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It is not surprising that the average lawyer is somewhat at a loss to know just what to do when a suspected document case comes into the office. While it is true that, taking the whole country over, there are hundreds of these cases each year, they are somewhat rare in an individual lawyer's experience. His law books furnish him no help in taking up such a case, and he may be at a loss to know what procedure to follow.

Even though he has never had such a case, however, he can do something at once that may be helpful. He should not simply mull over the matter and gaze at the ceiling of his office waiting for an inspiration, but should begin action immediately.

The first and most important question about a surprising document is whether or not it is genuine. All subsequent action in the matter, of course, depends upon this fact, and the most reliable information on the point should be obtained as soon as possible. In some instances a suspected document should be rushed to a competent specialist as an appendicitis patient is rushed to a hospital. Before receiving any outside assistance, however, the lawyer can do certain things that may throw light on the problem.

He should at once study the probabilities in the case and without delay should interview and cross-examine those whose interests are attacked by the suspected document; he should also if possible interview the claimant and hear the story of the document in detail. The claimant, hoping for a favorable settlement, may at this point talk freely and even consent to talk without a lawyer being present.

The witnesses to the document, if they will talk, should be interviewed, as well as those who will later support the document by testimony. The witnesses who will assail the document should be consulted in order to learn in detail why they think the document is not genuine. The lawyer who represents the claimant should also be interviewed in order to get as much of the story as he is willing to give.

The attorney will also investigate the record of the "dear friend" or co-conspirator who usually appears prepared to testify to the actual signing of a forged document. This party should be interviewed, if this is possible, and careful notes made of all statements. In many instances this testimony is too good to be true, too definite, and exactly answers every requirement; it is sometimes reported where everyone sat and just what each one said ten years before.

The cashier of the bank where the alleged signer of the document kept an account should be seen at once and should be engaged to examine the document later. The lawyer will also immediately begin to gather genuine signatures, at the bank and elsewhere, that

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can later be used for comparison and will interview, and perhaps engage, the services of any other local bank clerk or bookkeeper who previously has testified as to the genuineness of handwriting.

If one is available, the lawyer will perhaps engage an honest, discreet, and experienced investigator, or detective (always with caution) who may obtain information that will have a bearing on the claim. He will also interview friendly attorneys who have conducted cases of a similar kind, for information regarding expert witnesses whom it may be advisable to consult; he will write to attorneys in other cities who have had important cases of this kind for definite information regarding the competency and reliability of experts who may have testified for them. If he has dependable information on the subject, he will at once write, or better telephone, to the expert who has the highest standing, making a definite engagement for an interview or an examination of the suspected paper. The telephone and the airplane have greatly widened the field of all specialists.

He will at once make arrangements to have the suspected document correctly photographed (not photostated) in natural size, and in signature cases, the signature enlarged two to three diameters (one inch to two or three inches) with prints carefully printed on glossy paper showing the utmost detail.

One of the most common mistakes at the beginning of a suspected document inquiry is the hurrying of the document to a maker of white on black photostatic reproductions for a copy of the document. The error is based on the incorrect assumption that a photostatic reproduction is just as desirable as a correctly made photograph. For a study of the content of the document, a photostat is unobjectionable, but if there is doubt of its genuineness, a photostatic reproduction should never be depended upon. The process aims to make every stroke legible and distinct and this excessive contrast often hides evidence of forgery.

If the document is typewritten and its source is not known, typewriting specimens should be gathered from all the possible sources of the document. If the document purports to be several years old, then the age of the typewriting should be carefully investigated.

If a suspected document is written on unsuitable paper, not rectangular, and especially on a small piece of paper, cut on any side by hand, and if any erasures appear, even indistinctly, then careful investigation should be made to discover if possible whether the document was not made from a previous document containing a genuine signature.

If the paper on which a suspected document is written has a watermark and the document purports to be more than a year old, the watermark should be copied on a film by a very short contact exposure in the photographic dark room, and the later print from the film should be carefully made by contact. Certain of the leading paper makers are now "keying" watermarks to show the year the paper was made, a practice distinctly in the interests of justice.

If the suspected document purports to be several years of age, and the ink looks bright and fresh then the ink

should at once be tested and compared with ink writing of a date coinciding with the date of the document. It is usually reasonable to assume that an actual forgery was recently made following some other event in the history of the estate.

