

they were.

232. If Laporte had inquired as to the storage conditions of the Facebook Contract, he would have found that the document was reported to have been stored in a back room, within a hope chest in a home in the state of New York.

233. The house itself was reported to be not heated and one, which required the water pipes to be drained each Fall to prevent them from breaking due to icing and freezing conditions.

234. Cold conditions have been widely reported as a condition that slows down the aging process of ink. (See Weyermann, et al., “A GC/MS Study of the Drying of Ballpoint Pen Ink on Paper, Forensic Science International, 168 (2007)) (See Exhibit 11)

235. Without a full understanding of the storage conditions of the Facebook Contract as well as a determination as to the cause of his purported unusually high levels of PE in the damaged document, there can be no weight given to his finding.

236. There are two forensic standards in the area of ink analysis, both published by the American Society for Testing and Materials International. Neither standard deals with ink “age” determination or the Laporte methodology using GC-MS.

237. There is no published standard for ink age determination, specifically the Laporte method. (See Exhibit 12)

**238. Defendants’ Two Printer Theory is Wrong:**

239. In Defendants’ expert Frank Romano’s report (Document 327, page 9 of 41, para 3-5), he states that the two pages of the Facebook Contract

were printed on two different laser printers.

240. Romano bases the opinion on his conclusion that page 1 was printed on a laser printer that used “scaling and resolution enhancement technologies,” while page 2 was not.

241. Romano further states that the lines that make up the typed characters on page 2 are “relatively jagged,” different than page 1.

242. Romano’s final conclusion is that the Facebook Contract is an “amateurish forgery” (Document 327, page 3 of 41, para 5).

243. Making that determination from the evidence in this case is improper and is not generally accepted in the field of document examination. The reasoning follows:

244. What Romano failed to report is that scaling and resolution enhancement technologies have been available in both printers and software packages for many years (See Exhibit 13).

245. Furthermore, Romano failed to mention that if page 2 was scanned in from a different document or file and then connected to page 1 once page 1 was created, then it is quite possible that the two pages could bear different qualities under microscopic examination, as well as different fonts, spacings, margins, etc. It does not in any way allow for a conclusion of “forgery.”

246. To evaluate the “jagged” edges mentioned by Romano, it is necessary to examine his scanned images, photographs, notes and any metadata information connected to his electronic files. To date, we have not been provided that information.

247. Romano is *not* a forensic document examiner, nor has he

indicated any training in the field. (See ASTM Standard Guide for Minimum Training Requirements for Forensic Document Examiners E2388-05) (See Exhibit 7)

248. To reach any conclusion regarding “forgery” is both reckless and unsupported by Romano’s background and training.

249. Why is a person with no forensic document examination training opining about the authenticity of a document? Tytell is more qualified to offer such an opinion as he has examined printing processes for many years as a forensic document examiner.

250. Furthermore, Laporte defines himself as a “national expert” in the forensic examination of documents produced using printers and copiers (Document 326, page 2 of 67, para 2). (Note: the designation “national expert” is an in-house designation anointed to specialists within the Secret Service and some other federal agencies. There is no standard defining a person as a local, regional or national expert on printers or copiers.)

251. Why then, would the Defendants’ use an expert that has no forensic training in the field, when they have others that do, to opine regarding the printing?

252. To resolve this question, it would be important to review the, yet not provided case notes, and files of the Defendants’ experts.

**253. Defendants’ Page 1 Substitution Argument is Wrong:**

254. Defendants’ expert Gus Lesnevich, purports to have “proven” that there had been a substitution of page 1 of the Facebook Contract sometime prior to July 2011 (Document 329, pg 4 of 46, para 2).

255. As his “proof” Lesnevich produced numerous images along with

arrows of the scanned page 1. These scanned images were obtained at various stages of the examinations previously conducted on page 1.

256. Note: It is extremely important for both Plaintiff's and Defendants' experts to be examining the same evidence. It is clear that Lesnevich either

- 1) was given less than the best images that were available or
- 2) Lesnevich himself printed out images and then conducted tests on those poorly resolved printed images.

