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May 2026



**Meet the Judge:
Hon. Tanya A. Grillo**



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The Rule of Law and the Role We Play Within It

*By Farrah Ramdayal-Howard, President,
Macomb County Bar Association*

Each year on May 1, we recognize Law Day, a national observance, proposed by the American Bar Association in 1957 and established by Dwight D. Eisenhower in 1958 to honor the rule of law and its foundational role in our Republic. For those of us in the legal profession, it is more than a date on the calendar, it is a moment to step outside the routine of our work and consider the system we are entrusted to uphold.

We engage with the law every day, but perhaps we do not always step back to reflect upon the system of laws that governs, protects, and binds us together. While our everyday work may become overly procedural at times, we should remember the rule of law is more than a concept. It is a promise.

A promise that no person is above the law. A promise that rights are not arbitrary but protected. A promise that disputes can be resolved not by force, but by structure, process, and fairness. And yet, what makes that promise meaningful is not simply the existence of laws—but the people who uphold them and the assurance that the public has in them.

As attorneys, judges, and legal professionals, we are not just participants in the legal system—we are stewards of it. Through our daily work, whether in courtrooms, conference rooms, or quiet offices, we give life to the law. We interpret it, advocate within it, challenge it, and at times, help shape it. But perhaps more importantly, we serve as a

bridge between the law and the people it is meant to protect. For many individuals, the legal system can feel overwhelming, inaccessible, or even intimidating. In those moments, our role extends beyond legal analysis, we become translators and advocates, sometimes even a source of reassurance in the midst of uncertainty.

Law Day is a reminder that the strength of our legal system depends not only on its structure, but on the integrity, professionalism, and humanity of those who operate within it. Public trust in institutions has diminished in many respects, and therefore our role has become even more critical. The way

we conduct ourselves shapes how the public experiences the legal system as a whole.

This means acting with civility, competence, and respect for the process of the law, is not just important, but paramount to maintaining public trust and confidence in the justice system. Bar associations play a similar role in that they create space for mentorship, connection, and a shared commitment to the standards that define our profession.

**I encourage each of us to
take a moment to
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role we play within it.**

So this Law Day, I encourage each of us to take a moment to recognize not only the importance of the rule of law, but to reflect on the role we play within it. Because the law, at its core, is not just a system, it is a responsibility and one we carry together.



Meet the Judge: Hon. Tanya A. Grillo

By Jen Smith, Women Lawyers Association
of Michigan (Macomb Region) President



Hon. Tanya A. Grillo, a proud Macomb County native and longtime champion of justice, recently assumed her new role on the 16th Circuit Court bench. Known for her dedication to fairness, her thoughtful advocacy, and her unwavering commitment to the community, Judge Grillo brings decades of experience to the bench, both as a criminal defense attorney and as a leader in Michigan's legal circles.

A graduate of the University of Central Florida (B.A.) and Thomas M. Cooley Law School (J.D.), she has spent her career ensuring that justice is accessible to all. From her work with the Michigan Indigent Defense Commission to her leadership roles in local government and her founding of Grillo Law, PLLC, Judge Grillo has consistently focused on fairness, client-centered advocacy, and meaningful systemic reform.

Her involvement extends well beyond the courtroom. She has been an active member of the Women Lawyers Association of Michigan (WLAM) for over a decade, serving in numerous leadership roles, and has devoted countless hours to coaching mock trial teams, supporting local charities, and volunteering in her community. Those who know her describe her as a tireless advocate, an inspiring mentor, and a true believer in the power of justice to transform lives.

It was at a WLAM meeting years ago that I first met Tanya, and from that day forward, her leadership, integrity, and dedication have continually inspired me. In this feature, you'll get to know Judge Grillo—not just as a jurist, but as a person, a colleague, and a lifelong advocate for justice in Macomb County.

1. What initially drew you to criminal defense work, and how did that practice shape your perspective on the justice system?

I was drawn to criminal defense because it sits at the heart of our constitutional system. The idea that every person is entitled to a vigorous defense and that the government must meet its burden is fundamental to justice. Practicing criminal defense gave me a front-row seat to how the system operates and reinforced the importance of due process, careful listening, and recognizing that every case represents a real person whose life may be profoundly affected by the outcome.

