

285. The Ceglia to Argentieri scan (Lesnevich "Q-1") is poor resolution as can be noted by the stair-stepping or jagged edges found along the characters once the image is enlarged.

286. Following is the experiment that clearly shows that the same document, simply scanned at different settings can create the appearance that characters sometimes merge. (See Exhibit 16):

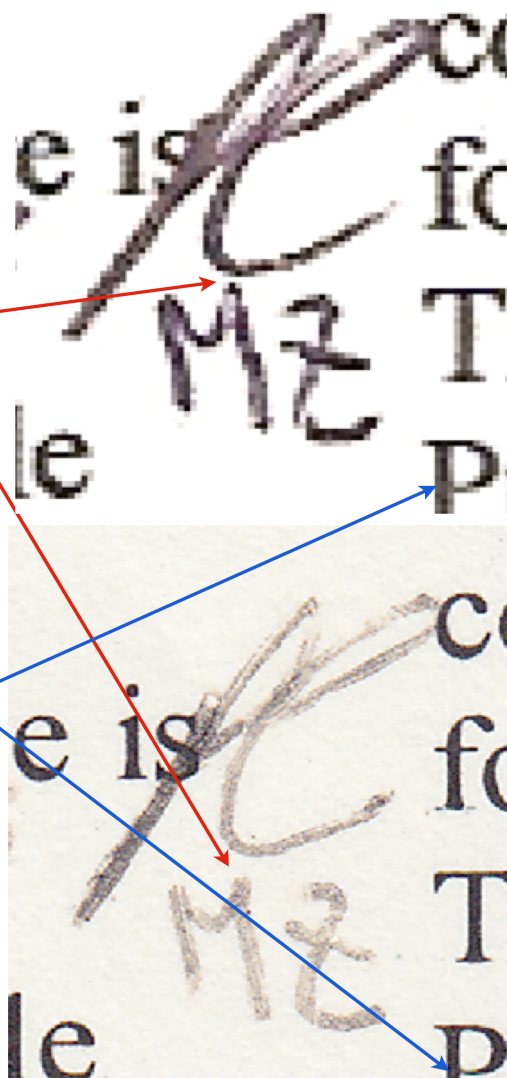
Comparison of poorly resolved scanned image of the WFH Pg1 to high resolution scanned image taken after forensic testing began and the document was in secure storage:

Here we have two images that were simply scanned at different settings creating similar anomalies to what Lesnovich is pointing out. This doesn't imply wrongdoing, but instead computer scanner setting differences.

Lesnovich's Q1 - Image from Ceglia email to Argentieri 6/27/10 (Note: Poor resolution)

Look at the difference in thickness within the vertical staff of the printed "P" in the lower right corner. The difference in thickness can cause the letters to merge or appear to close in on each other.

High resolution scanned image taken 7/15/11



287. In another instance, Lesnevich describes that the letters dramatically change in slant between the two document groupings again, in his opinion, indicating that page 1 had been substituted (Document 329, page 6 of 46).

288. There Lesnevich goes so far as to report that in one group of documents the interlineation lettering slants downward while in the other they slant upward again, leading Lesnevich to the opinion that page 1 had been substituted with a different page 1 by Ceglia (Document 329, page 4 of 46, para 3).

289. On the surface his argument seems quite convincing, but if you examine his results closely it is easy to see his mistake.

290. If Lesnevich wished to compare the angularity of lettering between two scanned or printed images, he would, at minimum, need to conduct his experiment similarly between each image.