257. One example of his mistake by not using the best available images is in the document Lesnevich used and called "Q-1."

258. That Q-1 image, according to Lesnevich, is of the "Work for Hire document in TIF file format sent by Paul Ceglia to his attorney Paul Argentieri on June 27, 2010" (Document 329, page 3 of 46, Section III).

259. Upon close scrutiny of the Lesnovich Q-1 image it is obvious that Lesnevich's claim here is *false*. His document Q-1 is clearly not the same as the file Ceglia sent to Argentieri on June 27, 2010.

260. There are very small yellow dots visible in Lesnevich's image. These are clear signs to an expert that the file Lesnevich is using and calling "Q-1," was printed on a color printer or copier.

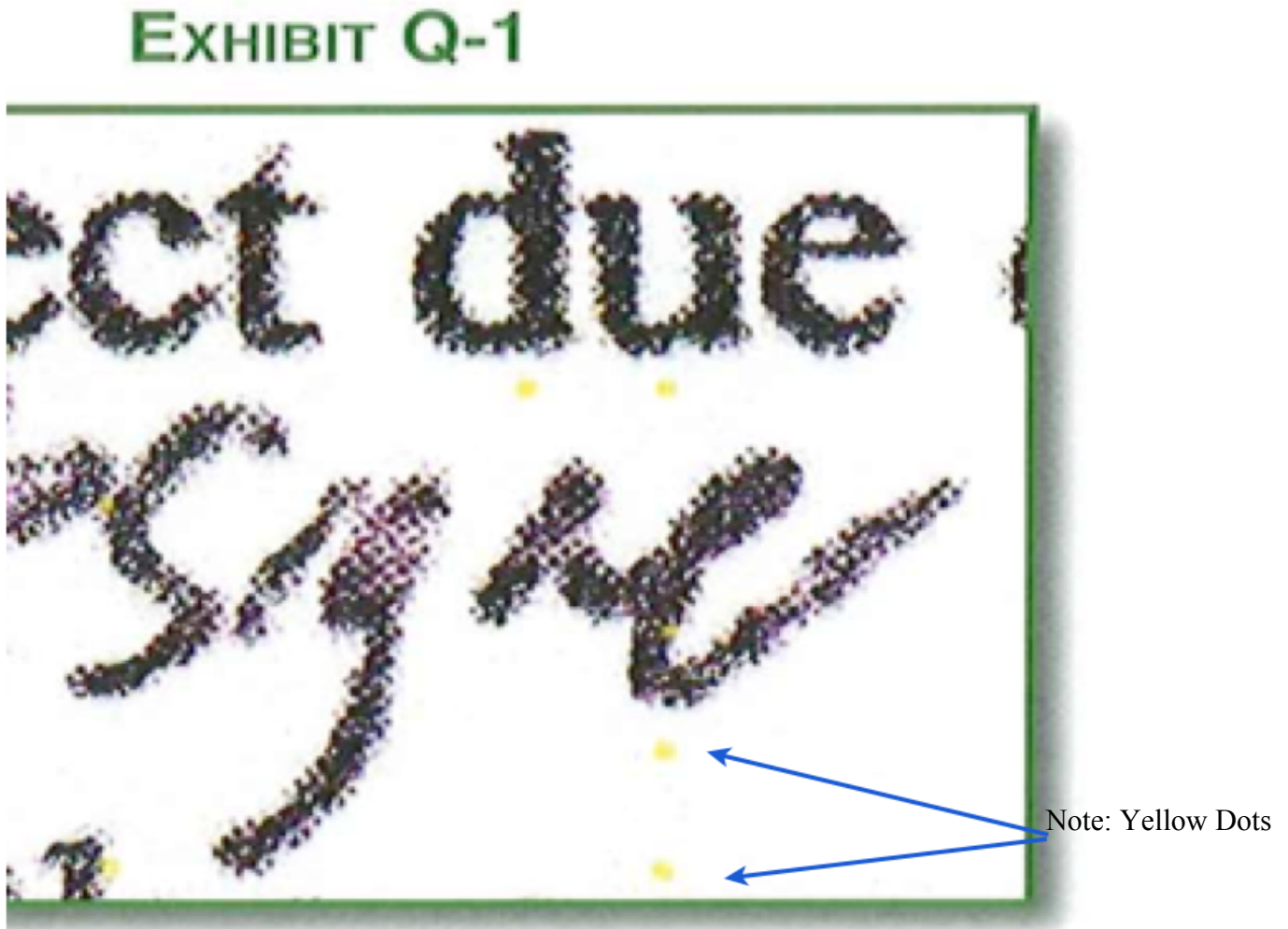
261. Those yellow dots are not found on the file Ceglia sent to Argentieri on June 27, 2010.