2. What motivated you to seek (or accept) a judicial appointment at this point in your career?

After years of advocating for clients, I reached a point where I felt ready to serve the justice system in a different capacity. Serving on the bench allows me to apply everything I've learned about advocacy, fairness, and courtroom practice in service of the broader community. My leadership work within the legal community, including with the Women Lawyers Association of Michigan, also reinforced my desire to give back to the profession in a meaningful way.

3. You anticipated taking over the criminal docket but were instead assigned to family law. How did you process that change, and what has surprised you most about the transition?

Like many judges with a criminal background, I initially expected to handle a criminal docket. When I learned I would be assigned to the family division, I approached it with an open mind and a commitment to learn quickly. What has surprised me most is the depth and complexity of the work. Family law cases involve intensely personal issues and long-term consequences for families and children, which makes the role both challenging and incredibly meaningful.

4. Are there aspects of criminal practice that translate well to family law?

Absolutely. Trial management, evidentiary analysis, and maintaining control of the courtroom translate directly. Criminal practice also teaches you to make timely rulings, manage contested hearings, and ensure both sides have a fair opportunity to be heard. Those skills are essential in family court as well.

5. What has been the most significant learning curve in stepping into the family division?

The breadth of issues within a single case. Family court can involve custody, parenting time, support, property division, and sometimes domestic violence concerns, all intertwined. It requires not only understanding the law but also appreciating the ongoing relationships between the parties and the long-term impact of the court's decisions.

6. How has your experience advocating for clients influenced how you run your courtroom now?

Having spent years at counsel table, I understand how important it is for attorneys to feel that their arguments have been



The Honorable Judge Tanya A. Grillo, 16th Circuit Court

heard. I try to run a courtroom that is structured, respectful, and efficient while still giving lawyers a fair opportunity to advocate for their clients.

7. What should attorneys appearing before you know about your expectations?

Preparation matters. Know your case, know the law, and be ready to clearly articulate the relief you're requesting. Professionalism is equally important. The courtroom should remain a respectful environment for attorneys, litigants, and court staff.

8. How do you approach cases involving self-represented litigants?

Self-represented litigants are very common in family court, and the court must strike a careful balance. My role is to remain neutral while ensuring the process is understandable. I try to clearly explain procedures and expectations so that everyone has a fair opportunity to participate.

9. What qualities do you most value in lawyers who appear before you?

Preparation, candor, and professionalism. Lawyers who are honest about the strengths and weaknesses of their case tend to be the most persuasive. Respect for the court, opposing counsel, and the process goes a long way.

10. Has taking the family docket broadened your view of the role of a trial judge?

Yes, significantly. Criminal cases often focus on a single event, but family court involves ongoing relationships and long-term consequences. It highlights how the role of a judge extends beyond deciding a single dispute to helping create structures that allow families to move forward.

11. How would you describe your judicial philosophy?

My philosophy centers on fairness, preparation, and respect for the rule of law. Judges must listen carefully, apply the law consistently, and ensure that everyone who enters the courtroom feels they were treated with dignity and that their voice was heard.

12. What does fairness look like to you in a courtroom setting?

Fairness means that every party has a meaningful opportunity to be heard and that decisions are grounded in the law and the facts presented. Just as importantly, the process itself must be respectful and transparent so that people leave the courtroom believing the system worked as it should.

13. Family law cases involve ongoing relationships. How does that affect your decision-making?

It requires looking beyond the immediate dispute and considering the long-term impact on families, particularly children. The goal is to create stability and workable structures that help families move forward.

14. What do you see as the biggest challenges currently facing the courts in Michigan?

Michigan courts, like many across the country, are balancing heavy caseloads with limited resources while also adapting to rapid technological change. We are increasingly seeing self-represented litigants rely on AI and online tools to educate themselves about the legal system. While greater access to information can be helpful, courts often encounter pleadings influenced by AI-generated language that may not always be grounded in applicable law. It has become an evolving challenge to ensure filings are based on sound legal authority while helping litigants understand the limits of those tools.

At the same time, the juvenile and family court systems need

additional resources. These cases often involve some of the most vulnerable individuals in our communities, and ensuring fairness requires adequate funding for guardians ad litem and court-appointed attorneys. Those professionals play a critical role in protecting the interests of children and families, and it is important that they are properly supported and fairly compensated for their work.