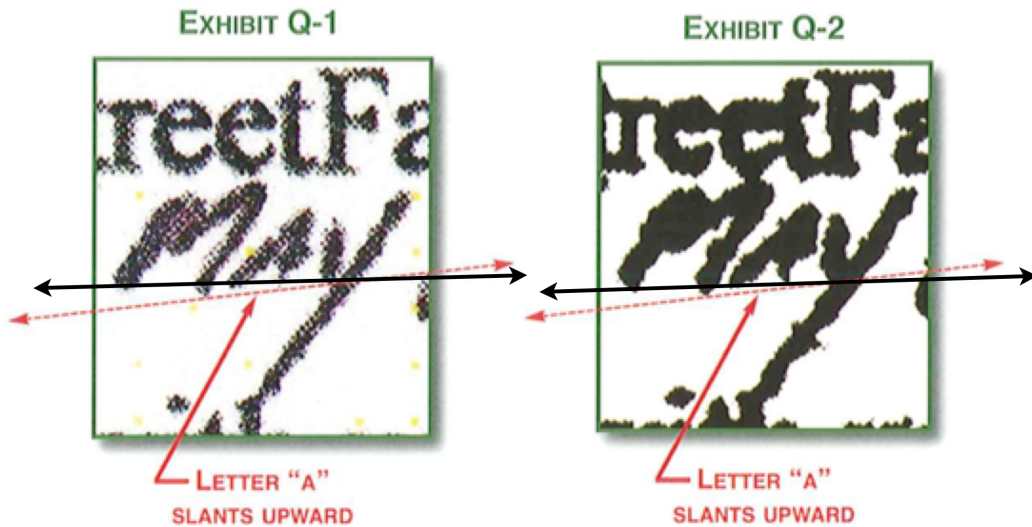
291. A proper experiment would be one where the slant was measured by drawing a reference line similarly in each image.

292. Lesnevich did not draw the reference lines similarly. Instead he misled the Court by providing an improper experiment, one where his reference lines were not consistently drawn.

293. Proof of the misleading nature of Lesnevich's argument is his intentionally misleading method of drawing the reference lines in the exhibits he presented to the Court.

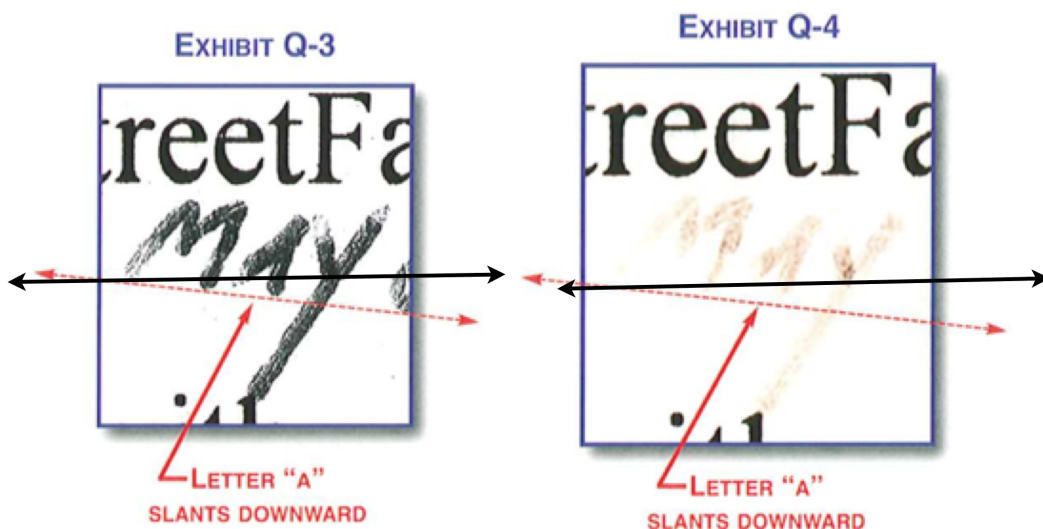
294. In those exhibits, Lesnevich does not even draw his arrows that he uses to show the "different" slant the same way, therefore pushing the viewer into an inaccurate observation.

295. Following is a diagram showing his Figure 3 and the inaccuracy of his line drawings (See Exhibit 17):



The red arrows are placed inconsistently by Lesnevich. The black arrows were placed by me consistently to show his error.

"WORK FOR HIRE" CONTRACT
LETTERS "A" FROM THE WRITTEN WORD "MAY"



296. In the figure above, you can see where Lesnevich drew his red arrows to show what he perceives as a different slant between the Q-1 and Q-2 document versus the Q-3 and Q-4 document. The black arrows are mine.

