

TECHNOLOGY REPORT

Signature disputes and the expert opinion



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This article, originally titled Limited Exemplars and Their Use in Forming Expert Opinions, appeared in "Journal of The National Association of Document Examiners," Volume 22, No. 3, Fall 1999. This version has been edited for the legal professional.

The uncommon Greek name Athanasios Andy Monstis was seldom written by the decedent who regularly wrote his nickname signature Tom Monstis throughout his lifetime. However, upon his death in 1996 at age 68, a will dated Sept. 18, 1992, bearing his uncommon three-name signature Athanasios Andy Monstis (See Figure 1) was brought forth by his son, our client, who claimed it was genuine. The existence of this 1992 will was completely unknown to the current wife of the decedent. She contested it, claiming that

Figure 1: The disputed signature

Published from:
Oregon Trial Lawyers Association
Summer 2001

the signature was forged. She substantiated her assertion by merit of the existence of a prior will in her possession, which bore the uncontested nickname (the two-name signature Tom Monstis) executed in 1985 (seven years prior to the disputed 1992 will).

To support a reliable expert opinion resulting from a forensic examination of a disputed signature, this examiner aims to conform to the highest standards of scientific approach set forth in the field of forensic document examination. In comparing signatures for forensic purposes, a useful exemplar (also called a standard or control) is defined as an authentic signature acceptable or provable to the court as such, and one which is a valid comparison to the questioned signature.¹

Examination Criteria

In court, the following criteria were offered regarding usefulness of exemplars in handwriting examination. The best signature exemplars² are:

- Of the same nature (same wording/spelling)
- Legible
- Sufficient in quantity
- Provable as authentic (size and source verified)
- Contemporary in date

To meet the first criterion, useful exemplars of the same wording and

spelling as the questioned signature were needed. It was essential that these repeated the seldom written three-name signature with the notable spelling of Athanasios Andy Monstis. Useful handwriting (signature) exemplars should recreate the elements of the writing with which they are to be compared.³ The examiner should use comparable exemplars to obtain the most reliable group of observations.⁴

Figure 2: The first set of exemplars

Note: The first set of exemplar signatures is limited for use in forming an opinion. No comparison in wording to the signature in question was observed. Additionally, most of them are illegible.

A first set of signature exemplars was submitted to this examiner. However, the disputed three-name signature of Athanasios Andy Monstis was not
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observed, so the first criterion of exemplar usefulness was not met (See Figure 2).

The first set of 11 exemplar signatures contained only the following nickname signatures:

Tom Andy Monstis
Tom A. Monstis
Tom Monstis

Also of critical importance of regarding comparable wording and spelling is pen scope. Pen scope is the amount of writing done before a notable readjustment in movement or grip, or without a break in the progressive motor sequence.⁵ Pen scope adjustments can be observed by a knowledgeable examiner. However, in an attempt to forge, trace or otherwise write an imitation of

another's signature, the obscure pen scope readjustments can be very difficult to notice and actually replicate.⁶

After an exhaustive search, one three-part signature exemplar of Athanasios A. Monstis was found and examined (See Figure 4). A compelling observation became available: The same pen scope of the five-letter unit *-asios* of Athanasios in the exemplar signature was also observed in the questioned signature written 45 years later on the 1992 will. The same letter forms, sizes, slants and inter/intra letter spacings were also observed. The combination of these observations became an indication of common authorship. At this point in the examination, common authorship was further considered and indicated after the ruling out of a traced signature or cut-and-paste signature based on the microscopic examination of the original document/signature. Also, the questioned signature had the correct spelling of the uncommon Greek name. In order to replicate the signature and correct spelling of Athanasios Andy Monstis, one would need access to a seldom-executed signature model or other background information.

The object of exemplars is to illustrate, fairly and completely, the author's writing habits. To do this, they must be legible—the second criterion. The legibility of the majority of exemplar signatures in the first set (See Figure 2) was quite poor. This rendered them unsuitable, which further limited their use in the examination. The dark, unclear and distorted written images were the result of the process of photocopying from microfilm.⁷

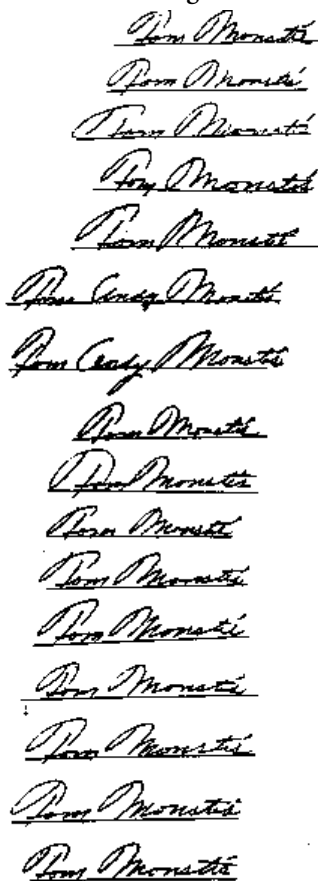
Regarding the third criterion that exemplars should be sufficient in quantity, noted forensic authority Albert S. Osborn states that from five to 25 valid signatures should be used in the comparison process to clearly show the writing habits of the individual under inves-

tigation.⁸ A group of exemplar signatures submitted by opposing counsel was also briefly examined (See Figure 3). Although these 16 exemplar signatures certainly met the criteria of sufficient quantity and legibility, this examiner objected to the fact that they did not meet the critical first criterion of same nature/wording of the three-name signature previously discussed.