15. What advice would you offer to newer attorneys practicing in your courtroom?

Be prepared, be respectful, and listen carefully. Some of the most effective advocacy comes from understanding the facts of the case, listening to the court, and responding thoughtfully rather than simply focusing on what you planned to say.

16. What do you enjoy most about serving on the bench so far?

The opportunity to contribute to the justice system in a meaningful way every day. The work is challenging, but it is rewarding to know that the decisions we make can help resolve conflicts and bring clarity or stability to people's lives.

17. What's something about you that colleagues in the MCBA might not know?

Outside of the courtroom, I'm passionate about traveling and experiencing different cultures. Seeing different parts of the world and understanding different perspectives has always been energizing for me.

18. How do you decompress after a difficult day in court?

Fitness and cooking are two of the ways I reset. I start every day with a workout before court—it helps me stay focused, disciplined, and ready for whatever the day brings. After work, I enjoy cooking as a way to unwind and shift my mind away from the courtroom.

19. Are there books or mentors who have influenced your approach to law or leadership?

I'm an avid reader, and several books have influenced how I think about leadership, empathy, and the human impact of the justice system. The Garbage Bag Suitcase, Just Mercy, and Picking Cotton highlight the profound human consequences of the legal system and reinforce the importance of fairness and humility. Books like Dare to Lead and The Gifts of Imperfection emphasize authenticity and courageous leadership. Huddle, Grit, and Tell Me More also resonated with me through their focus on perseverance, meaningful communication, and the importance of truly listening.

20. Outside of the courthouse, how do you like to spend your time?

I enjoy staying active, traveling, and spending time with friends and family. I also enjoy mentoring younger lawyers and staying engaged with the legal community through bar association leadership and service.

21. If you could give your younger self one piece of career advice, what would it be?

Don't be afraid to pursue opportunities that feel outside your comfort zone. Some of the most meaningful growth in my career came from stepping into roles that initially felt challenging.

22. What's one small courtroom habit or quirk you've developed that people might notice?

I try to keep the courtroom respectful but human. Sometimes that means finding a little humor in the moment. I'm known to quote a music lyric here and there if it fits the situation—it tends to make people smile and reminds everyone that even in serious settings, a little humanity goes a long way.

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Special Unit Spotlight: Felony Domestic Violence Unit

*By Nancy Zieah, Assistant Prosecuting Attorney
Macomb County Prosecutor's Office*



The Macomb County Prosecutor's Office is proud to spotlight the critical work of its Felony Domestic Violence Unit, a specialized team dedicated to prosecuting domestic violence offenses and enhancing victim safety across the community.

Domestic violence remains one of the most underreported crimes, often occurring behind closed doors and involving patterns of coercion, control, and escalating harm. The Felony Domestic Violence Unit is specifically trained to address these challenges through a coordinated, victim-centered approach. Recognizing these unique challenges, the Felony Domestic Violence Unit builds strong cases while remaining sensitive to the dynamics of abuse. The Felony Domestic Violence Unit prosecutors are experienced in litigating a wide range of offenses, including felony domestic assault, murder, strangulation, arson, felony assaults, and violations of personal protection orders.

The Felony Domestic Violence Unit works collaboratively with investigators, and victim advocates to handle cases from initial review through final disposition. Using a vertical prosecution model, these prosecutors ensure consistency and accountability. Through evidence-based prosecution and victim-centered practices, the Felony Domestic Violence Unit works to hold offenders accountable while prioritizing the safety and well-being of victims.

neglect and delinquency. This role deepened her understanding of family dynamics, trauma, and the long-term impact of abuse— insight that is essential in domestic violence prosecution.

Elizabeth joined the Macomb County Prosecutor's Office in 2018, initially handling general criminal matters before being selected in 2020 to join the Child Protection Unit. There, she prosecuted cases involving the physical and sexual abuse of children and developed focused expertise in forensic interviewing and identifying indicators of abuse. She has successfully tried multiple capital cases, including homicides, further strengthening her ability to manage complex and high-stakes prosecutions.

