



The Jury Expert™

Excellence in Jury Selection, Communication and Persuasion

Volume 16, Number 2

February, 2004

Using Handwriting Examiners as Jury and Trial Consultants

by Ruth Holmes, C.D.E. and Sarah Holmes, M.A.

"A handwriting expert can be a big asset in the courtroom." - Oakland County Legal News 1/24/97

Traditionally, the presence of handwriting examiners in the courtroom has been for the purpose of authenticating signatures and determining the identity of writers in cases of forgeries, fraud, embezzlement, bomb threats, anonymous letters, identity theft and graffiti. In the modern courtroom, where even a small advantage can lead to a big swing in results, the use of the handwriting examiner as a jury consultant is providing a new edge to innovative litigators.

Understanding the juries, lawyers, witnesses and other players in the judicial forum is a key to gaining the winning edge in today's legal arena. Trial and jury consultants specialize in courtroom communications based on written, verbal

and non-verbal information that maximize courtroom insight. Observations from patterns of expressive behavior are made graphically, physically and linguistically. Consultants trained in handwriting assessment use their skills in diverse manners including: assisting attorneys in the areas of juror profiling, jury selection, *voir dire* preparation, focus group and mock trial facilitations, assessing questionnaires, reviewing opening/closing statements, advising on jury graphics

"[I]t is often possible to determine if the juror will learn through pictures versus words, and whether they are driven by emotions as opposed to data."

and, as requested, the ongoing evaluation of the courtroom players.

Well known cases such as the Lindbergh kidnapping, the Hitler diaries, the Howard Hughes' will, the ransom note for JonBenet Ramsey, the anthrax letters, notes of the D.C. snipers, and even the Enron and Martha Stewart cases have all involved elements of handwriting examination. Law enforcement agencies and attorneys routinely use forensic document examiners in such investigations. The popular television series *C.S.I.*, *Crime Scene Investigation*, and *Forensic Files* often make reference to the use of handwriting experts in their gathering of evidence.

Expanded Services of Handwriting Examiners

In recent years some handwriting examiners have developed expertise in other aspects of courtroom procedure and performance. Working as jury and

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trial consultants, these examiners provide attorneys with additional insight into the character and behavior potential of individuals before, during and after trials. Observations are made from various patterns of expressive behavior that the consultants identify graphically through handwriting samples obtained from participants in focus groups or mock trials, from jury questionnaires and from other legal documents.

Handwriting, like body language, reflects personality and cognitive functioning. This provides another valuable tool that attorneys can use to gain useful information on courtroom players. With special training in character profiling through handwriting examination, jury consultants are able to make assessments of clients, jurors, witnesses, experts and other courtroom participants. Attorneys are advised on how people think, learn, express themselves, respond to criticism, handle pressure and solve problems, as well as how they work with others by leading or following and their level of credibility. When familiar with the handwritings in a case, the jury consultant becomes an integral part of the legal process from the pretrial preparation to the closing arguments.

Attorneys Know the Law, Consultants know People

Working closely with attorneys, handwriting consultants use their experience and skills to discern whatever information will be the most constructive. They strive to enhance the knowledge that lawyers need and seek to understand the people they are working with both in and out of the courtroom.

Most trial consultants have backgrounds in some aspect of the social sciences such as psychology or sociology, demographics, statistics, private investigation or body language. An added benefit to trial lawyers is the use of consultants who have understanding of these subjects plus handwriting expertise.

With sufficient time, attorneys can be assisted in many ways by consultants who can review handwritten witness statements and mediation summaries, discuss strategies and jury techniques, fine tune opening and closing arguments to resonate with particular jurors and provide perspective on how these observations may have an effect on the jury panel. Jury graphics can be creatively enhanced to underscore crucial points to

The Jury Expert is published monthly by Litigation One Publishing, P.O. Box 3509, Tustin, CA 92781
Phone: 714-832-5088, Fax: 714-832-7855, Email: mail@litigationone.com, URL: www.litigationone.com.
The annual subscription rate is \$99.95, which includes 12 monthly issues and free shipping. For subscription information, call 888-577-3771 or use the order form on the back of this issue.