262. Basic, modern, color printers and copiers use yellow, cyan, magenta and sometimes black toners in order to produce images.

263. Printing a document on a color printer or copier would typically

cause a detrimental effect on the resolution of the printed characters. This effect is especially visibly noticeable when a document printed this way is enlarged.

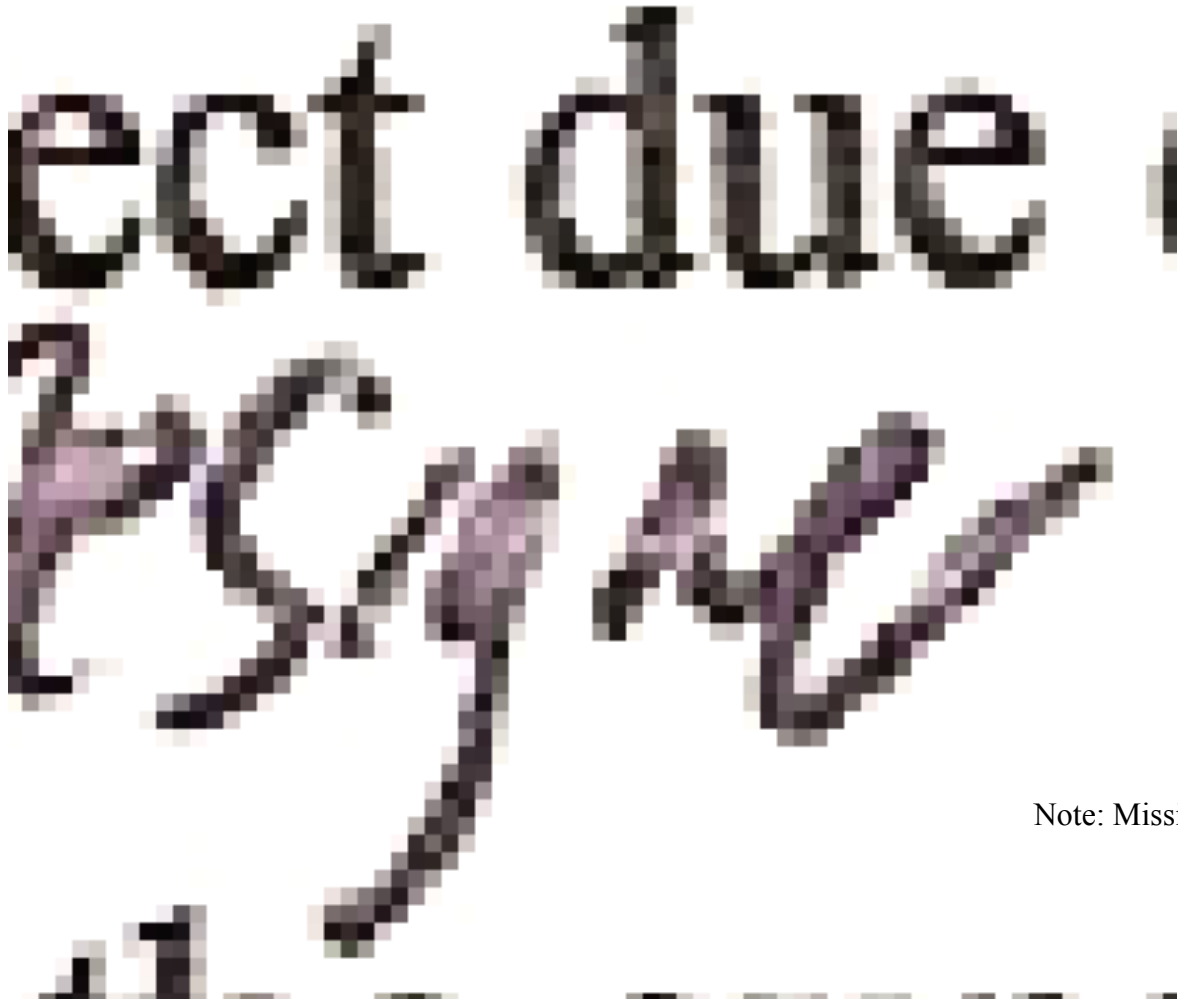
264. Below is a cropping from Lesnevich's Exhibit Q-1 as shown in his Figure 10 (Document 329) clearly showing the yellow dots resulting from the file being printed on a color printer or copier:



