LAW SCHOOL

How to Check: a Case Brief

Authenticating a Nation's electronic records in court.

The issue

How may a Nation's document, its Register entry and its Ledger record be authenticated and admitted as evidence; and what weight does a cryptographic proof of integrity carry?

The instruments

Instrument	Date	What it does
Canada Evidence Act, ss 31.1–31.8	RSC 1985, c C-5	Electronic documents: authentication, best evidence, integrity
Evidence Act (Ontario), s 34.1	RSO 1990, c E.23	Electronic records
Electronic Commerce Act, 2000	SO 2000, c 17	Electronic signatures and records
The Nation's Ledger	2026	Records anchored in Bitcoin

The statutes

Canada Evidence Act, RSC 1985, c C-5, ss 31.1–31.8.

Evidence Act, RSO 1990, c E.23, s 34.1.

Electronic Commerce Act, 2000, SO 2000, c 17.

The cases

> ***R v Nikolovski***, [1996] 3 SCR 1197
> A videotape, shown to be accurate and unaltered, may be admitted and relied on as real evidence.

The arguments

	For the objecting party	For the Nation
Authentication	The Nation is not a recognized authority	The proponent need only show the record is what it purports to be (s 31.1)
Integrity	The system is untested	Integrity is shown by the system's reliability (s 31.2): signatures and public anchors
Weight	Low: a private record	High: independently checkable by anyone
Best evidence	The original is the paper	The electronic record and its proof satisfy the rule

Weak points to test

For the Nation: courts' unfamiliarity with blockchain anchoring; the need for an expert witness. For the objector: the low threshold for authentication; the independent verifiability of the records.

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Briefing note

A court clerk receives a Nation certificate filed as an exhibit, with its Record Code and Edge Mark. In 150 to 200 words, advise the clerk: how to check it, what to record, and what the judge may need to hear. Write it as a briefing note: purpose, background, considerations, recommendation.

Moot problem

A party tenders the Nation’s certificate and Ledger record to prove the date on which a document was made. The other party objects that the records are not authenticated.

For the tendering party: ss 31.1–31.2, Nikolovski, the public anchor. **For the objector:** the need for evidence of the system’s reliability. **For both:** what evidence would satisfy the court.

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A worked outline: IRAC

Step	For the tendering party
Issue	Are the certificate and Ledger record admissible to prove the date?
Rule	Canada Evidence Act ss 31.1–31.2; Nikolovski on real evidence.
Application	The certificate is what it purports to be; the Ledger’s anchor proves the record existed unaltered on that date, checkable by anyone.
Conclusion	Admitted; weight for the trier of fact.

The objector’s outline runs the same four steps the other way. Students draft it themselves.

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Written assignment: memorandum of argument

The task

Write the memorandum of argument for one side of the moot on this sheet: the tendering party or the objector, as your instructor assigns. Then argue it.

Requirements

- 2,500 words, not counting the list of authorities.
- Every authority cited in McGill Guide form, with pinpoints.
- At least six authorities, including at least two not on this sheet.
- Meet the other side’s best argument in Part III, not just your own case.
- Only facts set out in the moot problem; no new facts.

Structure

- Part I, the facts: a neutral statement, no more than two pages.
- Part II, the issues: each as a single question.
- Part III, the law and argument: issue by issue, the rule, its application, and the other side’s answer met.
- Part IV, the order sought: precisely worded.
- Part V, the list of authorities: statutes, then cases, then secondary sources.

Timeline

- Week 1: research; a one-page outline of your issues and authorities.
- Week 2: the full memorandum, exchanged with the other side.
- Week 3: oral argument.

Oral argument

Fifteen minutes a side, two minutes’ reply for the applicant. Expect questions from the bench from the first minute; the marking guide on the instructor’s page applies.

Integrity

Your memorandum must be your own. If you use an AI tool for research or drafting, verify every authority against the reports and say so in a note; an invented citation fails the assignment.

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For the instructor: standards met

Universal competencies	Identify key facts and claims; Understand perspective and point of view; Analyse and evaluate evidence; Apply: what does this mean for us?. The same everywhere, whatever the curriculum.
TRC Call to Action 28	Evidence and the records of an Indigenous institution.
National Requirement	Problem-solving, legal research, and oral and written communication.
Citation	The McGill Guide; pinpoints left for students to supply.
Method	IRAC; a briefing note to a court clerk; a moot on admissibility.
Balance	The arguments both ways and their weak points; the brief names its own position.
Time	One class of 90 minutes; the moot as a separate session.

Marking guide: the moot

	Outstanding	Strong	Competent	Weak
Law	Every authority on point, accurately stated and pinpointed	Main authorities correct	Some missed or loose	Wrong or absent
Analysis	Applies the law to the facts and meets the other side’s best point	Applies the law clearly	Applies it in part	States law without applying it
Structure	A clear road map, followed throughout	Clear and mostly followed	Some drift	Hard to follow
Advocacy	Answers the bench directly and returns to the theory	Answers well	Answers with difficulty	Avoids the questions

This brief sets out the Mohawk Nation of Grand River’s position beside others, for study and argument. The case summaries are for teaching: read the reports. It is not legal advice.

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