

**From:** Gerry Schulze (gerrysch@yahoo.com)  
**To:** Silverstrom, Carol J.  
**Date:** Wednesday, December 3, 2008 11:00:50 AM  
**Subject:** Re: Expert Deposition

I can print you a copy, but how could I get it to you?

Gerry

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**From:** "Silverstrom, Carol J." <carol.silverstrom@sba.gov>  
**To:** Gerry Schulze <gerrysch@yahoo.com>  
**Sent:** Tuesday, December 2, 2008 5:16:25 PM  
**Subject:** RE: Expert Deposition

Gerry-

I like it; have you considered writing plots for spy novels?

Would you be able to print a copy for me? I show that it's 29 pages long, and I really don't feel right printing that length of a document here.

Thanks,

Tashira

*Carol J. Silverstrom*  
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**From:** Gerry Schulze [mailto:gerrysch@yahoo.com]  
**Sent:** Tuesday, December 02, 2008 5:02 PM  
**To:** Sandy Huckabee; Silverstrom, Carol J.; Carol Silverstrom; Shelley Mount; Gerry Schulze  
**Subject:** Expert Deposition

I think this is a final, or pretty close to it.

I have no idea how long it will take to read this. It might be too long. It might be too short. It might be just right, though that would astound me.

Gerry

Q. Good morning.

A. Good morning.

Q. My name is Gerry Schulze . I represent Nikolai Romanov. We just met a few minutes ago. Could you state your name for the record, please?

A. Tashira Hope.

Q. Ms. Hope, I'm here to take your deposition today. You have been named as an expert witness by Mr. Huckabee on behalf of Vladimir Ulyanov. I will be asking questions today about your opinions and the bases for your opinions. I will be asking you about your review and background information about yourself.

If at any time during the deposition today I ask you a question that you don't understand please stop me and ask me to rephrase the question. If you don't stop me and ask me to rephrase the question I'm going to assume that you understood the question.

Understand that I will need to rely on the answers that you give. If I ask any questions that suggest something that is not true please let me know that too. If I ask a question and simply does not make any sense obviously you could not answer the question is let me know that the question does not make any sense. Please understand that I will probably ask you why it does not make any sense.

Please wait until I have finished asking my question before you answer it. I will try to let you finish answering my questions. If at anytime I do not do that let me know. I do not want your answers to be incomplete. If you need to take a break during the deposition just ask.

Q. I understand you have given depositions before, haven't you?

A. Yes, many times.

Q. How many?

A. People always ask me that. I wasn't keeping records for a long time, but I can say that in 2000 I testified sixteen times in deposition, in 2001 eleven times, in 2002 twenty seven times, a very busy year, in 2003 fifteen times, 2004 thirteen, 2005 sixteen, 2006 eleven, 2007 nineteen, and so far this year twelve.

Q. So you're pretty familiar with the process?

A. Lawyers never cease to surprise me.

Q. Have you had a chance to review the notice of deposition?

A. Yes. I have.

Q. Did you review the list of documents I asked you to bring with you?

A. Yes. I did.

Q. Do you have those documents with you today?

A. I think I do. Some of the descriptions were broad.

Q. Let's look at the list. Do you have a copy with you?

A. Yes, right here.

Q. 1. All time records or records of tasks performed by you or anyone with or acting on your behalf in connection with the present suit, showing, to the extent possible, (a) the person whose time is recorded (b) the amount of time recorded, and (c) the tasks or action performed during such time period.

A. I keep a regular time record. It also contains my progress notes. Sometimes they get to be rather detailed. Other times they aren't. Here it is. I've made a copy of it for you.

Q. Is there anyone other than yourself whose time would be reflected on these records?

A. No.

Q. The amount of time looks fairly straightforward. I want to ask you about some of these time entries, though. Before we do this, let's make your time records Exhibit 1 to this deposition.

[The time record is marked].

Q. [Continuing] Your first note is telephone call from Mr. Huckabee, can you tell me about that?

A. Yes. Mr. Huckabee called me. He told me that he got my name from Michael Werner, a lawyer I work with frequently. He said that he represented Vladimir Ulyanov. He told me that Mr. Ulyanov was a business partner of Mr. Romanov, and that their business partnership was breaking down. Apparently they had a meeting on October 16, 2007. A few days after that meeting, Mr. Ulyanov met with another local businessman, Mr. Freddy Engels and apparently a friend of Mr. Engels, Mr. Chuck Windsor. My notes say "asked about the agreement that he had made to divide his business." I don't recall who asked. Anyway, I noted that Mr. Ulyanov said that there was no agreement. They—and I didn't write down whether it was one or both or who it was—but at least one of the two other gentlemen then told Mr. Ulyanov that Mr. Romanov had told them about an agreement and faxed them a copy of a handwritten deal that had been entered into at the meeting. Mr. Ulyanov agreed that there had been a meeting, but there had been no agreement. Mr. Windsor told him he would fax the agreement to him.

