

ADMITTING PHOTOGRAPHS INTO EVIDENCE

Pictures, screenshots, etc. are a common form of evidence Family Court litigants want the judge to see to help them get custody &/or visits. Although it is one of the simplest tasks an experienced attorney for the other party can object to their admission.

The objection that would typically come up is with respect to authentication or identification of the items. But most states have specific rules with respect to the admission of photos (and similar). The rules for authentication state these two things are required:

1. That the witness knows relevant facts about the scene or objects represented in the photo; and
2. That he or she can say that it correctly and accurately portrays those facts (or, as many of us say, "It is a true and accurate depiction ...").



It is not necessary for the witness to establish the date when the photograph was taken because it does not matter what date it was taken if the condition is unchanged. It is not required that the witness describe how the camera mechanism was properly calibrated, or to establish a chain of custody or any other such thing. All that is necessary is for the witness to establish knowledge of the matters depicted and to affirm that the photo does truly and accurately depict the conditions he observed.

Example questioning for authentication of the pic:

Q. Where is the location where you saw the other parent drinking beer?

A. At the bar by the big supermarket.

Q. Are you familiar with that area?

A. Yes, I am in and around that area every day.

Q. Do you know the other party?

A. *Yes I do. I used to work with them for about 12 years.*

Q. *Were you in the area the day the other party was drinking the beer?*

A. *Yes, I was the one who saw him/her coming out of the bar with the beer in their hand.*

Q. *Let me show you a photograph and ask you if you can tell me what it shows.*

A. *This is a picture of the other party that day with the beer at the bar.*

Q. *Is this picture a true and accurate depiction of the condition of the field that you observed on that day?*

A. *Yes.*

Then offer the picture into evidence.