265. Comparing Lesnevich's image to the best generation of the

original obtained directly from Argentieri (Lesnevich “Q-1”), it is clear the yellow dots are not present.

266. Below is the same area of the Lesnevich “Q-1” image obtained directly from Argentieri. This represents the best version (closest available to the original) of the Q-1 document:



Note: Missing Yellow Dot

267. Most importantly for the Court, Lesnevich attempts to draw conclusions from comparison of the images when at least one of his images has been manipulated.

268. Following is a side-by-side comparison of the two images clearly indicating that Lesnevich used a different copied or printed image; an action that clearly affected the resolution and his conclusions. (See Exhibit 14):

EXHIBIT Q-1

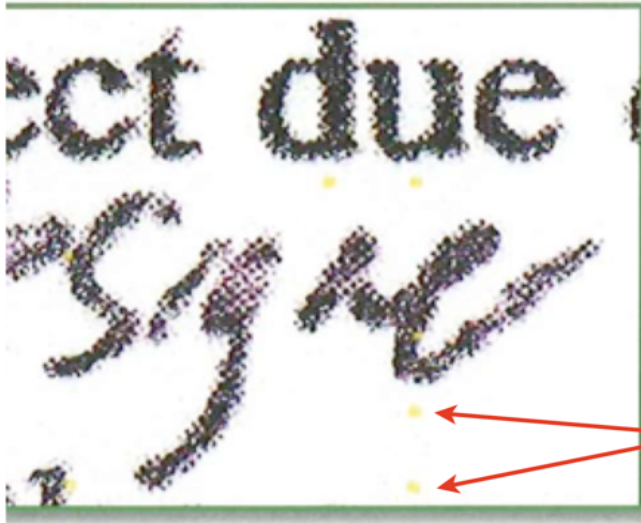


Image used by Lesnovich as his Q1 document.

Note the yellow dots, indicative of printing on a color printer or copier. These aren't found on the original.

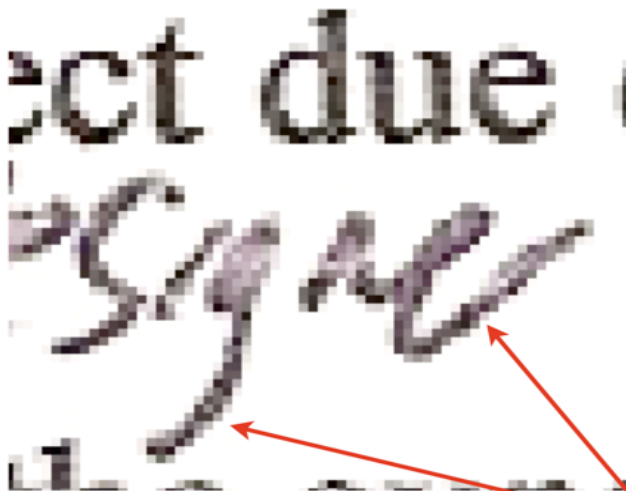


Image obtained directly from Argentieri of the original of the "Q1" document.