Her extensive trial experience and subject-matter knowledge have made her a trusted resource for law enforcement, and she regularly trained local police agencies on investigating child abuse, sexual assault, and domestic violence cases. In 2023, Elizabeth was appointed Chief of the Felony Domestic Violence Unit, where she now leads a team of prosecutors handling some of the most sensitive cases in the community.

Elizabeth also serves as a member of the Major Crimes Unit, where she reviews warrant requests in death investigations.

Elizabeth's breadth of experience, from child advocacy and juvenile court to major felony prosecutions, makes her an indispensable leader in the Felony Domestic Violence Unit. As a member of Macomb County's Lethality Team, Elizabeth is equipped with the ability and resources to identify high-risk situations in an effort to prevent fatal outcomes in domestic violence cases. Her ability to understand the intersection of abuse, trauma, and violence ensures that cases are handled with both precision and compassion, advancing the office's mission to protect victims and hold offenders accountable.

Meet the Team

Elizabeth Abbo
Chief, Domestic Violence Unit



Elizabeth Abbo serves as the Chief of the Felony Domestic Violence Unit at the Macomb County Prosecutor's Office, bringing decades of legal experience and a uniquely comprehensive background to one of the office's most critical assignments. Since beginning her legal career in 1995, Elizabeth has developed legal expertise grounded in both

advocacy and litigation by handling cases involving criminal defense, landlord-tenant matters, collections, post-judgment divorce, and appellate work concerning both adults and children. She also served as a managing attorney for the Child Advocacy Office in Wayne County, representing protected and delinquent children— an experience that continues to inform her victim-centered approach today.

In 2014, Elizabeth was appointed as a Juvenile Court Referee in Macomb County, where she presided over cases involving child

Maria Panchenko
Deputy Chief,
Domestic Violence Unit



Maria Panchenko brings a rare combination of courtroom experience, leadership, and specialized expertise to the Felony Domestic Violence Unit. After graduating from Oakland University with a degree in English Literature in 2008, she went on to earn her Juris Doctor with a concentration

in litigation from Cooley Law School in 2012. During law school, she distinguished herself as a member of the Moot Court and Mock Trial

Boards, was a first-year Mock Trial competition champion, and an active participant in the Women Lawyers Association of Michigan.

After joining the State Bar of Michigan in 2013, Maria opened her solo practice, handling predominantly divorce and criminal matters. For nearly a decade, she built a reputation as a skilled and compassionate advocate, experience that now informs her work with victims of domestic violence, where the intersection of family dynamics and criminal law is often critical.

In 2021, Maria relocated to Georgia due to her husband's military service, joining the State Bar of Georgia and transitioning into civil litigation. She quickly rose through the ranks at Young, Thagard, Hoffman, LLP, and later at Langdale Vallotton LLP, before being recruited back to her original firm and promoted to partner—an early testament to her legal acumen and professional reputation.

Upon returning to Michigan in 2023, Maria joined the Macomb County Prosecutor's Office, where her impact was immediate. After serving in District Court, she was promoted to a second-chair position before Judges James M. Maceroni and Jennifer M. Faunce. In May 2024, she joined the Felony Domestic Violence Unit, and by January 2025, she was appointed Deputy Chief.

In her current role, she not only prosecutes domestic violence cases but also trains new assistant prosecuting attorneys, helping shape the next generation of prosecutors. Her background in both family and criminal law uniquely positions her to navigate the realities faced by victims.

In addition to her domestic violence work, Maria serves as the office's designated arson prosecution liaison to the Macomb County Fire Investigators Association. She has completed the Michigan State Police Arson Prosecution Training Program and now serves as a guest lecturer, contributing to statewide training efforts. She also supports the International Association of Arson Investigators through courtroom testimony training and mock trial programming. Maria's excellence has been formally recognized as she has been named the Prosecutor of the Year by the International Association of Arson Investigators.

Beyond the courtroom, Maria is dedicated to mentorship and community engagement, serving as a local high school Mock Trial coach through the Michigan Center for Civic Education. Her career reflects not only professional achievement, but a sustained commitment to justice and education.



Megan McKeon
Assistant Prosecuting Attorney,
Domestic Violence Unit

Megan McKeon serves as an Assistant Prosecuting Attorney in the Felony Domestic Violence Unit, where she combines strong academic achievement with hands-on courtroom experience to advocate for victims and the People of Michigan.