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better inform and reach the particular jurors listening to a case.

Interpreting the Questionnaires

Jury consultants using handwriting can recognize the differences between right and left-brain thinking styles, pointing out the best way to communicate with jurors. Metaphors, pictures and storylines appeal more to right-brained, intuitive, creative jurors. Facts, figures and timelines appeal more to left-brained, analytical, problem-solving jurors. Some jurors are auditory learners while

“Jury consultants using handwriting can recognize the differences between right and left-brain thinking styles, pointing out the best way to communicate with jurors.”

others may be visual. Likewise, certain individuals respond to materials that influence their feelings, while others may prefer just the facts.

The role of a handwriting consultant can be simply the evaluation of the questionnaires before and during the jury selection process. The consultant may also oversee the coordination and facilitation of focus groups or mock jury projects where writing samples are obtained for future comparison to the handwritings and comments taken prior to actual juror selection. If a plaintiff attorney knows in advance who the emotional, generous and sympathetic jurors are, it can make a big difference in the jury selection process. Furthermore, knowing the fact-oriented, thrifty, single-minded juror could help a defense attorney.

Lawyers in each state should learn about the availability and use of juror questionnaires in various counties. Demographics, occupations, gender and education levels of the jurors are typically determined from these forms, however, the

manner in which the forms are completed can be equally revealing.

Every mark and stroke on a questionnaire — from the signature to the printing, numbers, checks and Xs — are taken into account in the assessment process. Since questionnaires may become available just days, or even hours before a jury selection, the process is very intense, requiring rapid observations and designation of the most important pieces of information. Some forms are carefully printed with exacting attention to detail, including the Xs, check marks and dashes. Other forms are carelessly filled in with little regard for the data or numbers requested. From the handwriting and printing on these forms, it is often possible to determine if the juror will learn through pictures versus words, and whether they are driven by emotions as opposed to data.

Whether a check mark is small or large or an "x" is light or bold can be a distinguishing factor of a leader or a follower, the rebel or the conformist, the generous or the frugal. A large signature usually means the person needs more acknowledgment than the person who signs a smaller one. Wide writers tend to be more generous than narrow writers while writing with loops may indicate possibility thinkers. Handwriting consultants can identify jurors who are introverted or extroverted, passive or aggressive, objective or subjective, conservative or liberal, decisive or indecisive and slow or fast thinkers. Handwriting analysis can also reveal the followers, target the leaders and give warnings about the *wild cards* or unpredictable jurors.

One such case involved a multi-million dollar settlement in a Western state where, to get a plaintiff verdict, it was essential for our team to have at least one right-brained, possibility thinker on the panel who could lead the jury. It was imperative that this person be able to convince a jury that a poorly repaired vehicle, which ultimately caught on fire, caused a woman to develop a life-threatening disease. The characteristics of this particular juror were identified from an analysis of the handwriting samples on the juror questionnaire and were shared with the

attorney during *voir dire* so that he knew the pivotal role she could play if she remained on the jury. She was left on the panel, despite other character traits that may have led the plaintiff attorney to strike her. When the deliberations commenced, this juror was alone in her opinion. However, in the end, the plaintiff received the

“Wide writers tend to be more generous than narrow writers while writing with loops may indicate possibility thinkers.”

verdict. Post-trial interviews revealed that she single handedly turned the jury around from pro-defense to pro-plaintiff with her gentle and creative persuasion.

In a medical malpractice case, the plaintiff attorney was searching for compassionate, empathetic and generous jurors. He was cautioned about keeping any angry, domineering and unfeeling men on the panel. Despite receiving the warnings about the dangers of a particular juror from the handwriting samples on his juror questionnaire, the attorney thought he could deal with a certain dangerous juror and therefore did not strike him from the panel. While the plaintiff had won over the hearts of the jurors and they wanted to award damages, this narrow-minded, vindictive juror had no sympathy for the disabled plaintiff and refused to go along with the verdict.

This type of advice is provided to counsel during jury selection and once the final jury is seated, handwriting consultants prepare profiles on the individuals. These help to outline the jury dynamics and communication strategies that will be valuable to the attorneys trying the case.