Further, the individual selecting these exemplars was a party of interest. The selections could have been chosen with bias toward that person's claim.⁹ This examiner explained to the court the limitations of this particular exemplar group (See Figure 3). The court was advised that this exemplar group was considered unreliable, and therefore this group was not further examined.

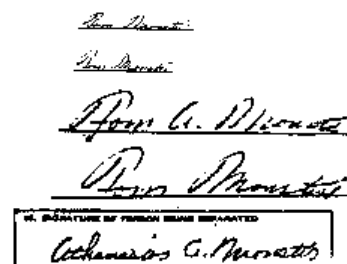
In considering the fourth criterion, that useful exemplars must be provable as authentic, noted forensic authority Wilson R. Harrison states it is essential that all comparison writing be admissible as evidence.¹⁰ Figure 4 shows a useful and provable group of four undisputed signatures written on the decedent's 1985 will and one 1947 signature appearing on his U.S. Army Discharge Form, which was certainly written prior to the dispute.

Figure 3: Unreliable signatures



Note: Submitted for forensic examination by opposing counsel, these exemplars are limited because they do not compare in wording to the questioned signature. They may have been chosen by opposing counsel in favor of their opinion.

Figure 4: Undisputed signatures



Note: The undisputed exemplar group is limited in quantity; however, its usefulness is because the genuineness is undisputed by all parties.

The fifth and final criterion states that ideal exemplars should be contemporary in date with the questioned signature. None of the undisputed and useful exemplars were contemporary in date with the questioned signature.

Even though some of the limitations discussed apply to this group (Figure 4), the signatures were determined by this examiner to be reliable for use in the examination. The stability of observable features over time added weight and significant value for usefulness. First, they yielded a valuable combination of the most compelling observations, which included, but were not limited to, comparable pen scope and lack of variation of letter size, form, slant and spacing. Second, this stability was more compelling especially considering the health conditions listed in the decedent's medical records.¹¹

Genuine or Not?

All things considered, in actually dealing with the very limited exemplar group in Figure 4, the indicators of common authorship were even more compelling given the time lapse of seven and 45 years, respectively. This was clearly demonstrated to the court within the context of the expert opinion of "inconclusive."

In conducting the necessary protocol of a reliability check,¹² each method of possible forgery was considered. Using the available objective indicators observed in the handwriting exemplar signatures, the court was advised that no indicia of falsity, including tracing, imitation (drawing) or simulation of the questioned signature, were observed.

In summary, the available observations drawn from the limited exemplars strongly indicated that the questioned signature was genuine. However, for a scientific approach in forming and supporting a reliable opinion, due to the limitations of the exemplars, it could not be stated with certainty that the signature was genuine. The most reliable expert opinion was therefore "inconclusive."

The court was advised that if an entire pool of useful and valid exemplars

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were available and examined, and if similar observations occurred, the reliable indicators would favor genuineness.

Footnotes

1. *Questioned Documents*, Albert S. Osborn. Nelson-Hall, Chicago, Ill. 1929, p.13.
2. *Ibid*, pp. 27-29.
3. *Evidential Documents*, James V.P. Conway. Charles C. Thomas, Publisher, Springfield, Ill. 1959, p. 76.
4. *Experiments with Handwriting*, Robert Saudek. Reprinted by Books for Professionals, Sacramento, Calif. 1978, p. AA/Glossary. See Adjustments.
5. *Journal of The National Association of Document Examiners*, Vol. 20. No. 1, Spring 1997, The Unidentifiable Handwriting by Jacqueline Joseph, CDE.
6. *Experiments with Handwriting*, Robert Saudek. Reprinted by Books for Professionals, Sacramento, Calif. 1978, Chapter III, Authentic and Spurious Expression in Handwriting, pp. 127-188.
7. *Evidential Documents*, Albert S. Osborn. Nelson-Hall, Chicago, Ill. 1929, p.27.
8. *Questioned Documents*, Albert S. Osborn. Nelson-Hall, Chicago, Ill. 1929, p.27.
9. *Reliability Testing of Expert Handwriting Opinions*, Marcel B. Matley. Handwriting Services of California, San Francisco, Calif. 1992, p.10.
10. *Suspect Documents*, Wilson R. Harrison, M.Sc., Ph.D. Nelson-Hall Publishers, Chicago, Ill. 1958, p.437.
11. The questioned signature was executed on Sept. 18, 1992. At that time Monstis was using medications, including Dyazide, Vasotec, Tandate, Procardia XL and KCL daily. On April 23, 1992, his medical records indicate a severe and strange numbness in the fourth and fifth fingers of the right hand, forearm and upper shoulder. This hand was dominant and used for writing. See #2 Matley p. 16.
12. *Reliability Testing of Expert Handwriting Opinions*, Marcel B. Matley. Handwriting Services of California, San Francisco, Calif. 1992.

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