Megan earned her Bachelor of Arts in Criminal Justice and Legal Studies, with a minor in Spanish, from Grand Valley State University. She went on to attend Cooley Law School, graduating magna cum laude while distinguishing herself as a member of Law Review and a mock trial competitor. Her academic excellence was further recognized through

book awards in Trial Skills, Contract Law, and Tax Law. During law school, Megan completed a PAAM internship with the Sanilac County Prosecutor's Office, where she was on the record daily, handled cases, and drafted motions—an experience that solidified her passion for prosecution.

Megan began her legal career as an Assistant Prosecutor in Alpena County, where she managed the felony docket and served as a second chair on felony criminal sexual conduct cases. In that role, she developed strong skills in motion practice, oral advocacy, and case management, while also gaining valuable experience working closely with victims and the public.

Upon joining the Macomb County Prosecutor's Office, Megan initially served in the Juvenile Division before advancing to serve as second-chair in the circuit court of Judges Edward Servitto, Michael E. Servitto, Julie Gatti, and Anthony R. Servitto. Through this work, she was entrusted with trying numerous cases and further refined her litigation skills under the mentorship of seasoned prosecutors.

Today, Megan is assigned to the Felony Domestic Violence Unit, where she plays a vital role in prosecuting multifaceted cases. She is deeply committed to supporting victims through some of the most difficult moments of their lives, ensuring their voices are heard while holding offenders accountable. Megan's dedication to trial advocacy, victim communication, and collaborative teamwork reflects her unwavering commitment to justice and makes her an integral member of the Felony Domestic Violence Unit.



Erica Clute-Cubbin
Assistant Prosecuting Attorney,
Domestic Violence Unit

With a career shaped by both advocacy and firsthand experience across the criminal justice system, Erica brings a uniquely comprehensive perspective to the Felony Domestic Violence Unit. She earned her undergraduate degree in Psychology from Oakland University in 2003 and

went on to work as a substance abuse counselor who volunteered with prevention and recovery support organizations. This early work provided Erica with valuable insight into the dynamics of trauma, addiction, and victimization—insight that correlates with her approach to prosecution.

Erica graduated from Cooley Law School in 2012. While attending law school, she worked full-time as a felony probation officer. In that role, she developed a familiarity with offender behavior, accountability measures, and the long-term impact of criminal conduct on victims and communities. She later practiced as a criminal defense attorney, further broadening her perspective of the criminal justice system.

In 2023, she fulfilled her long-held goal of becoming an Assistant Prosecuting Attorney. Her diverse background, including experience in treatment courts as a counselor, probation officer, and defense attorney, allows her to approach domestic violence cases with both empathy and strategic insight. She understands the barriers victims face and is deeply committed to holding offenders accountable while supporting pathways to safety and recovery.

Cases Assigned to the Felony Domestic Violence Unit

The Felony Domestic Violence Unit handles a wide range of offenses involving violence in the home between spouses, former spouses, residents or former residents of the household, or individuals who have a child in common, including:

- Felony domestic assault
- Assault by strangulation or suffocation
- Murder
- Felonious assault
- Arson
- Felony possession of weapons
- Aggravated Stalking
- Violations of personal protection or restraining orders
- Witness intimidation and related offenses

Cases are reviewed for assignments based on the relationship between the parties, the nature of the offense, and any history of prior incidents.

Unit Significance

Recognizing that victims may be reluctant or unable to participate in the court process, the Felony Domestic Violence Unit employs evidence-based prosecution strategies. These include the use of:

- 911 recordings
- Body-worn camera footage
- On-scene statements and excited utterances
- Medical and physical evidence

This approach allows prosecutors to move forward with strong cases while reducing reliance on victim testimony alone. Accordingly, the Felony Domestic Violence Unit partners closely with local law enforcement agencies, probation departments, and community organizations to ensure a comprehensive response to domestic violence. These partnerships strengthen investigations, improve outcomes in court, and provide victims with the resources they need to move forward safely.

