one excellent distance learning course is available that provides a solid foundation for new document examiners for whom police training is not an option.

What does an attorney need to know when retaining a handwriting expert?

First and foremost, a handwriting expert should be a member in good standing of a reputable handwriting examination organization, such as the ones mentioned above. Membership in a related organization, such as fraud examiners or forensic experts, is not sufficient on its own. In addition to membership, the DE should attend handwriting examination conferences and seminars (verifiable), as well as read publications that will keep him or her current with what is going on in the field. Presenting papers and/or having articles published in handwriting examination journals is a plus.

Experienced students are eager to make their first court appearance, and should not be ruled out as a

viable option. For the client with a limited budget, a DE who has yet to qualify as an expert may be desirable, as they will usually charge a lower fee. However, s/he will, of course, need to have accumulated sufficient background experience, perhaps completing an internship with an experienced examiner; certainly, their work should be reviewed by a mentor.

On the other side of the coin is the examiner who claims to have testified hundreds of times. If, indeed, they have testified hundreds of times, especially within a relatively short period (say, 10 years or so), it might be read as a sign of the so-called "professional witness,"

***numbers
and other
writing (such
as the name
of the payee
on a check)
are usually
ignored***

which is not desirable.

It can be helpful to know whether the DE under consideration has made a habit of testifying for one side over the other. Speaking at a recent meeting of Forensic Expert Witness Association, Justice Robert Feinerman noted that in such a

witness, bias is inferred, which might give a judge pause when deciding how much weight to give to the expert's opinion.

Handwriting expert fees in Southern California generally range from \$100-\$250/hour, depending on experience. A retainer of two, three, or four hours is often required, sometimes at a higher rate than subsequent hours. Due to their stressful nature, depositions and court appearances may be billed at twice the normal hourly rate, or at a flat day rate that may, or may not, include exhibit preparation and travel time.

The questioned document

In order to conduct the best possible examination, the document examiner needs good materials for comparison. Original documents are always best, but not always available. A rule of thumb is, when no original of the disputed document is available, it is highly suspect. Often, a plaintiff will present a photocopy of a document, claiming to have lost the original, when a competent document examiner can easily determine that the signature on the photocopy is not genuine.

In a case involving a seven million dollar estate, the DE was not given access to the original document, a power of attorney. She was certain that the signature was not genuine, and so testified. The judge wanted her to view the original document and called a recess. The DE was sent to the opposing attorney's office, where the original was kept. It became quite clear that the signature line had been painted over with opaquing liquid, and an examination with ultra violet light showed the original, genuine signature underneath.

In some cases where the original is not available, a preliminary result may still be given. However, any opinion given on a photocopy, facsimile, or scanned document must be qualified, pending examination of

the original. Too many important characteristics, such as pressure and line quality, are negatively impacted by the copying process.

A sufficient amount of comparison handwriting must be made available for the DE to examine in order for a conclusion to be reached. In the case of a signature, some comparison signatures should be included that are contemporaneous to the questioned signature(s), as well as signatures from other time periods. Because no individual writes their name 100% the same way twice, and because some people have greater variation in their signatures than others, a larger number of signatures will allow the document examiner to create a frame of reference from which to determine a particular writer's personal range of variation.

The comparison materials should be as similar in content to the questioned document as possible. That is, if the questioned writing is printed, the comparison writing (exemplars) should also be printed. If the questioned writing is a signature, signature exemplars should be used for comparison. Whenever possible, the same words should be compared. For instance, in the case of an anonymous note, if possible, the comparison handwriting should contain the same letters and words that appear in the note.

If the documents to be examined are not originals, the attorney should find out where the originals are kept (assuming they actually exist), and whether the document examiner will have access to them. Other important questions are, if the documents are photocopies, are they first generation copies? Are they original size, or reduced? Are they clear? Copies of bank checks on microfiche are often rejected as exemplars, due to their poor quality.

In some cases, it becomes important to know what type of writing surface was used. If the document was signed on a grainy

surface, for example, the line quality would be affected. The approximate age and physical condition of the writer should be supplied, and information as to whether the writing was purported to have been assisted or guided, as in the case of an elderly, ill, or vision-impaired signer. One DE who failed to get all the information about the alleged signer of a document testified that the signature was genuine. Imagine his chagrin when he discovered on the witness stand that the questioned document was dated two weeks after the alleged signer had died! The opposing examiner's client-attorney relished making that point, loud and clear.

Other necessary information would include the writer's handedness and gender, as well as whether the writer wore corrective lenses or had any medical or psychological condition that might have affected his or her handwriting. Information about medications or recreational drugs should also be included.

Finally, the DE will want to know whether the opposing party has their own document examiner, and if so, whom that person is. S/he may have information about the other DE that would be helpful to the attorney.