Later that afternoon, Mr. Windsor faxed a handwritten deal to Mr. Ulyanov. Of course this was a second generation fax, but it appeared to be hand printed and Mr. Ulyanov recognized that there was an

attempt to fake his handwriting. He thought the attempt was rather good. He called Romanov to confront him about the document, and Romanov spoke as if he believed a deal had been made. Ulyanov later concluded Romanov believed that Ulyanov might have been taping the conversation, but in fact Ulyanov had not taken that precaution.

Q. Wait a minute, that's confusing, Mr. Ulyanov thought Mr. Romanov thought Mr. Ulyanov thought what?

A. Okay. Here's what I understood. I understood from Mr. Huckabee that when Mr. Ulyanov talked to Mr. Romanov, Mr. Romanov spoke as if a deal had been made. Mr. Ulyanov knew there wasn't a deal. Mr. Ulyanov later speculated that Mr. Romanov was pretending a deal had been made because he suspected Mr. Ulyanov was taping the conversation. In fact, Mr. Ulyanov wasn't taping the conversation.

Q. And you got all that from Mr. Huckabee?

A. Yes.

Q. And that's what you meant when you wrote this?

A. Yes.

Q. Could you read me exactly what you wrote?

A. Yes, I wrote, "Ulyanov called Romanov, Romanov acted like deal; Ulyanov thought Romanov was taping. No tape."

Q. And that tells you all you just told me.

A. Yes.

Q. You don't remember all that from the deposition of Mr. Ulyanov?

A. Well, it was all in Mr. Ulyanov's deposition, but I remember all that from this note. That's what this note means to me.

Q. Okay, tell me the rest of it.

A. Mr. Ulyanov contacted Mr. Huckabee, who wrote a certified letter disclaiming the proposed deal and making various threats of legal action if the letter were circulated further. Approximately a week later Mr. Ulyanov was sued by Mr. Romanov, and Ulyanov countersued. I do know from later correspondence that the suit was for specific performance of his agreement to divide the business.

I told Mr. Huckabee that I would be happy to look at the document and see if I could render any opinions. I told him at the time I didn't know if I could help him or not.

Q. The part about not knowing if you could help or not, is that in there?

A. No. But I always tell lawyers that.

Q. What does this show as far as time is concerned?

A. Thirty minutes for the phone call. I have Mr. Huckabee's contact information on here, too.

Q. What is the next one.

A. The next one is receipt and review of a faxed copy of the handwritten note. Five minutes. It was really pretty useless.

Q. What is the next one after that?

A. I wrote a letter to Mr. Huckabee confirming our conversation. I gave him a list of the things I thought I would need. That took about 30 minutes as well.

Q. What is the next thing after that?

A. I got the original of the questioned document, I called it Q-1 in my report, by Federal Express.

Q. What did you do with that?

A. Nothing. I called Mr. Huckabee and told him it had arrived, but without the other documents to examine, it wasn't much use.

Q. That's what's on this, I guess the third page of your time notes, Exhibit 1.

A. Yes.

Q. Then what happened?

A. Several months went by, then I got a shipment of the other documents I had requested.

Q. And the time sheet just says 11.5 hours, see worksheets?

A. That's right. That's when I did the analysis of the documents. They include the questioned document, which I identified as Q-1. Ten exemplars of Mr. Ulyanov's handwriting, which I identified as U-1 through U-10; ten exemplars of Mr. Romanov's handwriting, identified as R-1 through R-10, all of which were in script, and copies of depositions.

Q. Which depositions?

A. I was provided with a copy of the depositions of Mr. Ulyanov, Mr. Romanov, Mr. Ulyanov's secretary, Ms. Krupskaya, Mr. Windsor, and Mr. Engels. I also have the short deposition of Ms. Goldman, Mr. Romanov's personal assistant.

Q. Were the depositions of any use?

A. I learned very little useful from the depositions. I understand from Mr. Romanov's deposition that he does not hand print. Apparently he had some difficult handprinting when asked to do so at his deposition, accidentally switching to script on several occasions. I had the original of the document on which he tried to

hand print. The only thing I learned is that Ms. Krupskaya said that the writing on the questioned document looked so much like Mr. Ulyanov's writing that she would have been fooled, except that she thought that the deal was such a bad deal for Mr. Ulyanov that she would have been suspicious that he had written it at gunpoint. I learned that Ms. Goldman had never seen Mr. Romanov write anything except in script, that the handwriting he used was his regular handwriting, that he had no particular artistic skill, and that she would have been amazed if he had been able to forge a document like this one.

