

Proposed Amendments to Rule 36

Rule 36 is amended as follows:

Rule 36. Requests for Admission

~~(a) Request for Admission.~~

(a) Scope and Procedure.

(1) Scope. A party may serve ~~upon~~ **on** any other party a written request ~~for the admission~~ **to admit**, for purposes of the pending action only, ~~of the truth of~~ any matters within the scope of Rule 26(b)(1) ~~set forth in the request that relate to statements or opinions of fact or~~ **relating to:**

(A) facts, the application of law to fact, ~~including~~ **or opinions about either; and**

(B) the genuineness of any described documents ~~described in the request. Copies of documents shall be served with the request.~~

(2) Form; Copy of a Document. Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document ~~unless they have~~ **it is, or has** been ~~or are~~, otherwise furnished or made available for inspection and copying. ~~Without leave of court or written stipulation, requests for admission may not be served before the time specified in Rule 26(d). Each matter of which an admission is requested shall be separately set forth. The~~

(3) Time to Respond; Effect of Not Responding. A matter is admitted unless, within 30 days after ~~service of the request, or within such shorter or longer time as the court may allow or as~~ **being served, the party to whom the**

request is directed serves on the parties may agree to in writing, subject to Rule 29, the party to whom the request is directed serves upon the party requesting the admission **party** a written answer or objection addressed to the matter, **and** signed by the party or by the party's **its** attorney. **A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the court.**

(4) Answer. If objection **a matter** is made, the reasons therefore shall be stated. The **not admitted, the** answer shall **must** specifically deny the matter **it** or set forth **state** in detail the reasons why the answering party cannot truthfully admit or deny the matter **it**. A denial shall **must** fairly meet **respond to** the substance of the requested admission **matter**; and when good faith requires that a party qualify an answer or deny only a part of the **a** matter of which an admission is requested, the party shall **answer must** specify so much of it as is true **the part admitted** and qualify or deny the remainder. An **rest. The** answering party may not give **assert** lack of **knowledge or** information or knowledge as **a** reason for failure **failing** to admit or deny unless **only if** the party states that the party **it** has made reasonable inquiry and that the information known **it knows** or **can** readily obtainable by the party **obtain** is insufficient to enable the party **it** to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why the party cannot admit or deny it.

(5) Objections. The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

(6) Motion Regarding the Sufficiency of an Answer or Objection. The **requesting** party who has requested the admissions may move to determine the sufficiency of the answers **an answer** or objections **objections**. Unless the court determines that **finds** an objection is justified, it shall **must** order that an answer be served. If the court determines **On finding** that an answer does not comply with the requirements of this rule, it **the court** may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that **defer its** final disposition of the request be made at a post-assignment **decision until a pretrial** conference or at a designated time prior to **a specified time before** trial. The provisions of Rule 37(a)(3)(4) **applies** to the **an** award of expenses incurred in relation to the motion.

(b) Effect of **an Admission**; **Withdrawing or Amending It.** Any matter admitted under this rule is conclusively established unless the court, on motion, permits withdrawal or amendment of the admission. **the admission to be withdrawn or amended.** Subject to the provisions of Rule 16 governing amendment of a post-assignment scheduling or conference order **(e)**, the court may permit withdrawal or amendment when **if it would promote** the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy **if** the court **is not persuaded** that withdrawal or amendment will **it would** prejudice that **the requesting** party in maintaining **or defending** the action or defense on the merits. Any

~~admission made by a party under this rule is for the purpose of the pending action only and is not an admission for any other purpose nor may it~~ **and cannot** be used against the party in any other proceeding.

(As amended, eff. Jan. 1, 1985; July 28, 1988, eff. Nov. 1, 1988; Aug. 29, 2000, eff. Jan. 1, 2001; Sept. 30, 2003, eff. Jan. 1, 2004; Nov. 28, 2006; eff. Jan. 1, 2007: _____, **2009, eff. _____, 2010.**)

Advisory Committee Note

The language of Rule 36 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.