Rule 902. Self-authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) Domestic public documents under seal. A document bearing a seal purporting to be that of the United States, or of any State, district, Commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) Domestic public documents not under seal. A document purporting to bear the signature in the official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign public documents. A document purporting to be executed or attested in an official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any Legislative Act or rule prescribed by the Supreme Court pursuant to statutory authority.

(5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.

(6) Newspapers and periodicals. Printed materials purporting to be newspapers or periodicals.

(7) Trade inscriptions and the like. Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) Acknowledged documents. Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) Commercial paper and related documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) Presumptions under Legislative Acts. Any signature, document, or other matter declared by Legislative Act to be presumptively or prima facie genuine or authentic.

(Amended effective January 1, 1990.)

Committee Comment - 1989

The rules retain the existing practice of dispensing with the authentication requirement for certain documentary evidence. Because of the difficulty and inconvenience that would result if formal authentication was required and the slight risk of fraud or forgery, certain documents are deemed to be self-authenticating. The fulfillment of the authentication requirement does not preclude the opposing party from attacking the genuineness of the evidence to detract from the weight to be given it by the trier of fact.

Rule 902(1)

Consistent with principles of common law, public documents under seal are self-authenticating. See gen. Minnesota Statutes 1974, sections 175.11 and 600.13. See also Minn. R. Civ. P. 44.01.

Rule 902(2)

The naked signature of a public employee or officer is not sufficient to authenticate the document. However, if accompanied by a certification under seal by a second public officer under the circumstances set out in the rule, the document becomes self-authenticating.

Rule 902(3)

Rule 902(3) was adapted from Fed. R. Civ .P. 44, (Minn. R. Civ. P. 44.01(2)).

Rule 902(4)

Consistent with the common law, certified copies of public records need no additional authentication. See Minnesota Statutes 1974, section 600.13, and Minn. R. Civ. P. 44.01. The rule requires that the copy be of a public or official record, that the custodian or other authorized person certify the copy, and that the certificate comply with Rule 902(1), (2), and (3), a specific statute, or other court rule. The contents of the certificate should generally indicate the status of the signer in relation to the custody of the document, and the accuracy of the copy.

Rule 902(5)

This provision is generally consistent with existing practice. See. e.g., Minn. R. Civ. P. 44, Minnesota Statutes 1974, sections 599.02 and 648.33.

Rule 902(6)

The provision alters the common law, by placing the burden to contest the genuineness of newspapers and other periodicals on the party opposing the offer. Cf. Minnesota Statutes 1974, sections 600.10 to 600.12. It is based on the theory that the likelihood of forgery in these matters is slight and the inconvenience and expense involved by requiring authentication is not justified. The rule speaks only to authentication. The admissibility of such evidence can be challenged pursuant to other rules of evidence.

Rule 902(7)

The rule is based on the unlikelihood of forgery of a trade inscription. In addition, the business community accepts and relies upon the trustworthiness of trade inscriptions. Although this rule is not unquestioned at common law, it represents a reasoned view that is supported in the case law. See United States Supreme Court Advisory Committee Note and cases cited therein.

Rule 902(8) and (9)

These provisions are consistent with existing practice. Minnesota Statutes 1974, section 600.14. See Minnesota Statutes 1974, section 358.15, for the parties authorized to take acknowledgments and Minnesota Statutes 1974, sections 358.34 to 358.37, for the manner of taking acknowledgments. The evidentiary rule is not intended to affect the legal requirements for establishing a valid, executed will set forth by the Uniform Probate Code, Minnesota Statutes 1974, section 524.1-101, et seq. See in particular, Minnesota Statutes 1975 Supplement, section 524.2-501, et seq. The authentication of commercial paper is governed by statutory law. See e.g., Minnesota Statutes 1974, sections 336.1-202, 336.3-307, 336.3-510 and 336.8-105.

Rule 902(10)

In addition to the provisions in these rules, evidence can be authenticated pursuant to specific statutes.

Rule 902(11)

Uniform Rule 902(11) adds business records to those writings that are self-authenticating. The Committee considered Rule 902(11) and recommends against adopting it.

Under present Minnesota law, the authentication requirement for business records is found in Rule 803(6) (..."all as shown by the testimony of the custodian or other qualified witness,..."). The extensive discovery available in both civil and criminal procedures provides a vehicle for resolving authentication issues before trial. The authentication requirement is generally waived. With respect to the minority of cases in which the parties cannot resolve the issue prior to trial, the committee took the view that a party should have the right to insist upon the proof required by Rule 803(6). For these reasons the committee decided not to recommend that business records be added to the list of self-authenticating documents, and recommends that Uniform Rule 902(11) not be adopted.