297. If you look closely at his red arrows you can see that he did not place them consistently on the images. As an example in Lesnevich's Q-1, you can see he drew the red arrow from a point well below the leftmost staff of the "M" in "MAY" and drew it across to the junction between the bottom of the bowl and where it meets the staff of the "Y" in "MAY."

298. Now, if you draw your attention to Lesnevich's Q-3 image you will see that he drew the arrow completely differently. There he draws it from the bottom edge of the left staff of the "M" in "MAY" to the junction between the bottom of the bowl and where it meets the staff of the "Y" in "MAY."

299. To correct his error, I placed the black arrows the same way for each of the images. The black arrows extend from the bottom edge of the left staff of the "M" in "MAY" to the junction between the bottom of the bowl and where it meets the staff of the "Y" in "MAY." When the arrows are placed consistently, as in my black arrows, you can see that the images in fact do have a consistent slant from the beginning of the word to the end of the word.

300. Lesnevich placed his attention primarily on the letter "A" within the word "MAY." In so doing he mislead the Court into not considering the entire word as well as not considering the effect on letter shape, size, edge detail and spacing that can come from differences in software, as well as printer and scanner resolutions. Following is an experiment showing that the

same document can be scanned and printed and then the two appear to have differences in their printing characteristics, when in fact they are the same document:

In this experiment, text was typed using Arial 12 pt font on a Mac using the Pages program. That is shown below under the heading "Original typed print." That file was then printed on a Toshiba 3510C printer and then faxed back to myself twice at 200dpi. That resulting image is shown below as "Scanned, and emailed twice at 200dpi on a Toshiba 3510C."



We know these two images were created from the same document. We can see variations in angles, spacing between letters, shapes of letters and edge details of letters.



301. Defendants' Expert's Claim of Different Papers is Wrong:

302. Laporte attempts to show that page 1 and page 2 of the Facebook Contract are different papers based on his measurement using a micrometer. He states that his micrometer is accurate to 1/10,000th of an inch (Document 326, pg 12 of 67, para 1). That is a false statement. Handheld micrometers will vary in measurement readings based on many factors, to include how tight the user turns the knob. This could certainly explain any reported difference of 1/10,000th of an inch.

303. Furthermore, for Laporte to report a difference in the paper used to create pages by measuring the two pages as 0.0042 +/- 0.00005 inches and 0.0043 +/- 0.00005 inches is equally ludicrous since the two measurements can be equal based on his own reported variance (i.e. $0.0042 + 0.00005 = 0.00425$ and $0.0043 - 0.00005 = 0.00425$).

304. Paper Composition Analysis Shows Defendants are Wrong:

305. Laporte, Lesnevich, Romano and Tytell each concluded that page 1 of the 2-page Facebook Contract was substituted at a later date. Interestingly, the paper used for the two pages has been analysed and determined to have a fiber content consistent with the two pages "coming from the same mill and production run." (See report on paper testing by paper expert Walter Rantanen) (See Exhibit 18)

306. Likewise, the two pages exhibited consistent reactions for starch and pH levels.

307. These paper tests were conducted by Walter Rantanen, the Technical Leader of what is considered a predominant paper testing facility in the country; Integrated Paper Services, Appleton, Wisconsin.

308. It becomes a stretch of the imagination for the Defendants' experts to argue that the two Facebook Contract pages were created separately, at widely different times, and on different systems, when we now know the pages are consistent with being from the same paper mill and production run.

309. Defendants' Own Experts Disagree About the Ink:

310. Lyter, the more experienced of the two Defendants' ink experts, determined that no result could be achieved from the ink analysis of the Facebook Contract as the ink was,

“deteriorated in a way that changed the chemical composition.”

310. Because of this deterioration, Lyter chose not to opine regarding identification of the ink(s), or the ink age (Document 328, page 9 of 13).

311. On the other hand, Laporte (the lesser experienced ink expert) attempts to further the argument of a page substitution by reporting that the inks used to sign the Ceglia and Zuckerberg signatures on page 2 of the Facebook Contract are different than the ink used to create the interlineation, found on page 1 (Document 326, page 26 of 67, section 5d).

