



E55 Exposing a Document Examiner's Flawed Analysis in a \$300 Million International Bank Fraud Case

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After attending this presentation, attendees will: (1) have a greater appreciation of the need to use a competent board certified Forensic Document Examiner (FDE) at the outset of any case dealing with a questioned or disputed document and will know more about how to find and select such an expert; (2) learn about some of the basic examination procedures used by FDEs to detect altered documents and how such evidence is effectively presented in court; and, (3) learn the distinction between various certifications claimed by forensic experts, how to evaluate the stated credentials of a given expert, and what information contained on an expert's resume should be clarified before hiring an expert.

This presentation will impact the forensic science community by providing all stakeholders in the administration of criminal or civil justice – experts, lawyers, and judges – with a better understanding of the need for more meaningful training, certification, and proficiency testing of forensic experts.

The case presented highlights the need to have meaningful training, certification, and proficiency testing of forensic experts and why lawyers must exercise greater due diligence when selecting an expert.

In 2006, a lawsuit was filed in U.S. District Court, SDNY against the largest bank in the Philippines, to enforce a "Manager's Check" in the face amount of twelve billion pesos (equivalent to 225 million U.S. Dollars) that was allegedly issued by one of its municipal branches on March 21, 2000; the lawsuit also sought damages of \$75 million dollars, representing interest accrued since the negotiable instrument was issued. In two well-written decisions, U.S. District Court Judge Sheira Schindlin initially granted the bank's motion to dismiss the complaint on the ground of *forum non conveniens*; several months later, upon a motion to reargue, reversed the earlier dismissal and determined that the trial of the action should be heard in the United States and not the Philippines.

The Plaintiff retained a document examiner with twenty years of experience in federal and state crime laboratories to examine and determine the authenticity of the Manager's Check in dispute. The Plaintiff's document examiner was not a Diplomate of either the Board of Forensic Document Examiners (D-BFDE) or the American Board of Forensic Document Examiners (D-ABFDE), both FSAB-accredited boards; nor was he a member of the American Academy of Forensic Sciences (AAFS). In addition to claiming expertise in document examination, the Plaintiff's expert claimed expertise and certification in fingerprint identification.

After examining the original Manager's Check and an original specimen of a contemporaneously issued "Cashier's Check," the Plaintiff's document examiner submitted a written report describing the results of his microscopic and optical examinations of the original documents submitted to him, opining that the "Manager's Check" was "consistent with being a genuine instrument" and "displayed no irregularities." Thereafter, a board certified forensic document examiner (D-BFDE) with more than thirty years of experience was hired by the defendant bank to examine the very same documents.

In this presentation, the fascinating background and intrigue surrounding this federal court case will be relayed and the actual photographic and digital evidence presented to U.S. District Court will be displayed. It will be illustrated how the forensic examinations of the very same documents examined by the Plaintiff's expert revealed significant irregularities that led to irrefutable, demonstrative proof that the Manager's Check at issue was an outright forgery. The proof presented, which was subsequently confirmed by another board certified document examiner (D-ABFDE) retained by Plaintiff's counsel to examine the evidence and review Mr. Sulner's findings and conclusion(s), will illustrate how a standard bank check was altered and converted into a purported official bank check and negotiable instrument. Using this case as an example of how poor forensics can adversely affect the administration of justice, the need for more meaningful training, certification, and proficiency testing of forensic experts, why lawyers need to exercise greater due diligence when selecting an expert, and how lawyers should go about selecting an expert will be discussed.

Flawed Document Exam, Exposing FDE Error, Flawed FDE Findings