All of these things cannot of course be done in every case, but some of them are very important and may have a significant bearing on the final outcome of the litigation.

Finally, the lawyer will take from his own shelves, go to the bar association library, or borrow from some lawyer friend the best treatise on the subject of suspected or disputed documents and begin an intense study of the subject. He will also ask his chief clerk to make a collection of legal references of disputed document cases in his state and in other states.

Whatever his investigations may uncover, the discreet attorney does not disclose to the whole town any crucial evidence that is damaging to a suspected claim. Both sides may talk too much and thus weaken a final attack; the careful attorney neither boasts nor threatens. In some cases in offices and homes, and even on street corners, the evidence in a case is discussed before the case is tried. This condition is always of advantage to fraudulent claimants who prepare to meet the opposing evidence.

It should be kept in mind that a document is not a forgery simply because it disappoints someone, and premature accusations should always be avoided. Even the expression of suspicion, or of critical gossip, may be unwise if not dangerous. At the beginning, those who represent the interests of relatives or heirs who would naturally attack the document should say: "If the document is genuine, it will be paid; if it is not genuine, it will be assailed by every means at our command."

In some instances those interested in a suspected document refuse to allow it to be examined and photographed, but those who expect to profit from a document cannot keep it permanently in hiding. There is a certain type of lawyer who acts on the theory that some advantage is gained by causing as much cost, trouble, annoyance, and delay as possible to the opposition. This conduct often adds to the suspicion surrounding a document. Eventually, the document must, of course, be shown and subjected to a proper examination.

In no case should reliance be placed on a stand-up, sidewalk opinion regarding the document. The most incompetent examiner takes the shortest time for an examination and may require only one genuine or standard signature for comparison. Time should always be taken to consider carefully every element that may have a bearing on a final opinion.

As a rule, forgery is a clumsy and unskilful performance because, unlike most crimes, it usually is the work of an inexperienced operator. To the competent and experienced examiner the usual forgery is a crude piece of work but in all cases should be thoroughly examined. There are borderline, difficult cases in which the qualified specialist hesitates to give a positive opinion, but these cases are rare.

Of course the most thorough and complete preparation of a disputed document case may be completely nullified and rendered valueless at a trial by an unskilful trial attorney. Even a good case is easily wrecked at a trial. In some instances these technical cases should be conducted by experienced counsel who make a specialty of trial work.

No doubt justice would be promoted in many instances if these cases were tried before a judge without a jury. There are, of course, opinionated and exasperating judges, but they have one quality that the juror does not possess and that is experience.

The most essential preparation of trial counsel in these cases, which aim to solve a difficult scientific problem, is a thorough knowledge of the technical subject being considered. At least one book on the subject should be read and parts should be intensely studied by trial counsel so that the evidence can be correctly and convincingly presented in direct examination, in cross-examination, and especially in final argument and arguments on objections. Many trial attorneys unwittingly disclose the damaging fact that they do not know just what the case is about. Some attorneys refuse to make a technical study of the subject of disputed documents, and they inevitably expose their ignorance.

Actual forgery is always accompanied by deliberate and sometimes highly skilled perjury. A fraudulent document is not brought into court without advance preparation to show that it is genuine. With the aid of sympathy and prejudice, always present, and in some courts a prejudiced judge, decisions against the facts are still made. The trial of a disputed document case is not now however the almost hopeless proceeding that it was thirty or forty years ago. With thorough and efficient preparation, and capable trial counsel, the facts can now be proved in most courts, and unjust decisions are rare.

With the new laws and the improved procedure in the majority of courts in most states, with the admission of suitable genuine writings as standards of comparison—formerly all excluded—, with illuminating enlarged photographs —formerly all excluded—, with suitable instruments and accessories—formerly all excluded—, with detailed reasons for opinions in testimony—formerly all excluded—, and with informed trial counsel and thorough preparation the facts in the usual disputed document case can now be proved.

There has been a revolution in the trial of cases of this kind during the last generation of lawyers and judges. With the new laws and the new procedure, and especially with permission given the qualified technical witness to present not only the reasons for an opinion but the detailed reasoning by which the opinion is reached and justified, a New Profession has been created. Decisions in the great majority of cases are now in harmony with justice whether rendered by a judge or by a jury.