Contemporary practitioners who have had the opportunity to read land records and other legal documents drafted before manual typewriters were widely available have seen the life and essence of the people who were the subjects of these writings and have felt a deep sense of awe and admiration for the practitioners and their secretaries who drafted those pages.

I can only guess that the next great writing technological breakthrough after typewriters was Liquid Paper or "Whiteout."[1]

During the 18th, 19th and early part of the 20th centuries here in Vermont, the election of town clerks often turned on individuals' handwriting skills, not their political skills. These were the times when little red ribbons were hand-tied around files or folders, signaling that nothing further could be done until something else happened. This practice gave us the phrase, "tied up in red tape".

Today we can still find our cases tied up in red tape. More often, though, we find ourselves buried in paper.

Computer word processing programs allow us to grind out stuff by the pound and ship it out by the box. A Vermont bar story recounts an occasion when plaintiff's counsel filed a hefty motion with the court. As the story goes, the judge is said to have plopped it down, thumbed it like a deck of cards, and said to counsel, "Just point out the four or five pages of this you want me to read."

To those who grind out briefs without "cut and paste," please step forward. We would like to show our admiration by raising our computer mice in your honor.

Still, for those of us who cut, paste, and crank out last minute briefs and pleadings, the craft of writing persuasive arguments is as much an art as when documents were carefully crafted, one meticulously handwritten character at a time. Writing is still a creative process that can tell an informative story somewhere between the Now Comes and the Therefore. If we habitually craft our writings with care, we will also read the opposing writings with care. It is this last chore that will often reveal the Achilles heel of the opposing party.

We will devote the next issue of The Beacon to the “Battles of Expert Witnesses.” The issue will include articles about preparing our experts and about finding the Achilles heel of the district's expert witnesses.

The cross-examination of experts is not a mythical power endowed to only a chosen few. Cross-examination is a learned skill based on meticulous preparation. In addition to articles by practitioners who have worn out many ballpoint pens writing notes for cross from the other side's direct examinations, the next issue of The
Beacon will include examples of deposition testimony, trial testimony, and expert interrogatories,

Next question: After Whiteout, what was the next great technological advance in law offices?

Air conditioning.

Brice Palmer
Managing Editor

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[1] Bette Nesbith Graham, a 17-year-old Dallas secretary with poor typing skills, invented the stuff. By 1956 it was so popular that she was mixing it up in batches in her kitchen and garage. In 1975, she changed the name from "Mistake Out" to "Liquid Paper." The company employed 200 people, made 25 million bottles of Liquid Paper and distributed the product to 31 countries.

Graham sold the company to the Gillette Corporation for $47.5 million in 1979. Today, many who represent children in special education disputes suspect that Whiteout is an indispensable school tool for maintaining education records.

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About Brice Palmer

Brice Palmer lives in Benson, Vermont. In addition to his work as an active non-attorney advocate, Mr. Palmer is managing editor of The Beacon and pens Observations from the Transom.

Mr. Palmer has written numerous articles about advocacy, including How to Prepare Your Case and Learning to Negotiate is Part of the Advocacy Process.

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