A cornerstone of the Felony Domestic Violence Unit is its commitment to victim safety. Victim advocates work directly with individuals affected by domestic violence to provide:

- Crisis intervention and safety planning
- Court accompaniment and case updates
- Referrals to community-based services, including shelter and counseling

The Felony Domestic Violence Unit also actively seeks protective conditions in court, including no-contact orders and, where appropriate, firearm restrictions. Domestic violence cases often carry a high risk of escalation. Early intervention and informed prosecution decisions can be key to preventing further harm.

Conclusion

The Macomb County Prosecutors Office remains committed to addressing domestic violence with the seriousness it demands. Through the dedicated work of the Felony Domestic Violence Unit, the office continues to hold offenders accountable, support victims, and enhance the safety of the community.



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Some Evidence

*By Hon. Carl J. Marlinga, 16th Judicial Circuit Court
and Macomb County Probate Court Judge (Ret.)*

Last month in my re-introductory article, I talked about MRE 803 with all its wondrous ways to get reliable hearsay admitted into evidence. I purposely use the term reliable hearsay because it helps to understand the nature of the hearsay rule. Referring to the rule by its more formal title (Exceptions to the Rule Against Hearsay) has led many lawyers and judges astray over the years to think that these exceptions are not hearsay. The thinking is that hearsay is bad; therefore, to be admissible these enumerated exceptions must, for some reason, not be hearsay. That's the wrong way to think. The better way is to understand that hearsay is admissible or inadmissible based on its reliability quotient. Reliable hearsay is admissible. Unreliable hearsay is inadmissible. If we stop thinking of hearsay as a bad thing, the purpose of the hearsay rule becomes clearer in our minds, letting the beauty of the many exceptions shine through. MRE 803 and its companions, MRE 803A and MRE 804, admit statements that are clearly hardball hearsay, but they do so on the considered judgment that the circumstances in which the statements were made render the statements sufficiently reliable to be considered by the fact finder (judge or jury) in reaching informed decisions.

The purpose of this article, sandwiched as it will be between the previous month's article on MRE 803 and future articles on MRE 803A and 804, is to caution the reader that the rules regarding hearsay are only half the story. A document or other exhibit may contain information that is admissible under these so-called exceptions. Having found the right exception, a lawyer may come to court with the correct record, document, data entry, or other piece of paper confident that she or he can overcome a hearsay objection, only to find that the true battle is on grounds of authenticity. I saw this mistake often when I was on the bench and now, in my semi-retirement, I have seen it many times again in my stints as a visiting judge. The hearsay exception should not be conflated, as it often is, to embrace the authenticity requirement; example, a page from the Wall Street Journal may establish the stock price for shares of Apple stock on a given date, and this price may be extremely relevant in proving the value of the stock, and hence the value of an estate as of the date of the decedent's death in a probate matter. It may also be relevant in establishing damages in a circuit court case involving the alleged conversion of stock. But as the confident lawyer offers the Wall Street Journal into evidence, smiles fade and panic sets in as opposing counsel says: "Objection, your Honor. Counsel is trying to get a newspaper into evidence. There is no foundation that this is really the Wall Street Journal. Counsel would need to call the publisher to authenticate the document. He would also need to call an expert to explain how the stock prices are gathered. He would also have to overcome several layers of hearsay to show that the information generated on the floor of the stock exchange is accurately transferred

to the pages of the purported newspaper. All in all, your Honor, the proffered so-called evidence is woefully inadmissible."

Now a good judge would see this objection for the nonsense that it is. (If the lawyer voicing this objection is serious, it shows a glaring deficit in his knowledge of the rules. If the lawyer knows better and still makes such a frivolous objection, it could be an ethical violation under MRPC 3.1; 3.3; and/or 3.4 dealing with a lawyer's obligation not to mislead the court. I always err on the side of mercy in these matters to assume that a lawyer is misinformed, rather than mendacious.) In any event, a lawyer cannot always assume that a judge will make the right call, and it is always incumbent upon a lawyer to be ready with all the rules necessary to get the evidence admitted.

This is where a thorough working knowledge of MRE 901, 902, 903, and MRE 104(a) is so necessary. If I were to advise young lawyers as to the most important rules to know – and even memorize – it would be these four. So much time is wasted in court, and so much needless angst is suffered in attempts to introduce exhibits because lawyers fail to know these rules. Once you know them, you know the fundamental truth that AUTHENTICATION IS EASY.

