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## MORE FORENSIC SOLUTIONS TO HELP ATTORNEY IN LITIGATION

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Consider the following situations involving forensic experts:

Pages were removed from medical chart and pages were added with exculpatory language to provide a better defense and to shift the blame. The information from the original page, which is missing, was forensically recovered – even though the page was not.

An employer's minute book regarding contributions to the employee benefit plan had about 200 pages and at least 69 pages that were rewritten as late as four years after the fact. Two pages were written to replace pages that were already rewritten. The case, which had been in litigation for four years, settled three days after the forensic expert's deposition.

\* A corporate minute book was alleged to have had the minutes from 1992 rewritten. The inks were chemically dry, the paper was correctly date coded, and the impressions were all aligned correctly and in the proper order – evidence of genuineness.

\* Three photocopies of letter were supposedly mailed to a bank regarding a loan extension. The bank contended it never received any of the letters. The originals were mailed and the copies were supposedly made at the time the letters were sent. Through a legal search of defendant's office, the age of the photocopies could be established. They were made on the copier in the office, but not at the times suggested. Rather, they were made after the lawsuit began and at approximately the same time, and not over a period of months, as suggested by the dates on the letters.

These are scenarios in which forensic chemists/experts have helped litigate cases. Sometimes when a printed form is used, the information can be obtained without the use of an expert at all, as in the case of a title to property. For example, in one case, the title company at the top of the form was not in existence when the signature was supposedly executed.

In addition, forensic chemists can perform other examinations that do not fall into any specific categories, but are useful in litigating cases. Consider the following examples.

I was approached by an attorney in a product liability case in which the plaintiff alleged that a product was manufactured, packaged and sold without the proper warning labels. The first test was performed on a known adhesive to determine at which wavelengths it would luminesce. When the questioned product was examined, no luminescence was present at these wavelengths. However, when the questioned area was examined under the beam of a nickel-cadmium laser, the mastic that was originally there was clearly present and the evidence of an attempt to chemically wash the product of the mastic's existence was apparent.

A defense attorney once came to me with an EKG strip that was six or seven years old. The attorney said he couldn't read it, but that it was crucial to the defense of the case and, without it, he would probably lose. The first step was to find an infrared wavelength that made the thermal markings on the paper easily visible. Once that was accomplished, the next hurdle was to find a manner in which the results of the examination could be "packaged" so that the defense's medical expert could review and evaluate the strips. This was accomplished by recording onto video cassette from the camera head of the imaging device. The videotape could then be sent to the attorney's expert for review.

An attorney received a copy of a microfilmed fetal monitor strip that had writing on the reverse side. It was assumed that the information could not be recovered because the original strips had been destroyed. But I traveled to the hospital to examine the strips anyway. I found there was an offset that occurred on the thermal paper from the friction of writing while the paper was folded. This was enhanced by over-exposing a photograph of the microfilm reading machine. The negative was reversed in the printing process for an easily legible rendition of the disappearing text.

An attorney received a document that contained certain portions obliterated with a marker. The underlying writing was believed to be critical to the case but was not readable. A solvent key for the marker was discovered without harming the underlying photocopy toner. The marker was chemically removed and the photo copied text which had been obliterated could now be easily read. This turned out to be dispositive to the case.

A simple photocopy machine can transport a person's signature to another document – but only a photocopy will exist and no original. Several examinations can be done to determine the authenticity of the signature. But if no original can be produced, it should always raise a red flag in the mind of any attorney.

In one case where the original was "lost" and all that was available was a facsimile copy, the defendant was instructed to make an acetate overlay of the signature of the fax and use this as a model to look through all the correspondence sent to the plaintiff. After searching about 1,000 documents, I received a call that defendant found what was thought to be the model and was sending it to me for verification. It was indeed the model – and it was shown to be a manufactured document. After this information was released, the plaintiff's attorney withdrew from the case and it disappeared.

In yet another case, the entire signature block was transferred to the new document because the signature intersected the typewritten name and one could not be transferred without the other. The model was never found, but the signature block was made with a different typewriter than the text of the document and was not its correct spatial alignment. Specialized glass grids proved it was not parallel.

Through modern instrumentation and technology, the author of anonymous or harassing letters can also be determined. Several different methods and techniques are used and the rate of success is high. In one case, a social security number, address, name and bank account number were determined from the harassing note. In another case, the manufacturer of the paper led me to a person's office over 1,000 miles away. The person was later identified as a suspect and a fingerprint examination was conducted to determine authorship.

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