

Authentication of Cell Phone Text Messages

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Parties seeking to admit cell phone text messages at trial face two authentication challenges. They must show that the documents they seek to admit into evidence are accurate copies of the original text messages, and they must show that the persons to whom they seek to ascribe the messages actually wrote them. These issues are not just of interest to criminal defendants' counsel, as the largely-penal available case law suggests. Civil litigants may also seek to introduce text messages, or challenge their authenticity, in divorce or custody proceedings or in other civil litigation.

Courts have uniformly held that existing rules of evidence are "generally 'adequate to the task'" of authenticating electronic information, despite its unique characteristics, and have declined to create new and special rules. Under Texas Rule of Evidence 901(a), evidence authentication, i.e., establishing that evidence is what its proponent claims it is, is a "condition precedent" to admissibility. Evidence that cannot be authenticated is not relevant and is inadmissible.

Excerpted from the *Circuits, Newsletter of the Computer & Technology Section of the State Bar of Texas*. [Read the full article.](#)