

## Case Brief

Evidence, 1/15/15

### Identity of Case

Mancari v. Frank P. Smith, Inc. 114 F.2d 834 (D.C. Cir. 1940)

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### Summary of Facts/ Procedural History

Defendant shoe company used plaintiff's name in an advertisement, "seeking potential customer" themed, which he sued upon as causing him great mortification and humiliation. The defendant shoe company had created and distributed this ad through an advertising agency. Not ultimately clear who decided to put Mancari's name on there, potentially several names were used. At trial, plaintiff produces company's name on the flyer as evidence that it was their creation and they were responsible for it. TC said that this was not sufficient authentication (pursuant to defendant's objection) and plaintiff appealed. Affirmed.

### Statement of the Issue

Whether a company's name on an advertising slip for their product is sufficient to authenticate it as being their advertisement.

### Holding

The contents of a document are not sufficient to authenticate the document as being created/the product of the persons named in it.

### Reasoning

"The mere presence in printed material of the name of a particular person constitutes no substantial evidence that the person caused such material to be written or published." Typically, the contents of a document are not sufficient because (1) better evidence is generally available to prove authorship (chain of custody, for one)S and (2) the danger that "too many would be found to take fraudulent advantage of the rule."

### Evaluation

This is a little stupid, and would never happen today because the company would stipulate that it was their advertisement but fight on damages instead. Dissent states that when there is no other evidence available (in this case, the negotiation sbetween the ad company and defendant) the name on the paper may be sufficient. In any case, why wasn't that information subpoena'd/disclosed in discovery? \_