Admissibility and Authentication of (some) Electronic Evidence

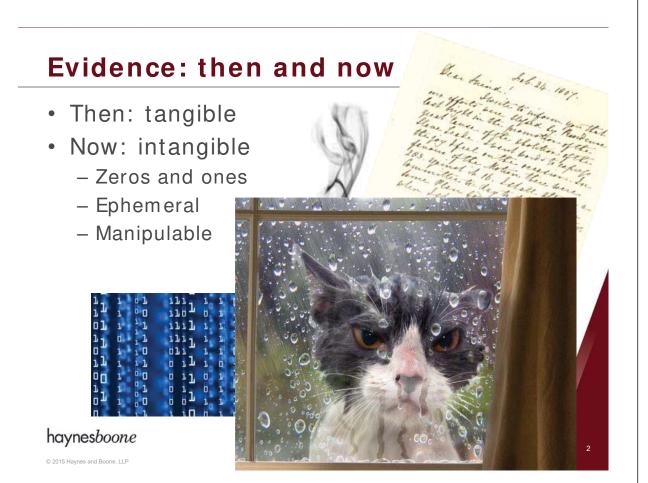
Pierre Grosdidier

May 4, 2018

© 2015 Haynes and Boone, LLP

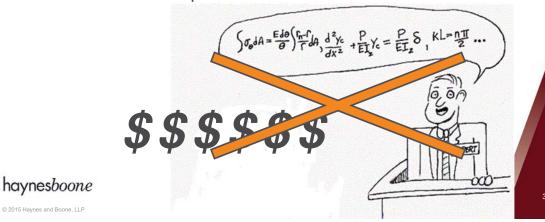
haynesboone

15286554/2



Electronic evidence is admissible

- Emails
- Computer simulations
- Computer outputs (e.g., from databases)
- The issue today is authentication
 - Without an expert witness



Authentication issues

- 1. Cell phone text messages
- 2. Social media postings
- 3. Metadata
- 4. GPS





We're looking forward to the season promore of Saturday Night Live this sessiond. The talented Alec Baldwin is hosting, and see have a special appreciation for him, of course as Pete Schweddy! Whe's your favorite 5%, skit?

Saturday Night Live

Saturday Night Live

No one can resist my Schweddy Bals! See Alec Baldwin host the season premiers of Saturday Night Live, this Saturday, September 24 to 13:30pn EST, With musc of guest, Radohead!

Like - Comment: Share - September 22 at 12:00pm - Sign Season premiers of Saturday Night Live, Wew all 250 shares.

Write a convent...

haynesboone

© 2015 Haynes and Boone, LLP

Admissibility and Authentication

- TRE 104(a) admissibility
 - Question of law for court
 - Not bound by evidence rules
 - Only threshold necessary
 - Jury decides weight of evidence
- · Evid. inadmissible unless authenticated
- TRE 901(a) authentication
 - "[p]roponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is."

haynesboone

© 2015 Haynes and Boone, LLP

5

Authenticating electronic evidence

- TRE 901(b)(1)
 - Personal knowledge
- TRE 901(b)(4)
 - Distinctive characteristics and circumstantial evidence

haynesboone

© 2015 Haynes and Boone, LLP





Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: Authentication of Electronic Evidence

Also available as part of the eCourse Hooked on CLE: June 2018

First appeared as part of the conference materials for the 2018 STUDIO WEBCAST: Authentication of Electronic Evidence session "Authentication of Electronic Evidence"