

Authentication

"Authenticating" evidence means introducing sufficient evidence to sustain a finding that the writing is what you say it is. ([Evidence Code §1400 \(a\)](#).) In most cases this is accomplished by showing the writing to the witness and asking, "What is this?" It is important to note that the document originator's testimony is not needed. ([Evidence Code §1411](#).) Additionally, authentication does not involve the truth of the document's content, rather only whether the document is what it is claimed to be. (*City of Vista v. Sutro & Co.* (1997) 52 Cal.App.4th 401, 411-412.)

You can authenticate documents by:

- Calling a witness who saw the document prepared. ([Evidence Code §1413](#).)
- Introducing an expert handwriting comparison. ([Evidence Code §1415](#).)
- Asking a lay witness who is familiar with the writer's handwriting to identify the handwriting. ([Evidence Code §1416](#).)
- Asking the finder of fact (i.e. the jury) to compare the handwriting on the document to a known exemplar. ([Evidence Code §1410](#).)
- Showing that the writing refers to matters that only the writer would have been aware. ([Evidence Code §1421](#).)
- Using various presumptions to authenticate official records with an official seal or signature. ([Evidence Code §§1450-1454](#).) Official records would include state prison records, Department of Motor Vehicle documents or documents filed with the Secretary of State. There is a presumption that official signatures are genuine. ([Evidence Code §§1530, 1453](#).)
- Any other way that will sustain a finding that the writing is what you say it is since the Evidence Code does not limit the means by which a writing may be authenticated and proved. ([Evidence Code §1410](#); See also *People v. Olguin* (1994) 31 Cal.App.4th 1355, 1372-1373 [rap lyrics authenticated in gang case even though method of authentication not listed in Evidence Code].)

Common ways to authenticate chat room, Internet Relay Chat (IRC), or text communication include:

- Evidence that the sender used the screen name when participating in a chat room discussion.
- The sender takes action consistent with the content of the communication.
- The content of the communication identifies the sender or refers to matters only which only the writer would have been aware.
- The alleged sender possesses information (contact information or other communications) given to the user of the screen name.
- Evidence discovered on the alleged sender's computer reflects that the user of the computer used the screen name. (See *U.S. v. Tank* (9th Cir. 2000) 200 F.3d 627.)
- In the majority of cases it is a variety of circumstantial evidence that provides the key to establishing the authorship and authenticity of a computer record.