The Importance of Focus Groups or Mock Trials

Working with attorneys and marketing facilities, handwriting examiners as jury consultants can

also oversee preparations and facilitate focus groups. These projects allow handwriting consultants to gather substantive information about the presentation of the case, the credibility of witnesses, the weight of the evidence and clarity of the exhibits. By combining a review of the handwritten papers obtained during the mock trial (sign-in sheets, deliberation, verdict and debriefing forms) with the content of the questionnaires, positive characteristics of a potential juror are identified. Of course, lawyers do not choose their jurors, but knowing in advance whether a perspective juror is more likely to be pro-defense or pro-plaintiff can be critical to a final verdict. Also, knowing the learning styles can help attorneys better communicate with jurors.

If requested, the jury consultant prepares a final written report on the focus group that summa-

“Whether a check mark is small or large or an ‘x’ is light or bold can be a distinguishing factor of a leader or a follower, the rebel or the conformist, the generous or the frugal.”

rizes the results of the presentations, the reactions and the deliberations. Whenever possible, handwritten communications and jury graphics are incorporated into the report that presents the case overview, portraits of the clients, themes for the trial, defense and plaintiff highlights, suggestions for exhibits, language for the jury and the best juror profile for each side.

Increasing Use of Handwriting Consultants

With litigation increasing across the county so too will the number of jury and trial consultants hired to provide services that go beyond traditional preparation. Handwriting examiners can make a significant difference to the resolution of cases in and out of the courtroom. It is advisable for

lawyers to seek the advice of a handwriting examiner even before they agree to take a case in order to establish the credibility of the client, the jury appeal and the prospect for obtaining desirable results. Although an outside viewpoint does not guarantee the outcome of a case, it provides a wider spectrum from which decisions can be made about the jury and trial process. The growing use of handwriting data is just one of the pieces available to assist attorneys. As more trial attorneys recognize the information obtainable from handwriting examiners, it is likely that many will not go to trial nor seat a jury without using the valuable input provided by this perspective.

Trained handwriting consultants can make a significant contribution to the legal process. Understanding the jury, lawyers, witnesses, experts and other players in the judicial forum is now an essential part to gaining the winning edge in today's legal arena.

Sarah Hoimes is court-qualified as an expert witness and is the president of the Great Lakes Association of Handwriting Examiners. She received her graduate degree in Psychology from Boston University and has been reported in Newsweek, Hour Magazine and in papers in the Detroit and Boston area. For further information on trial and jury consultants with handwriting training, contact: PentecInc@aol.com or www.handwritingexaminers.com.

Ruth Holmes is court qualified as an expert witness in Federal, State and local courts. French speaking, she lived eleven years in Brussels, Belgium and Abidjan in the Ivory Coast, West Africa, has appeared on CBS News, Discovery, CNBC, BBC, Canada AM, Court TV and Dateline/NBC. In 1999, she was one of the Top 10 Women Business Owners in the State and in 2002 was listed as one of Michigan's 95 Most Powerful Women.

Versions of this article were previously published in: The Forensic Examiner, American College of Forensic Examiners International in March 2003; General Practitioner, State Bar of Michigan in August 1998; and Ohio Trial in Spring 1999.



PRACTICE POINTER

RUTH HOLMES

A New Tool: Handwriting Analysis in the Courtroom

The most common use of handwriting examiners in the legal system is authenticating signatures and determining the identity of writers in cases of forgeries, fraud, embezzlement and anonymous letters.

Well known cases such as the Lindbergh kidnapping, the Hitler diaries, the Howard Hughes' Will, the war trial in Israel of the Cleveland autoworker thought to be Ivan the Terrible, the authorship of Primary Colors, the ransom note for murdered child JonBenet Ramsey and the forged checks in the Michigan abduction of Dr. Deborah Iverson have all involved the examination of handwriting. Such document investigations are familiar to attorneys and law enforcement agencies. The handwriting experts called in these cases focus on authenticity and writer identity.

In the last two decades another classification of handwriting examiners has emerged in the courtrooms. Working closely with attorneys as jury and trial consultants, these unique analysts are skilled in interpreting handwriting and other forms of expressive behaviors in order to determine the personality characteristics of an individual in a legal environment. Personality profiles of perspective jurors and other courtroom players are prepared as part of the pre-trial and jury selection process.

