# Admissibility and Authentication of (some) Electronic Evidence

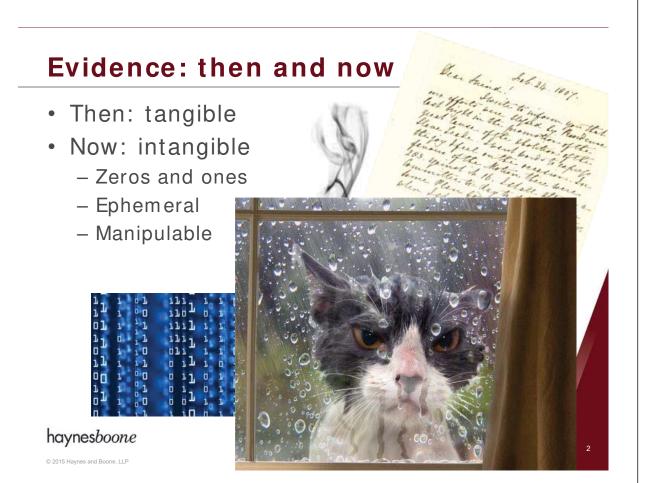
Pierre Grosdidier

May 4, 2018

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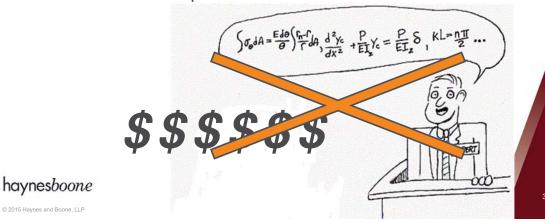
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#### Electronic evidence is admissible

- 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...

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### **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."

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## Authenticating electronic evidence

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

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