

When a man entered a bank and presented a check for payment, the bank teller recognized the signature on the check as a forgery because the check was drawn on the account of a customer whose handwriting she knew. The bank teller called the police. Before the police arrived, the man picked up the check from the counter and left. The man was charged with attempting to cash a forged check.

At trial, the prosecutor has called the bank teller to testify that the signature on the check was forged.

Is the bank teller's testimony admissible?

- A. No, because it is not possible for either the jury or an expert to compare the signature on the missing check with a signature established as genuine.
- B. No, because the bank teller was at fault in allowing loss of the original by failing to secure the check.
- C. Yes, because a bank teller is by occupation an expert on handwriting.
- D. Yes, because it is rationally based on the bank teller's perception and is helpful to the jury.

Explanation:

Authenticating documents

(FRE 901)

Common methods	Stipulation or eyewitness testimony
Ancient documents & data compilation	At least 20 years old when offered condition creates no suspicion about authenticity <i>and</i> was in place where authentic document would likely be
Public records	Record was recorded or filed in public office as authorized by law or in office where that type of item is kept
Reply letter	Document written in response to communication <i>and</i> contents make it unlikely response was written by someone other than recipient of first communication
Handwriting	Comparison – expert witness or trier of fact compares authenticated against disputed handwriting (or fingerprints, hair, cloth fibers) <i>or</i> Non-expert opinion – witness with personal knowledge of authentic handwriting not acquired for litigation gives opinion on disputed handwriting
Self-authenticating	Public documents with official's signature & authorized by official or seal Certified copies of public records & records of regularly conducted activities Newspapers, periodicals & official publications Documents with trade inscription Acknowledged documents Commercial papers, including signature & related documents

FRE = Federal Rule of Evidence.

A **signature** on a check (or other handwriting) that was forged can be **authenticated**—ie, proven to be what the proponent says it is—through two methods:

comparison – an **expert witness** or the **trier of fact** compares an authenticated signature against the disputed signature (**Choice A**) *or*

non-expert opinion – a lay witness with **personal knowledge** (ie, firsthand perception) of the **authentic signature** that was not acquired for the current litigation gives **opinion testimony** on a disputed signature.

Here, the bank teller is not a handwriting expert because she has no scientific, technical, or specialized knowledge in handwriting analysis **(Choice C)**. But she has seen the actual accountholder's signature firsthand on multiple occasions because she routinely accepted checks from the accountholder. And since this personal knowledge forms the basis of her opinion testimony on the forged signature, her testimony is admissible to help the jury determine if the check was forged.

(Choice B) The [best evidence rule](#) generally requires production of an original writing to prove its content. But this rule does not apply here since the bank teller is testifying to her personal knowledge of the forged signature—not the check's contents.

Educational objective:

Handwriting can be authenticated by (1) allowing an expert witness or the trier of fact to compare the authenticated and disputed handwriting or (2) allowing a lay witness with personal knowledge of the authentic handwriting (acquired outside of the current litigation) to give opinion testimony on the disputed handwriting.

References

Fed. R. Evid. 901(b)(2) (handwriting authentication by non-expert).

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