Jury and trial observation are made from patterns of expressive behavior which are communicated to the consultants visually, verbally, physically, linguistically and graphically through handwriting samples obtained in focus groups, mock trials and in actual courtroom settings.

Jury consultants played significant roles in the recent trials of O.J. Simpson, Rodney King and the Menendez brothers. Most jury consultants have had experience with people in some aspect of the social sciences such as sociology or psychology, marketing or negotiating, linguistics or private investigating. Relatively few consultants have the additional expertise in handwriting examination.

Attorneys clearly know the law. Jury or trial consultants know people and they use their various skills to discern whatever is possible which will benefit the attorneys and clients they represent. It appears that whatever specialists are chosen to provide an outside perspective to attorneys during a trial that understanding the jury, lawyers, witnesses, experts and other players in the judicial forum is now an essential part to gaining the winning edge in today's legal arena.

As specialists in written, verbal and non-verbal communications, trained handwriting examiners are able to help an attorney maximize the ad-

vantage of pre-trial and courtroom insight. There is value to allowing a consultant to become familiar with a case long before a jury is selected.

With sufficient time, attorneys can be assisted in many ways by jury consultants who can assist by reading mediation summaries or opening arguments. Suggestions can be made for the preparation of jury graphics that highlight major points and make them more comprehensible to a jury.

People (perspective jurors), express themselves with their body language, gestures, words and through the written communications provided on the questionnaires in court and in the focus groups or mock trials. (See Samples 1-4 on pages 44-45 for examples of questionnaires and analysis.) Some jurors are auditory and others are visual. Some respond to information which effects feelings; others want just the facts.

Jury consultants using handwriting assessment can usually recognize the differences between right and left brain thinking styles pointing out the best way to communicate with individual jurors. Metaphors, pictures and story-lines appeal to more right brained, intuitive, creative jurors. Facts, figures and time-lines appeal to more left-brained, analytical, problem solving jurors.

Long before a case reaches the courtroom, a jury consultant can contribute valuable information to an attorney by helping them establish an ideal juror profile and fine tuning the presentation of a case through a focus group or mock trial. The potential benefit for attorneys and their clients to gather information to assist them in



Ruth Holmes, CDE, is a Jury Consultant and Board Certified Handwriting & Document Examiner. Her company, Pentec, Inc., specializes in personnel evaluations, forensic document examination and trial consulting. Ruth, has appeared on CBS News, CNBC, Court TV and Dateline/NBC and at the request of *George* magazine, prepared the profiles on the 1996 presidential candidates. In 1996-97, and 1999 Ruth served as a jury consultant for the defense team of Dr. Jack Kevorkian.

44 their cases is invaluable and limited only their imagination and resources.

The role of a jury consultant with handwriting expertise can be simply the evaluation of the questionnaires before and during the jury selection process. With assistance the consultant may also oversee the coordination and facilitation of a focus group or mock jury project where additional writing samples are ob-

tained and compared to the comments during juror deliberations and debriefings.

Handwriting evaluations focus directly on the jurors as ordinary people. Wouldn't it be helpful to identify the leaders, followers and wild cards in advance? Who is conservative and who is liberal? Who is generous and who is thrifty? How do they think and react to lawyers, clients, witnesses and evidence?

Preparing for a focus group can include but are not limited to: 1) recruiting the mock jurors who are demographically appropriate to a case; 2) selecting a site with appropriate audio-visual capabilities to record attorney presentations and mock juror deliberations for future review; 3) facilitating the mock trial; 4) preparing voir dire questions; 5) assessing opening statements and closing arguments; 6) de-

JUROR PERSONAL HISTORY QUESTIONNAIRE

SAMPLE 1

13. Indicate city, township or village where you live: Village _____ Township _____ City Alamogordo Hills

14. What is your occupation? Engineer 15. Employer's name and address Covert Tech Center

16. What other occupations have you had in the last 10 years? Accounting

17. Have you ever been an office holder for any state, county or municipality? Yes No If yes, please specify _____

18. Have you ever been a law enforcement officer? Yes No 19. Check if you are: Tenant Property Owner Landlord

20. What was the last grade you completed in school or degree received? MA 21. Marital status: Single Married Widowed Separated Divorced