Nothing replaces the rules themselves, but here is a quick summary.

MRE 901 says that if something looks like a duck, waddles like a duck, and quacks like a duck, there is sufficient information to allow a jury to consider whether it might actually be a duck. Okay, so that is not an exact quote, but it does cover the meaning of the rule. The real text of the rule is that "[to] satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what its proponent claims it is." There follows a non-exhaustive list of examples which include "appearance, contents, substance, internal patterns, or other distinctive characteristics of an item, taken together with all the circumstances."

Wow! This makes it so easy. Add to this MRE 104(a) and the task becomes even simpler. That rule says that in making decision about the admissibility of evidence, a judge is not bound by the rules of evidence.

MRE 902 does all of us an even bigger favor by giving us a list of things that are "self-authenticating."

Getting back to the Wall Street Journal and its Apple stock share price data, the question of admissibility becomes a no-brainer. It's a quick two-step process: First, the Wall Street Journal authenticates itself without need of a witness because MRE 902(6) automatically authenticates [p]rinted material purporting to be a newspaper or periodical." Second, the hearsay content of the stock price is admissible under MRE 803(17) dealing with market reports. This two step-process

is necessary in every proffer of evidence. The substantive hearsay issue is addressed under the rules in the 800 series of the Rules of Evidence, while the authentication question is addressed in the 900 series of the rules. Also, please be aware that just like a computer search there are usually multiple ways to get the same item admitted into evidence. In the above example, a screen shot of stock prices for a given day available on Google, MSN, Apple or a multitude of other internet services, could easily be authenticated under MRE 901 to reach the same result.

For those of you (and there will be many) who thought for just a second that the bovinating objection to the admission of the Wall Street Journal page had some plausibility, be gentle with yourself. The rules, although elegant and simple, are not necessarily intuitive. We all need to be constantly immersed in a self-imposed continuing education effort. Even experienced trial lawyers (and judges) forget parts of the rules from time to time. Indeed, to remember all of them all of the time would require one to be in trial every week of the year with a practice that embraced all areas of the law, civil and criminal. Nobody does that.

Let's go through one more example. Assume that we are dealing with an intestate estate in probate and the question arises as to whether a person is truly an heir of the deceased. The person claiming to be an heir says that he is the son of Xystus Ducharme of Ontario Canada.¹ Xystus, according to the claimant was a brother of the deceased. Nobody in the family here in the United States, however, has ever heard of this guy. It is known that the deceased had family in Canada, but there hasn't been contact with that side of the family for decades.

The lawyer representing the claimant discover that her client has an old family Bible, printed in 1839. It contains a family history in its flyleaves which has its first entry in 1862 and its final entry in 1956. Within that family history there is the notation of the baptism of Xystus Laporte in January of 1943 and Xystus is further identified in the chart as a brother of the deceased. The lawyer, having read last month's SOME EVIDENCE article, knows that this entry would be admissible under MRE 803(13) provided that she can get the genealogy admitted.

All her client knows is that this antique Bible has been in his parent's possession since he was a kid. Neither mom nor dad ever said how they got it. It was a treasured possession because it was old, but because it was so old, nobody ever opened it up for fear of damaging the pages.

Undaunted, the lawyer offers the Bible as an exhibit. Opposing counsel objects, feigning sincerity about having to make the objection, but still arguing that there is simply too little in terms of foundation to know whether the genealogy contained in the exhibit is authentic.

The correct answer is to admit the Bible and its genealogy. Under MRE 901(b)(4) its appearance, contents, internal patterns, and other distinctive characteristics as described in this hypothetical meet the threshold for authentication; and under MRE 803(13) and (16) the genealogy entries satisfy the requirements for admission as reliable hearsay. But remember, the admission of an item as evidence is not the same as proof sufficient in itself to establish a proposition. The finder of fact, judge or jury, may still decide in a way consistent with the evidence or contrary to the evidence. We are just talking about what evidence the finder of fact should be allowed to consider in making an informed decision.

¹There really was a person named Xystus – a long-deceased member of my wife's family from northern Ontario. May his memory be a blessing.



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