Q. Did any of that information factor into your opinions.

A. No.

Q. It was after you reviewed all the documents you had requested that you formulated your opinions?

A. Yes. And I reported to Mr. Huckabee, that time is here.

Q. The next thing shown after that is a call from Mr. Huckabee to schedule this deposition, is that right?

A. You missed where I returned the originals of all the documents to Mr. Huckabee.

Q. Oh, I see it here.

A. Then was the call from Mr. Huckabee to schedule this deposition. Then after that is this page, where I prepared for this deposition.

Q. Let me return to the list I attached to the Notice of Deposition. The next item is 2. All written communications and records or notes of verbal communications between anyone associated with you or you and any one or more of the following (a) Plaintiffs (b) Plaintiffs Attorneys (c) Defendants (d) any type of expert concerning any aspect of the matters involved in the present action.

A. The correspondence file is here. I've made a copy of it for you.

Q. We'll make the copy Exhibit 2 to the deposition. There's an engagement letter, the one about your phone conversation in which you asked for the documents. After that, it looks like just a few letters to Mr. Huckabee, mostly about getting originals of the documents to be examined.

A. That and if you'll notice, there are a few receipts for Federal Express shipments.

Q. The next item is 3. All statements or invoices prepared by you or on your behalf covering any of your services in connection with the present action.

A. That is all in the packet you have with my time records.

Q. That's going to mess up the numbering, you know.

A. Sorry.

Q. Next. 4. All documents prepared by you at the request of or on behalf of

the Plaintiffs or their attorneys.

A. Well, as you know, Mr. Huckabee asked for a written report, which you have, but it's right here.

Q. Let's make that Exhibit 3. The next one was 5. All documents, including, but not limited to, reports prepared by you that discuss, refer or relate to this lawsuit in any way. I guess that duplicates the report, but is there anything else.

A. I have some notes. I have made copies of them for you.

Q. Are these the same as the worksheets you referred to in your billing records?

A. Yes.

Q. They are pretty extensive.

A. Yes. As to each document, they contain my impressions about the writing on the pages.

Q. We'll get back to those later.

A. Okay.

Q. We will make those Exhibit 4. The next is 6. All photographs, slides, videotapes, or other reproductions of any documents or incidents or events that were taken by anyone in connection with your analysis and investigation in this case.

A. I have made copies and photographs of the documents that I reviewed. In my field, having the original document is essential. Photocopies, and even the best photographs, are of limited usefulness. But what I have done, if you look at my worksheets, is that I have written down my observations. I have returned the originals to Mr. Huckabee, as I mentioned.

Q. The next thing I asked you about is your advertising.<sup>7</sup> All advertising fostered by you regarding document analysis services.

A. I have been using the same advertisement for years. I've been running it in various publications directed to lawyers. Also, I think you have my web page. I have a copy of my advertisement here. You can print my web page out. It is fairly long because I go into detail on some matters.

Q. We'll make the advertisement Exhibit, where are we, 5?

A. I think so.

Q. Your agreement with Mr. Huckabee for services?

A. It's in the correspondence.

Q. As to the documents provided, we've already covered those?

A. Yes.

Q. As to the next item, 10. All books or treatises or a listing thereof that were relied upon or referred to in conducting your analysis and investigation and reaching your conclusions in this case.

A. I did actually check something, just to confirm my own experience, in Koppenhaver, Katherine, Forensic Document Examination, so I have a copy of that. Also, I knew that the issue of the reliability of analysis of script writing would come up, so I reviewed Kam and Lin's 2003 article in the Journal of Forensic Sciences.

Q. I asked for the documents that you will use or rely upon in giving testimony at trial.

A. I never know how to answer that. Obviously I'll be relying on the actual documents I inspected. I don't know about any others.

Q. I asked for 12. All demonstrative materials prepared in any stage of completion in connection with your analysis/investigation or testimony in this case.

A. I haven't prepared anything like that.

Q. Next was 13. All documents provided by you to Plaintiffs or their counsel.

A. I don't know why lawyers do that, this is the same as question number 9, isn't it?

Q. Actually it is. Next 14. All notes that discuss, refer or relate to any oral communication between you and the Plaintiffs or their attorneys.

A. I guess this could be a little different, but it's all included in the notes I've already given you.

Q. Next was. 15. All files and file materials maintained by you related to your analysis and investigation in this case.

A. Here's my complete file. I copied everything. At your instruction, as I understand it, I did not copy the depositions.

