

## **RULE 36. REQUESTS FOR ADMISSION**

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each matter of which an admission is requested shall be separately set forth. Subject to the provisions of subdivision (b) of this rule, the matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 45 days after service of the summons and complaint upon that defendant. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party 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. A party in responding to requests for admission shall set forth each request in full immediately preceding the party's answer or objection thereto.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court

determines that an answer does not comply with the requirements of this rule, it 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 final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice the party in maintaining 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 be used against the party in any other proceeding.

### **Advisory Committee's Notes 1993**

Rule 36(a) is amended to make clear that a party who has not answered or objected to a request for admission may be relieved under Rule 36(b) from the conclusive effect of the admission. The amended provision applies to all litigants, but it is particularly necessary in the case of pro se litigants who may not understand the effect of failure to respond to a request for admission.

The rule is also amended to eliminate gender references that were inadvertently omitted from the general amendments of July 1, 1987, eliminating such references.

### **Advisory Committee's Note September 23, 1971**

For the convenience of both counsel and the court each response to a request for admission must set forth the request in full to which answer or objection is being made. *See* the parallel amendment made to Rule 33(a) relating to interrogatories.

### **Advisory Committee's Note**

**October 1, 1970**

Rule 36 is extensively amended for the purpose of making requests for admission more effective in narrowing issues and facilitating proof. The principal revisions of Rule 36(a) are the following:

1. The matter requested to be admitted may relate to statements or opinions of fact or of application of law to fact. Thus, the requirement that the matters be "of fact" only is eliminated.

2. A party may not object to a request for admission merely because he believes that it involves a genuine issue for trial.

3. The answering party is required to make a reasonable inquiry and secure such information and knowledge as are readily obtainable by him.

4. The requirement that the answer to a request for admission be sworn to is eliminated. New Rule 37(c) is believed to furnish an appropriate deterrent to false answers.

5. Changes in the mechanics of this discovery device are made to conform to the new mechanics in Rules 33 and 34, as follows:

a. The time for response is lengthened from 10 to 30 days with the added provision that a defendant in no event is required to respond in less than 45 days after service of the summons and complaint upon him.

b. Because of the longer time for responding, any requirement of leave of court for service of a request for admission is eliminated.

c. The present requirement that the objecting party move automatically for a hearing on his objection is eliminated and the burden is put on the requesting party to move for an order. However, no change is made in the present law placing the burden of persuasion on the objecting party.

6. Amended Rule 36(a) provides for the first time that the court in advance of the trial will on motion scrutinize the answers and if it finds them defective may either rule that the matter stands as admitted or order that an amended answer be served.

Rule 36(b) is amended to declare, as the rule previously did not, that any matter admitted under the rule is conclusively established for the purposes of the pending action unless the court on motion permits withdrawal or amendment of the admission.

**Reporter's Notes**  
**December 1, 1959**

This rule is substantially the same as Federal Rule 36. The present Equity Rule 25 in Maine provides a similar device for discovering whether the adverse party admits the genuineness of documents. There is no counterpart in Maine practice for admission of facts. The purpose is to save the time and expense of offering proof of matters put in issue by the pleading but as to which there is no genuine controversy. A party whose refusal to admit is found to be unreasonable may be ordered to pay his adversary's expenses in making proof in accordance with Rule 37(c).