22. Name of Spouse: Linda 23. Number of children living at home? 2 24. Do you drive? Yes No

25. Spouse's occupation Homemaker 26. Spouse's Employer _____

27. A. Have you, a family member or close friend been in an accident resulting in serious injury, lawsuit or death? Yes No
 B. Was alcohol involved? Yes No C. Who was injured? Yourself Family Member(s) Other(s) No one

28. Have you ever been a victim, witness, plaintiff or defendant in a criminal or civil suit? Yes No If yes, explain: _____

29. Have you ever been convicted of a felony? Yes No If yes, What? _____ Is it pending? Yes No

30. Have you ever been convicted of a misdemeanor other than traffic violations? Yes No If yes, explain: _____

31. Have you ever been confined in any correctional facility? Yes No If yes, explain: _____

32. Do you have a disability that would require any special accommodations to assist you in serving as a juror? Yes No
 If yes, please explain the accommodations which would be necessary. _____

I declare that the statements above are true to the best of my information, knowledge and belief.

Date 4-8-99 Signature Scott Chamberlain SEE OTHER SIDE FOR JUROR QUALIFICATIONS AND POSTPONEMENT INSTRUCTIONS

Sample 1 - Analysis Shows Potential Juror is: Smart, Fair-But Not Generous, Perfectionist, Rigid
 Recommendation: Excellent with Detail

JUROR PERSONAL HISTORY QUESTIONNAIRE

SAMPLE 2

13. Indicate city, township or village where you live: Village _____ Township _____ City Birmingham

14. What is your occupation? unemployed 15. Employer's name and address _____

16. What other occupations have you had in the last 10 years? _____

17. Have you ever been an office holder for any state, county or municipality? Yes No If yes, please specify _____

18. Have you ever been a law enforcement officer? Yes No 19. Check if you are: Tenant Property Owner Landlord

20. What was the last grade you completed in school or degree received? 12 21. Marital status: Single Married Widowed Separated Divorced

22. Name of Spouse: _____ 23. Number of children living at home? 1 24. Do you drive? Yes No

25. Spouse's occupation _____ 26. Spouse's Employer _____

27. A. Have you, a family member or close friend been in an accident resulting in serious injury, lawsuit or death? Yes No
 B. Was alcohol involved? Yes No C. Who was injured? Yourself Family Member(s) Other(s) No one

28. Have you ever been a victim, witness, plaintiff or defendant in a criminal or civil suit? Yes No If yes, explain: _____

29. Have you ever been convicted of a felony? Yes No If yes, What? _____ Is it pending? Yes No

30. Have you ever been convicted of a misdemeanor other than traffic violations? Yes No If yes, explain: _____

31. Have you ever been confined in any correctional facility? Yes No If yes, explain: _____

32. Do you have a disability that would require any special accommodations to assist you in serving as a juror? Yes No
 If yes, please explain the accommodations which would be necessary. back problems. I need to walk around

I declare that the statements above are true to the best of my information, knowledge and belief.

Date _____ Signature Jeanne Baker SEE OTHER SIDE FOR JUROR QUALIFICATIONS AND POSTPONEMENT INSTRUCTIONS

Sample 2 - Analysis Shows Potential Juror is: Unpredictable, Emotionally Detached, Weak, Conflicted
 Recommendation: Easily Influenced, Will Follow

signing jury graphics to clarify significant points: and 7) ultimately creating the ideal juror profile by evaluating the writing and content of materials collected during the mock jury trial.

If requested, the jury consultant will also prepare a final written report, which summarized information gathered during the focus group or mock jury trial. Whenever possible, handwritten communications

are incorporated into this report which presents the case overview, portraits of the clients, themes for the trial, defense and plaintiff highlight both pro and con, suggestions for exhibits, language for the jury and most important of all the ideal juror profile.