Q. That's right. I already have copies of the depositions. Did you make any marks or notes on the depositions, though?

A. No, but there are some notes about the depositions on my notepad. I didn't find them very useful.

Q. Next is 16. All documents that contain, discuss or refer or relate to any tentative or preliminary reports provided by you to Plaintiffs or their

counsel relating in any way to this case.

A. I have a hard time with preliminary reports. I needed to compare so many things, that a partial examination just wasn't going to be of much use. As you can see from the correspondence, I more or less insisted that they get me everything they could get before I even tried to render an opinion.

Q. What did you ask for?

A. I told Mr. Huckabee that I would be happy to look at the document and see if I could render any opinions. I told him I would have to see the original, exemplars of Mr. Ulyanov's handwriting, exemplars of Mr. Romanov's handwriting, and exemplars of anyone else who might be suspected of having written the document. I asked if there was any question about where and when the document might have been written, and I learned that there probably was not, so analysis of ink and paper would probably not help. I was told that the paper appeared to be some of the paper that was commonly used in the ordinary course of Mr. Ulyanov's and Mr. Romanov's business. It was fairly common letter size paper. I could have analyzed it further, but there was really no reason. The ink was from a Uniball Signo DX (UM-151) 0.38mm blue gel ink. Both were the kind of item that would be pretty standard in an office supply store. Nothing unusual there.

Q. Who told you about the pen and paper?

A. It was obvious just from looking at it.

Q. You say it was obvious what kind of pen was used?

A. Yes.

Q. That didn't require any chemical analysis or anything?

A. Not with one of those.

Q. So what did you get?

A. As I said, I was provided with the original note. I was also provided with ten exemplars of documents written by Mr. Ulyanov in the ordinary course of his business. I was provided with ten exemplars of documents written by Mr. Romanov in the ordinary course of his business. I was told that those were gathered by Ms. Goldman from documents in the shared offices. All of those were in script. I was informed that no copies of hand printed documents written by Mr. Romanov existed. Amazingly, apparently everyone

who testified agreed nobody had ever seen Mr. Romanov print anything.

Q. You say, amazingly, did you find that unusual?

A. Frankly, yes. But that was the testimony. We even had a form with blocks filled out by Mr. Romanov, and the individual letters were in script. This form was filled out in the 1990's.

Q. Have you not heard of people, like Mr. Romanov, who don't print, who always use cursive?

A. I have heard of it, but it's rare. Again, there was the attempt to handprint at the deposition. I have the original of the document on which he tried to hand print. It does show signs of hesitation, which could be caused by the discomfort of trying to do something he was not used to doing.

Q. You're not suggesting that you don't believe Mr. Romanov, or that his testimony that he doesn't print is not credible, are you?

A. No, I would not be able to do that.

Q. Let's get back to the Notice of Deposition. Next, we asked about your expenses.

A. They're in the billings.

Q. Your curriculum vitae.

A. Now we're getting somewhere. Here it is.

Q. Let's talk about it a little bit. What is your educational background? I have your c.v.

A. I went to grade school and high school in various places, are you interested in that?

Q. Not really, let's start with college.

A. I have a B.S. in Criminal Justice, University of Houston , 1982.

Q. According to your c.v.,

### **March 1983**

Document Examination Fundamentals, FBI Academy , Quantico , VA. (100 hours, received college credits and certificate of completion.)

What does that mean, 100 hours.

A. That means one hundred hours of classroom and laboratory study. It was just that, fundamentals. We studied handwriting , cursive and printing, since it has come up so much, and signatures. Signatures are

different. We studied typewriters, photocopiers, check writers, rubber stamps, price markers, label makers, printing processes, ink, pencil, paper . .

Q. Did you study the Signo . . . What was it?

A. No, they didn't have the Uniball Signo DX (UM-151) 0.38mm blue gel pen at that time. We didn't have gel pens then.

Q. Go on.

A. We studied alterations, additions, erasures, obliterations, indentations, sequence of strokes, and physical matching. Today fundamentals would cover printers, faxes, and things like that, but in 1983 those things were still pretty new. I think we looked at some dot matrix printers. We learned how to make analyses of documents in order to:

1. establish genuineness or nongenuineness, or to expose forgery, or to reveal alterations, additions or deletions,
2. identify or eliminate persons as the source of handwriting,
3. identify or eliminate the source of typewriting or other impression, marks, or relative evidence, and
4. write reports or give testimony, when needed, to aid the users of the examiner's services in understanding the examiner's findings.

Q. Then you followed up with October of 1984 , Document Examination Cross-Training, US Army Crime Lab, Fort Gillem , GA. 120 hours, received certificate of completion.

