

“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”



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Electronic Documents Produced in Court.
Legal Evidence Value.
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In other papers we have address topics related to the legal value in courts, of private documents. Today we will refer additionally to public documents produced as evidence. The historical general rule is that original documents are those who bear an original signature executed in the document by the parties thereof.

However, the dynamic of the world with new technologies over the years have been evolving with the production of electronic, optical or by any other technology documents that want to be considered as originals.

In that sense and as opposed to the old definition of original documents, simple or plain copies of private or public documents in general terms do not have legal value.

Once objected simple copies of documents must be perfected in order to acquire evidence legal value. One method is by requesting the obligated counterparty to recognize the document before the court, but the obligated party has the right to only recognize original documents, and to ignore simple copies.

In the case of public documents, which are those executed by public notaries or authorities with the capacity to certify such documents, even in those cases the physical document, to be used as legal and valid evidence must be also produced in original that is, if it is a certified copy, the signature of the Notary or authority that has the capacity to certify such document has to stamp his original signature. Facsimile signatures, or electronic signatures that are only pictures or electronic reproductions of the signature do not constitute original signature.

However, electronic, optical or by any other technology documents might reach evidence legal value by other methods than that of the recognition procedure.

Under that scope of cases, we also have to determine, in the case of public documents, which are considered as originals even if they do not have an original hand stamped signature.

Newest court precedent has resolved certain case in which one of the parties offered as evidence in courts, printed versions of public records, traditionally considered as merely simple copies, case in which the judge subtracted legal value of such documents even though they were not objected by the counter party and considered them as merely simple copies without prove or demonstrative capacity or force.

In the amparo filed by the affected party challenging such ruling, the party proved that the copies or printed versions of the electronic documents had electronic seals, QR verification codes, electronic signatures (Judicial Signature, which is the Certified Electronic Signature of the Judiciary of Mexico City), and cryptographic evidence.

"...electronic documents state that the information generated or communicated through electronic, optical or any other technology is recognized as admissible evidence..."

Federal procedural provisions applicable to electronic documents state that the information generated or communicated through electronic, optical or any other technology is recognized as admissible evidence.

In assessing the probative value of the aforementioned information, the primary consideration shall be given to the reliability of the method by which it was generated, communicated, received, filed or archived, and, if applicable,

whether it is possible to attribute the relevant information's content to the obligated parties and make it accessible for further consultation.

"...When the law requires a document to be preserved and produced in its original form, said requirement shall be satisfied, if it can be proven that the information generated, communicated, received, filed or recorded through electronic, optical or any other technology, has remained intact and unaltered from the moment it was first generated in its definitive form and is accessible for subsequent consultation..."¹.

The high court in applying and interpreting such provision, considered that those printed versions of electronic documents attributable to a government agency can have legal probative value to establish the complainant's legal arguments. Such value is not limited to being mere copies without evidence effect or mere indications; their evidence legal validity (full or relative) depends on the characteristics inferred from their content that generate conviction regarding their authenticity and reliability.

"...electronic documents are those generated, consulted, modified, or processed by electronic applications, technological means, or digital solutions that replace their physical counterparts and generally serve the same purpose, but in digital format..."

The high court justified its consideration holding that "...electronic documents are those generated, consulted, modified, or processed by electronic applications, technological means, or digital solutions that replace their physical counterparts and generally serve the same purpose, but in digital format. They possess unique components and distinguishing attributes to ensure authenticity and reliability, among other aspects. Authenticity provides the guarantee that the document is what it claims to be, created or sent by the person claiming to have done so, at the time asserted, without alterations or corruptions. Reliability is the capacity of a document to ensure that its content is a complete, accurate, and faithful representation of the activities or facts it attests to. Moreover, it must remain complete and unaltered over time, preserving its contextual and source attributes. To achieve both components (authenticity and reliability), issuing entities employ techniques such as electronic signatures, digital signatures, digital certificates, digital or electronic seals, secure verification codes (CSV), digital watermarks, QR codes (Quick Response Code), among others. In light of the above, the "original" version of the electronic document is the digital file in the database, encompassing its unique components and distinguishing attributes. The printing of this document results in a copy, but it does not mean that it cannot hold evidence legal value or that, if granted, it would only be a mere indication. The fact that electronic documents, once generated, consulted, modified, or processed, can be printed to exist in a physical version does not alter their original nature as virtual documents..."².

Therefore, for the purpose of evidence evaluation, their authenticity and reliability can be more easily verified through any of the aforementioned techniques. Consequently, if the printouts of the electronic documents presented by the party can confirm that the information is reliable by means of consulting any of the mentioned techniques and if it can be inferred that the information has remained intact and unaltered since its initial generation in its definitive form, and that it can be accessed for further consultation, the requirements mentioned in the procedural code are satisfied, and therefore, full legal evidence value can be attributed to them.

As we can see, court proceedings and rulings have been evolving in parallel to the new technologies regarding documents produced as evidence in court cases.

1.- Article 210-A of the Federal Code of Civil Procedures.

2.- <https://sjf2.scjn.gob.mx/detalle/tesis/2026752>

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