The increase in the number of jury and trial consultants attests to the need for knowledge beyond the law books. An

outside perspective does not guarantee the outcome of a trial; however, being prepared in the best possible way in and out of the courtroom using handwriting expertise can be an immeasurable tool toward success for attorneys on either side creative enough to see the advantages. Not all the preparation in the world will make a difference to a jury if attorneys do not know how to reach them. **OT**

JUROR PERSONAL HISTORY QUESTIONNAIRE

SAMPLE 3

13. Indicate city, township or village where you live: Village _____ Township _____ City Royal Oak

14. What is your occupation? WITNESS 15. Employer's name and address Big Boy

16. What other occupations have you had in the last 10 years? _____

17. Have you ever been an office holder for any state, county or municipality? Yes No If yes, please specify _____

18. Have you ever been a law enforcement officer? Yes No 19. Check if you are: Tenant Property Owner Landlord

20. What was the last grade you completed in school or degree received? High School 21. Marital status: Single Married Widowed Separated Divorced

22. Name of Spouse: _____ 23. Number of children living at home? _____ 24. Do you drive? Yes No

25. Spouse's occupation _____ 26. Spouse's Employer _____

27. A. Have you, a family member or close friend been in an accident resulting in serious injury, lawsuit or death? Yes No
 B. Was alcohol involved? Yes No C. Who was injured? Yourself Family Member(s) Other(s) No one

28. Have you ever been a victim, witness, plaintiff or defendant in a criminal or civil suit? Yes No If yes, explain: _____

29. Have you ever been convicted of a felony? Yes No If yes, What? _____ Is it pending? Yes No

30. Have you ever been convicted of a misdemeanor other than traffic violations? Yes No If yes, explain: _____

31. Have you ever been confined in any correctional facility? Yes No If yes, explain: _____

32. Do you have a disability that would require any special accommodations to assist you in serving as a juror? Yes No
 If yes, please explain the accommodations which would be necessary: _____

I declare that the statements above are true to the best of my information, knowledge and belief.

Date _____ Signature Michael Stone SEE OTHER SIDE FOR JUROR QUALIFICATIONS AND POSTPOISEMENT INSTRUCTIONS

Sample 3 - Analysis Shows Potential Juror is: Talker, Persuasive, Emotional, and Very Generous
Recommendation: Use Metaphors and Pictures

JUROR PERSONAL HISTORY QUESTIONNAIRE

SAMPLE 4

13. Indicate city, township or village where you live: Village Woodsick Township Windsor City _____

14. What is your occupation? Video Producer 15. Employer's name and address SELF-EMPLOYED

16. What other occupations have you had in the last 10 years? COMPOSER

17. Have you ever been an office holder for any state, county or municipality? Yes No If yes, please specify _____

18. Have you ever been a law enforcement officer? Yes No 19. Check if you are: Tenant Property Owner Landlord

20. What was the last grade you completed in school or degree received? Junior - College 21. Marital status: Single Married Widowed Separated Divorced

22. Name of Spouse: _____ 23. Number of children living at home? _____ 24. Do you drive? Yes No

25. Spouse's occupation _____ 26. Spouse's Employer _____

27. A. Have you, a family member or close friend been in an accident resulting in serious injury, lawsuit or death? Yes No
 B. Was alcohol involved? Yes No C. Who was injured? Yourself Family Member(s) Other(s) No one

28. Have you ever been a victim, witness, plaintiff or defendant in a criminal or civil suit? Yes No If yes, explain: _____

29. Have you ever been convicted of a felony? Yes No If yes, What? _____ Is it pending? Yes No

30. Have you ever been convicted of a misdemeanor other than traffic violations? Yes No If yes, explain: _____

31. Have you ever been confined in any correctional facility? Yes No If yes, explain: _____

32. Do you have a disability that would require any special accommodations to assist you in serving as a juror? Yes No
 If yes, please explain the accommodations which would be necessary: _____

I declare that the statements above are true to the best of my information, knowledge and belief.

Date 7-8-99 Signature LA SEE OTHER SIDE FOR JUROR QUALIFICATIONS AND POSTPOISEMENT INSTRUCTIONS

Sample 4 - Analysis Shows Potential Juror is: Original, Defiant, Strong Willpower, Demanding
Recommendation: Get His Side, He'll Lead