A. Yes.

Q. Then in September of 1985 you took a typewriter workshop, FBI Headquarters, Washington , DC (40 hours).

A. Yes. That's not much use these days, but occasionally it still comes in handy.

Q. Then you show, in June 1986 Paper Technology, University of Maine at Orono, 60 hours.

A. Yes.

Q. And then: December 1987, Office Copier Workshop, 30 hours.

Yes.

Q. And then in 1988,

A. November 1988, Ink Analysis, Bureau of Alcohol, Tobacco, and Firearms, Rockville , MD (30 hours).

And no, the Stylo still wasn't on the market.

Q. You're a member of some organizations.

A. Yes. I'm a member of the American Academy of Forensic Sciences (AAFS) American Society of Questioned Document Examiners (ASQDE), and I'm certified as a qualified Examiner of Questioned Documents by the ASQDE. I attend annual seminars of these organizations to keep updated on current trends in the field of Document Examination. I occasionally make presentations at seminars and lead panel discussions.

Q. Back to the list, are there any documents you used to refresh your recollection for this deposition?

A. Only the documents I've already shown you.

Q. How about All documents or tangible things containing impressions or opinions of any consulting expert which have been reviewed by you.

A. There are none.

Q. Okay, the list of suits in which you have been deposed.

A. It's in the stack. Here it is.

Q. Thank you. Let me make this exhibit, where are we, Number

A. Did you make Koppenhaver an exhibit?

Q. I should have. That would be, should be number 6. Let's make the pages from Koppenhaver number 6, then this, for the record, now I'm talking about your list of cases, number 7.

Now let me turn to your report. Let me go to your opinions in this case. What opinions did you give in your report?

A. I formulated three opinions. First, I believe the document was not written by Mr. Ulyanov. Second, I believe the document was written by someone who was trying to simulate Mr. Ulyanov's handwriting. Third, I believe that the document was written by someone whose handwriting shares one characteristic with Mr. Romanov: the author of the questioned document and Mr. Romanov both vary the way they write the numeral "two."

Q. First, why do you believe the document was not written by Mr. Ulyanov?

A. In this particular case there are characteristics of the writing that show that it is not natural. The spacing between the letters is unnatural. The letter "a" is unusual. Mr. Ulyanov has the somewhat unusual habit of printing an a with an ascender and a loop. His "a" does vary in his normal handwriting, just as it does in this memo, but here the ascender is exaggerated. Mr. Ulyanov also has a habit of extending the last stroke in the

last letter of a word. That characteristic is likewise exaggerated in this example. There is hesitation apparent in the writing even of the individuals' names. Hesitation in the writing of one's own name would certainly be unusual. I can tell that there is hesitation in the writing by the accumulation of ink and the presence of more ink than would be expected if the writing were flowing normally. For these reasons I believe that the document was not written by Mr. Ulyanov and was written by someone who was consciously trying to simulate his writing.

Q. You use the term “exaggerated,” what do you mean?

A. Greater than usual, usual for Mr. Ulyanov. For instance, the letter “a.” A print—and I mean on a typewriter or a computer—small “a” has a curvy line and then a loop under it. Mr. Ulyanov draws that curvy line, see here (illustrating). Most of us just use the loop. But when Mr. Ulyanov writes his “a” the ascender takes on the average 27% of the space of the letter, in 95% of the cases between 25 and 30% of the space of the letter. I had to use space of the letter rather than millimeters because the letters change in size. But in the questioned document, you can see here, the ascender takes between 33% up to 40% of the letter half of the time. Now with the extension of the last stroke at the end of the word, the characteristic is not so pronounced, but it is there, somewhere between three and five percent longer.

Q. Three and five percent?

A. On average.

Q. Average? How many times did that happen in the questioned document?

A. On the letter “L” in deal, the final “v” in the last names, the final “n” in Main and Washington, especially in the “a” in “Marina,” that one is very exaggerated, the closing t stroke in plant.

Q. If you disregarded the “a” in Marina ” would there be a difference.

A. I haven't done that calculation, but I'd have to say probably not. But it is in there. You have to take the document as a whole.

Q. So as far as that particular characteristic is concerned, you're really talking about one exaggerated stroke in one letter.

A. No, It's exaggerated in some others, but not in others. Look at the “n” in Main . I mean, Mr. Ulyanov does that, but this is almost a parody, an exaggeration of that characteristic.

Q. Would the fact that this memo was drafted at night after a long and strenuous negotiation not account for minor differences in handwriting like that?