312. Here, Laporte misleads the Court by implying that the finding reveals that the 2 pages of the Facebook Contract “were not produced contemporaneously, at the same time ...”

313. In addition, Laporte has misled the Court by not explaining that there is no way to determine the amount of time that lapsed between filling in the interlineation and signing the two signatures on the back page.

314. Laporte determined that the Ceglia and Zuckerberg signatures found on page 2 of the Facebook Contract were signed with different inks

(Document 326, page 26 of 67, section 5d).

315. Using Laporte's biased logic, Laporte should have also argued that the two signatures found on the back page were themselves also not produced *contemporaneously*.

316. In fact, it would be very difficult to ever have two signatures on a document that were created at the exact same time as logically one would be written before the other.

317. Laporte's definition of "contemporaneous" can in no way be used to imply deception.

318. It implies no wrongdoing, that two people used different pens when signing their own names to a document.

319. Equally, it implies no wrongdoing that the interlineation was placed on page 1 of the Facebook Contract while using a third pen.

320. What is important here is whether Ceglia and Zuckerberg created and signed the completed Facebook Contract.

321. Laporte's Personal Attacks Against the Plaintiff's Experts:

322. Laporte takes the opportunity here to use his forensic report as a platform to disparage some of the Plaintiff's experts, to include myself.

323. As far as qualified and reputable forensic examiners go, one would seldom find an instance where an analysis report was used as a platform for such comments.

324. In the case of Laporte, it has become quite common for him to try to eliminate opposing experts by providing one-sided information to the Courts.

325. He cloaks his personal attack against me by indicating it is a “matter of disclosure” (Document 326, Page 20 of 67, para 2). He proceeds to describe how he testified against me in a federal perjury trial.

326. The trial he is speaking of was the 2004 Martha Stewart/Peter Bacanovic trial in the Southern District of New York. I was the sole federal forensic expert asked to testify on behalf of the Government.

327. Nearly five months after Martha Stewart and Peter Bacanovic were found guilty and just before their sentencing there were threats by the Defendants’ team of a multi-billion dollar suit against the government for wrongful prosecution, based in part on the notoriety of the accused.

328. I was questioned about my knowledge of the subject. I provided first hand information regarding a meeting in the prosecutor’s office during which the Chief Prosecutor disclosed pertinent case background information.

329. The next day following my questioning I was told I was being charged (by that same prosecutor’s office) with perjury for my testimony from five months earlier.

330. Afterwards, I found out that Laporte and another of my subordinates had obtained a transcript and then accused me of not testifying truthfully at the earlier trial.

331. The substance of their accusation dealt with whether I (myself) had conducted forensic examinations, in the case and whether I had knowledge of information found in a book Laporte was writing a chapter for.

332. Luckily, I had kept copies of the pertinent documents, experiments, notes, etc. that precisely showed my involvement in the analysis of the evidence and preparation for the trial.

333. It was made clear to the jury that I had, in fact, testified truthfully. I was completely exonerated at the trial and found ***Not Guilty***.

334. Based on Laporte's previous and numerous similar attempts to disparage my impeccable reputation, I was informed that it is a matter of fundamental law that arrests which do not result in convictions are inadmissible, either as proof of guilt or for impeachment (People v. Williams (2009) 170 Cal. App. 4th 587, 88 Cal.Rptr.3d 401).

335. In a video readily available online, Laporte discusses his views regarding testifying as an expert witness. The video can be found at:

(<http://videocast.nih.gov/Summary.asp?file=16335>) (Time 7:10-7:56)

336. In the video, Laporte states,
“every time you testify, people are attacking you.” He characterizes these as “personal attacks” that are “part of the game” and that testifying as a forensic expert is a “mental fencing match.”

337. Laporte ends by stating,
“it gets old”

338. Despite his own words, Laporte continues to initiate and engage in this demeaning activity as evidenced by his March 25, 2012 report.

339. Laporte, presenting himself as a “scientist” should understand that the courtroom should be no place for such personal attacks.

340. Laporte maintains a respected position in our Washington D.C. Government while at the same time is a partner/owner and maintains a caseload within a private forensic laboratory in Michigan.

341. That private forensic laboratory performs casework where the