What an attorney needs to know about forgery

In forgery, one size does not fit all. There are several different types, the most common of which is the simulation. In this case, the forger has access to a model of the genuine handwriting (usually a signature) from which to practice making copies. He attempts to copy the pictorial characteristics – the way the writing looks – in order to make it as close to the genuine signature as possible. This is a much more arduous task than it might sound, as trying to copy another's signature is akin to mimicking they walk or talk (anyone who thinks this is easy should try it!). The forger pays close attention to the way the capital letters

appear, drawing, rather than writing the signature as if it were a paint-by-number. What he fails to attend to, but what the document examiner sees, is the amount of space left between words and letters, the proportions of the upper and lower lengths, the alignment, and other unconsciously rendered characteristics.

Another type of forgery is the tracing. Once again, the forger has a model of the genuine signature, which he may hold against a window, or use carbon paper or a light box, and place another sheet of paper over the top, and literally trace the line. Under magnification, the many starts and stops the forger makes as he checks his progress – called resting dots – are readily seen. Also, the writing is slower, and sometimes there is an indentation in the paper, which can be seen alongside the ink line.

The cut-and-paste forgery is exactly as it sounds. A genuine signature is cut from one document and placed on the spurious document, then photocopied. If the lighting and resolution is properly adjusted, the document will appear genuine (as in the multi-million dollar case mentioned earlier). Since one of the premises on which handwriting examination rests is that it is impossible to write a signature 100% the same way twice, the easiest way to prove a cut and paste forgery is to locate the document from which the name was traced. They will be identical, or extremely close to it.

Closely related to the cut-and-paste is the electronic forgery. In the computer age, the scan-and-drop method has evolved. The forger simply digitizes a genuine signature by scanning at a high resolution, then inserts it into the spurious document and prints it. Voila! He has what appears to be a genuine signature. Under the

microscope, however, the pixelation shows that it has been digitized.

A fifth type of forgery is the freehand signature. The forger simply writes the victim's name without making any attempt to copy. The Fraud and Forgery Division of the LAPD is said to have hundreds of examples where the forger has written some made-up phrase, disguised as a signature. One says, "you've been had, sucker."

The professional forger is an extremely rare breed, and is more likely to target major companies than individuals or small businesses. Non-skilled attempts are more often made by the opportunist, who sees his chance at some "easy money" and goes for it. Maybe he's found a lost credit card or checkbook, and decides to try his luck. Or maybe he thinks dear old dad should have left the family fortune to him, rather than to his beautiful young stepmother, so he forges a will, or grant deed.

But handwriting is as individual as one's fingerprints. The many thousands of possible combinations of stroke make it impossible for two people to have identical handwritings. Dr. Sagur Srihari of the University of Buffalo, discovered this while working on software to identify handwriting for the U.S. Postal Service, and he has published research proving that each person's handwriting is unique (<http://www.cedar.buffalo.edu/news.html>).

A skillful forgery requires better than average hand-eye coordination and a great deal of practice. Artistic talent helps, too. A highly complex neuromuscular activity, handwriting requires coordination between the hand, arm, and fingers, as well as the eyes. Once graphic maturity has been reached – in other words, once one knows how to write – writing one's own genuine signature becomes a natural act, acquired over time. It is longer necessary to stop and think about each stroke and how to get it right.

Unless there is a physiological or psychological problem, genuine handwriting is usually smooth, spontaneous, and free-flowing, with less focus on the movement and more on the content. The forger, on the other hand, is forced to maintain constant control over the pen, concentrating intently on each minute detail. Under the microscope, the writing line will show frequent stops and hesitations, and the tighter grip the forger must maintain on the pen, in turn, produces heavier pressure on the paper. By the time he has come to the end of the signature (or other writing), the forger has usually forgotten to stick to the victim's style; thus, the DE pays greater attention to the ends of letters, words, and lines than the beginnings.

The handwriting examiner looks at both macro and micro aspects of handwriting. These include the spatial arrangement, writing form and writing movement, as well as individual letter forms. Spatial arrangement refers to the space between letters and words and the alignment relative to the baseline of writing. Writing form refers to the actual style of the lettering (cursive, school model, printed), the simplicity or elaborateness of the writing, the size of the lettering, and the existence of flourishes in particular letters or groups of letters. Writing movement relates to the velocity of the writing, zonal proportions, and the slant of the letters and words.

The way numbers are written is also important. In his effort to copy the victim's signature, the forger tries to mimic the pictorial aspects of capital letters, the writing size and the slant, but numbers and other writing (such as the name of the payee on a check) are usually ignored, which can be a dead giveaway.

A highly simplified signature is problematic for the handwriting examiner. There simply is not enough complexity on which to

make an identification; thus, a signature written simply a squiggle is the easiest to forge due to the lack of clear forms. The clearer a signature is, the harder it is to create a successful forgery.

Sheila Lowe has been a court-qualified handwriting expert since 1984. The author of two books and a software package on handwriting analysis, she frequently appears in the media when handwriting questions arise.