A. Not in my opinion, no.

Q. You also said that the spacing was unnatural.

A. Yes.

Q. How?

A. You just have to look at it. You have two kinds of spacing, interword, that's between words, and intraword, that's within words. Both kinds of spacing become habitual with the individual. When we're taught to write, we're taught certain spacing rules, but we quickly grow out of what we're taught and learn our own habits. Also, many people will develop habits of certain units, which will have different spacing. "Th, sh, ch, and "digraphs" like that will sometimes be closer together, for instance, that is they will have a closer spacing in some people's writing. Mr. Ulyanov had that habit, unfortunately, we have only one example of such a digraph on the questioned document, the "sh" in Washington . What's strange here is look at the two places where Mr. Ulyanov allegedly wrote his own name. Look at the spacing.

Q. The spacing on Mr. Romanov's name is a whole lot different than the spacing on Mr. Ulyanov's name, isn't it?

A. Yes, but that's not all that significant.

Q. Why not?

A. We write our own names all the time.

Q. Ulyanov was in a partnership with Romanov for years. He wrote Romanov's name all the time for years.

A. Yes, but it's just not the same. It's very similar to signatures. You remember that I said signatures are different from either script or printing, well, in some ways printing your own name is different too. It's somewhat automatic.

Q. Wasn't the spacing really controlled to some extent by the size of the piece of paper on which this was written?

A. That was a factor, yes.

Q. I need to ask about the hesitation. What's the evidence of that.

A. You remember I told you this was a Uniball Signo DX (UM-151) 0.38mm blue gel pen?

Q. Yes.

A. Those pens have a unique ink color and flow. You can pretty much recognize them just by looking at them. I could have done chemical analysis, but it wasn't necessary. They're very common, and I'm sure to a reasonable degree of scientific certainty that was the pen that was used. It is also the pen that was used on six of the examples from Mr. Ulyanov's office, eight of the examples from Mr. Romanov's office, and the

deposition. I suspect it's the pen kept in the office supply cabinet at both of their offices. It's pretty common. The ink on this questioned document is thick, as if it had been written slowly. The faster you write, the less ink there is. These pens are pretty good, but there is still a noticeable difference in ink flow if you look. Compare U-2, for instance. This is a note written by Mr. Ulyanov about an employee at the bakery who was caught taking baking supplies home, and they had to fire him. Mr. Ulyanov wrote up this investigation after the fact, so apparently everything was pretty fresh in his mind. I compared the ink flow in that document to the ink flow in Q-1.

Q. There are a lot of factors that go into ink flow, aren't there.

A. Yes, there are.

Q. How full the pen is.

A. Yes.

Q. How much it has been used.

A. Yes.

Q. The temperature of the pen.

A. Yes.

Q. It makes a difference if you've been carrying it around in your pocket or if you just took it out of the supply cabinet, or out of your cold car, doesn't it?

A. Yes.

Q. Do you know any of those variables about the pen that was used to write Q-1.

A. No. Except that I do know that if Mr. Romanov is to be believed—and I don't believe him—that he and Mr. Ulyanov were together negotiating the terms of the split for several hours, and there was no reference to anyone going out to a cold car to get a pen to reduce the deal to writing.

Q. Well, the cold would slow down the ink flow, anyway, wouldn't it?

A. Yes.

Q. You said you don't believe Mr. Romanov. Why?

A. Because Mr. Romanov said Mr. Ulyanov wrote Q-1, but he didn't.

Q. Fair enough, but back to the question, you don't know anything about the condition of the Uniball Signo DX (UM-151) 0.38mm blue gel pen at the time this document was allegedly written.

A. That's right. But I can tell you that there's a lot of ink flow, consistent with this document being written very slowly and carefully. Even, again, when Mr. Ulyanov is allegedly writing his own name.

Q. Have we covered all the reasons you believe this document was not written by Mr. Ulyanov.

A. Yes. I believe so.

Q. Let me ask you this—the signature—does it look like Mr. Ulyanov's signature.

A. It does look like his signature. Again, it was written very slowly. It might even have been traced. But it does look like it.

Q. What makes you think it may have been traced.

A. It looks like it, and it was written slowly. Also, the pressure is uniform throughout the writing. Usually when someone signs his own name, there are variations in pen pressure that are characteristic of natural writing. Now to be fair, and to anticipate your next question, in looking at Mr. Ulyanov's signature, he doesn't have any strong characteristic variations in pen pressure in his regular signature that I can point to that are missing here. That's something we usually have, but we just don't have it here.

Q. Now let's get to your second opinion. You say the document was written by someone who was trying to simulate Mr. Ulyanov's handwriting.