Note the differences in the shapes of the letters, thicknesses of lines, and edge detail. The original image has "stair-stepping." When a color computer printer or copier tries to interpret stair-stepping it causes changes in the appearance of the edges of the characters.

269. Lesnevich concluded, “Ceglia produced at least two different physical documents purporting to be the same document.” (Document 329, page 4 of 46, para 3)

270. If Lesnevich was correct in that there had been some substitution of page 1 of the Facebook Contract then it would necessarily imply that some change had occurred between the pages that were substituted, otherwise, why substitute?

271. Electrostatic Detection Apparatus (ESDA) images show indentations of the interlineation found on page 1 of the Facebook Contract on page 2. That then would necessitate the handwritten interlineation found on page 1 was written while that page was physically on top of page 2.

272. Lesnevich took four non-original (reproduction) images of the interlineation found on page 1 of the Facebook Contract and reached a conclusion that the images prove a page 1 substitution (Document 329, page 4 of 46, para 3). I disagree with his finding.

273. He reached his conclusion by determining that the four images were from two separate groupings, thus allowing him to reach a conclusion of two separate versions of page 1 (Note: the wording found in the interlineations present on all four of Lesnevich’s images is the same (See para 270 above)).

274. It is my opinion that Lesnevich misinterpreted his images. My reasoning follows:

275. If we examine the best image from Lesnevich’s two groups, i.e. the page 1 before and after the supposed substitution of a different page 1, the interlineation handwritten entry is in alignment with the printed



characters in the same positions between the 2 groups.

276. From a handwriting examination point of view, this mere observation alone demonstrates that the pages were not substituted.

277. I conducted an experiment to best show this observation. I utilized the clearest image from each of Lesnevich's two groupings. Following depicts the experiment and observation (See Exhibit 15):

Lesnovich has implied that there was some change in the pages of the WFH document sometime between his Q1 and Q2 images and his Q3 and Q4 images. Following is an experiment comparing the position of the interlineation writings to the printed document on the best (clearest) sample of each of his two groups.

Q1 from Lesnovich. Tif sent by Ceglia to Argentieri 6/27/10.

each day the project is delayed beyond that point.  
I agreed upon project due date for the StreetFax software is  
Providing web design is finished by May 27, 2003  
on completion for the expanded project with working title

I agreed upon  
Providing  
on completion

te for the  
finished

is

I agreed upon  
Providing  
on completion

te for the  
finished

is

Q3 from Lesnovich. Aginsky scan from 1/13/11 examination.

each day the project is delayed beyond that point.  
I agreed upon project due date for the StreetFax software is  
Providing web design is finished by May 27, 2003  
on completion for the expanded project with working title

278. What Lesnevich is observing and calling evidence of “forgery” are, instead, completely natural nuances that develop from multigenerational copies, and/or different scanning, printing, and software formatting methods.

279. Experts in the field recognize the capacity of these types of changes when documents are processed in a fashion such as the images used by Lesnevich have been.

280. In his image, Lesnevich shows handwritten letter formations that are in some cases connected and in others they are not, thus according to him they are different documents (Lesnevich Figure 10).

281. Lesnevich failed to consider the effect of multigenerational copying, scanning and/or printing. Furthermore, Lesnevich misinterpreted differences caused by resolution, printer operations and reproduction methods.

282. Lesnevich is wrong for reaching his conclusion of a page 1 substitution in the Facebook Contract.

283. I base this on the easy test of recreating similarities to Lesnevich’s observations by simply scanning an image of the same document two different ways and then observing their images once enlarged.

284. I conducted an experiment by taking a high-resolution scanned image of page 1 of the Facebook Contract. I used an image taken after the document was already held in secure storage so there could be no argument regarding page substitution. Next, I compared that highly resolved image against one from the scanned image of the document Ceglia emailed to Argentieri at the beginning of this case on 6/27/10.