A. It's obvious that this looks a great deal like Mr. Ulyanov's handwriting. To the untrained eye, it's nearly perfect. It's also obvious that someone worked on this for some time.

Q. Is that based on the ink flow?

A. That and the fact that whoever did this noticed a lot of characteristics.

Q. Are you saying this was done by a skilled forger.

A. Frankly, yes. One of the best I've ever seen.

Q. But you're still convinced it was a forger?

A. Yes.

Q. You aren't saying that the forgery was done by Mr. Romanov, are you?

A. No. I cannot reach that conclusion. I cannot identify Mr. Romanov as the writer. One of the hardest things to do is identify the author of disguised writing, especially if we have no other example of disguised writing. I can only point out one similarity. Mr. Romanov, in known example R-6, has written some telephone numbers. He alternates between writing the number "two" with a loop at the bottom and without. It has been observed that writers who disguise their handwriting rarely disguise their numbers. I do have a reference for that. Koppenhaver, Katherine, Forensic Document Examination, p. 45. The author does not cite any authorities for her conclusion. It is apparently based on her knowledge and experience. I would add that it is based on mine as well.

Unfortunately, I do not have any documents in which Mr. Ulyanov wrote any numbers except just a few. I do not have any instances with two "twos." I suppose that would have been useful, but nobody realized it at the time they were gathering samples for me, and samples gathered at this late date, now that the purpose is known, would hardly be convincing to anyone.

Q. But let's get to your third point. You opined that the forger and Mr. Romanov do have a characteristic in common.

A. Yes. I did notice that one thing.

Q. Could you explain that.

A. Yes. Just as I said, one thing that even the best forgers sometimes fail to do is take into account the formation of numbers. It happens. There are cases. It looks like this forger just wrote the numbers. And if you'll notice, the forger varies the formation of the number two, with and without loops.

Q. That's fairly common, isn't it.

A. Yes it is. It's not unheard of.

Q. How common?

A. I didn't do any research on that point.

Q. Are you familiar with Jan Seaman Kelly?

A. I've heard the name, yes.

Q. Are you familiar with the book Scientific Examination of Questioned Documents By Jan Seaman Kelly, Brian S. Lindblom Published by CRC Press, 2006

A. Yes, I am.

Q. Is it an authoritative reference in the field of forensic document analysis?

A. It depends on what you mean by authoritative.

Q. Is it a reliable reference?

A. I would have to say that it depends.

Q. Depends on what?

A. Depends on what you want to rely on it for.

Q. I'd like for you to look at this, page 115,

A. Okay.

Q. Could you read that, starting with the first full paragraph.

A. Conway observed that it is not difficult for many writers to develop several classes of numerals and

occasion ally to use them interchangeably without being aware of their own variations. The use of two or more numeral formations may be a part of a writer's variation. In her research Of 100 writers,, Giles. found that over 48% used two or more forms of 6, 55% used two or more forms of 2 (Figure 10.7), 38% of 9, and 37% of 7. These data strongly suggest that an FDE exercise caution in eliminating awriter in cases where both the questioned and known exemplars of numerals are equal in skill level.

Q. Okay, you can stop there. Now, first, insofar as the what the book states there, do you think it is reliable.

A. Insofar as what it reports, I have no reason to doubt it.

Q. Is it reliable, then?

A. I suppose I'd have to look at the actual reports.

Q. Do you usually read the actual reports when reading books like this?

A. Usually not.

Q. Is CRC Press a reputable publisher?

A. Oh yes.

Q. Would you usually assume that scholars whose work is published by CRC Press accurately report studies, especially when one of the studies was done by one of the editors of the book.

A. Yes. I think that would be fair.

Q. Okay, assuming the reports say what the authors say they say, with that in mind, do you think it's very common for a writer to use more than one form of 2.

A. You have the figures right there.

Q. What was the significance of the third opinion?

A. It was an observation that I made, so I put it in my report.

Q. Now I want to talk to you about the issue of handprinting versus script.

A. Yes.

Q. Is identification of the writer of handprinting more difficult than the identifying of the writer of script?

A. Certainly.

Q. Isn't it true that there are published reports indicating that identification of handprinting is less reliable than identification of script writing or even not reliable?

A. It is true that there was some question in the literature whether the methodology that worked with script writing would be as effective with handprinting. That is not the state of the art today. In 2003 Moshe Kam

and E Lin published the results of a review of their work *Journal of Forensic Sciences*. In the eyes of most people in our field, that work put an end to the argument that forensic document examiners could not identify the writers of handprinted documents.

Q. What was the history of that work; why did they do it?

A. Several federal district court judges had referred to the purported lack of information on the proficiency of forensic document examiners in identifying writers of hand-printed documents.

Q. In other words, there had been some successful legal challenges to forensic document examiners identifying handprinted documents.

A. That is right. So in order to determine whether forensic document examiners were able to provide reliable information, they re-analyzed data on writer identification that had been collected in 1996 from 90 forensic document examiners and 34 laypersons. These data had been used previously to assess the proficiency of examiners using handwritten documents in several different types of writing. But they also contained hand-printed documents. In the new analysis they separated out the data on hand-printed documents from data on script documents and compiled separate error rates and statistics in each category.

Q. Wait a minute, you said “script documents.”

A. The term they actually used in their report was “non hand-printed” documents.

Q. Could that include mixed documents?

A. Well, what they finally did was break down everything into four categories: hand-printed, non-hand printed, cursive, and non-cursive.

Q. The reason I’m asking, is that it’s not clear from the study exactly how the samples were broken down, is it?

A. That complaint has been made.

Q. And Kam and Lin have not released the raw data, have they?

A. Not to my knowledge.

Q. Actually, you know that they haven’t released the raw data, don’t you.

A. Well, I know that as of the last time I heard, they hadn’t.

Q. And people had asked for it.

A. They have.

Q. But the researchers have refused to let go of it.

A. They did.

Q. That's somewhat unusual, isn't it.

A. I don't know. I know that sometimes the raw data is released.

Q. And there is a footnote in one case, *United States v. Hidalgo*, 229 F.Supp.2d 961 (D. Ariz. 2002) that states that the comparison was with a mixture of script and handprinting, but that is not addressed in the journal article.

A. I don't know about that. I don't read cases.

Q. And to your knowledge that criticism hasn't made it into the literature.

A. No, I haven't heard that one.

Q. Anyway, as you understand it, what were the findings?

A. The main findings were: (1) whether or not the documents were hand-printed, the performance of forensic document examiners was much better than that of laypersons; (2) statistical tests found no difference between the data provided by the examiners in the handprinting and non handprinting categories; (3) statistical tests found no difference between the data provided by laypersons in the handprinting and nonhandprinting categories; and (4) statistical tests found differences between the data provided by the document examiners and the laypersons in both the handprinting and nonhandprinting categories. Similar results were obtained when hand-printed documents were compared to cursive documents and when cursive documents were compared to non-cursive documents. All the evidence indicates that in our proficiency test the performance of document examiners in writer identification was much better than the performance of laypersons in each one of the following document categories: (1) hand-printed; (2) non-hand-printed; (3) cursive; and (4) non-cursive.

Q. Does this mean that document examiners can do just as well in identifying the author of handprinted and nonhandprinted documents?

A. I don't think that is what is being claimed. It is just that document examiners can do the job when necessary. Obviously, there aren't as many clues. We have to look harder and longer. Handprinted documents are easier to forge. But what the Kam and Lin study shows is that in an appropriate case we are able to identify the author—or rule out the author—of a handwritten document, with a reasonable degree of certainty. We are also able, in an appropriate case, to tell whether there is enough data for us to make such a determination.

Q. How many times have you talked to Mr. Huckabee about this case?

A. Let's see, I talked to him on the phone when he first called. That was about thirty minutes. I talked to him again after I received the original of the questioned document.

Q. What did you discuss at that time?

A. Just that the questioned document by itself wouldn't be of much use.

Q. Then, after that.

A. I called him when the rest of the documents and the depositions came in to let him know that they had arrived.

Q. How long was that conversation.

A. Pretty short. I then spent the next couple of days working on this project.

Q. When was the next time you talked to him?

A. That Friday, after I had reviewed everything.

Q. What did you discuss then?

A. I basically told him what I had found.

Q. What is that?

A. What was in my report.

Q. Can you be more specific?

A. I don't know how. My impressions were what is in my report. That's what I told him.

Q. How long did that take?

A. About an hour.

Q. Did he ask any questions.

A. I'm sure he did.

Q. Like what?

A. Well, I don't remember the specific questions. It seems like there were some questions about how certain I could be, and I told him I was certain enough to say within a reasonable degree of scientific certainty.

Q. Do you remember anything else?

A. Not really, it was mostly what was in my report, explaining my reasoning.

Q. Have you talked to anyone other than Mr. Huckabee about this case?

A. No, unless you mean talking to his secretary a couple of times about how to get some of these documents back and forth.

Q. Do you have any other opinions other than those set out in your report?

A. No, I think my report covers it all.

Q. If you formulate any additional opinions, will you be sure to let Mr. Huckabee know, so that he can let me know.

A. I will do that.

Q. And as I understand it, you do plan to appear at trial in this matter.

A. That is right.