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Objections to request for admissions.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AVANCE HARDEN, JR.
Plaintiff,
v.
McCLURG & ASSOCIATES, INC.,
a Michigan Corporation,
Defendant.

No. 97-CV-74547-DT
Hon. Denise Page Hood
District Judge
Hon. Thomas Carlson
Magistrate Judge

Richard W. McHugh (P36727)
Law Office of Richard W. McHugh
255 East Liberty Street, Suite 289
Ann Arbor, Michigan 48104-2119
(313) 332-1015
Attorney for Plaintiff Avance Harden, Jr.

PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS

Avance Harden, Jr., by his counsel, submits the following Requests for Admissions to Defendant McClurg & Associates, Inc. pursuant to FRCvP Rule 36

INSTRUCTIONS

If McClurg & Associates, Inc. (hereafter the "Defendant") fails to respond or object to any request within 30 days of the service of the Requests, the matter shall be deemed admitted under Rule 36.

As is more fully set out in Rule 36(a), the Defendant must admit or deny each request, and, where necessary, specify the parts of each request to which it objects or cannot in good faith admit or

The appellate court reversed, stating that if the recipient has a good reason to deny the request, such fees and costs cannot be awarded. This lack of clarity on what constitutes a good reason potentially waters down the sanction for denying a fact. This article aims to provide insights into the use of Requests for Admissions as a discovery tool in litigation. If you have questions or would like more information, please contact David Adelstein at or (954) 361-4720. The time to respond may be modified as directed by the court or agreed upon in writing by the parties, as outlined in Rule 36(a)(3) and Rule 26(d)(1). Parties may adjust discovery deadlines through agreement, except where an extension would interfere with trial preparation, a hearing on a motion, or a scheduled trial date. In such cases, approval from the court is required. Before requesting discovery from any source, parties must have conferred as required by Rule 26(f), unless exempted from initial disclosure under Rule 26(a)(1)(B) or authorized by these rules, stipulation, or court order. The court must establish a discovery cut-off date, as stated in Rule 16(b)(3)(A). Admissions, answers, or objections to requests must be provided, as outlined in Rule 36(a). The grounds for objecting to a request must be clearly stated. A party cannot object solely on the basis that the request presents a genuine issue for trial. Possible grounds for objection include relevance (seeking information outside the scope of permissible discovery). When a matter is not admitted, the answer must either specifically deny it or explain in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter and specify any part admitted. An answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if it states that it has made reasonable inquiry and the information known or readily obtainable is insufficient to enable it to admit or deny. Any matter admitted is deemed "conclusively established" unless the court permits withdrawal or amendment on motion. The court may permit withdrawal or amendment if it promotes the presentation of the merits of the action and does not prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding. The failure to provide timely responses to requests for admission constitutes admissions to the requests. If a party fails to admit what is requested under Rule 36 and later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses incurred in making that proof.

Ward (2018), showed that the court awarded \$981,116.23 in attorney's fees and costs under this rule by proving the truth of the matter after the recipient denied requests for admissions.

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFF ACTION NO.

vs. DEFENDANT

DEFENDANT ANSWERS TO PLAINTIFF'S REQUEST FOR ADMISSIONS

The Defendant being duly served with a copy of the Plaintiff's Request for Admissions, the Defendant now admits the following:

1. Plaintiff The Defendant made a gift to her/him.
 2. Plaintiff The Defendant has no record of any gift.
 3. Plaintiff There was no written contract.
 4. Plaintiff There was no oral contract.
 5. Plaintiff Plaintiff has no record of any gift from the Defendant.
 6. Plaintiff There was no written contract and no Plaintiff has no record.
 7. Plaintiff The Defendant has no record of any gift from Plaintiff and has no record of any gift to Plaintiff.
 8. Plaintiff There was no written contract and there has been no valid written contract.
 9. Plaintiff The Defendant has done nothing wrong that would cause another to sue him for damages. Plaintiff has no record of any damage to Plaintiff from the gift from the Defendant.
 10. Plaintiff Plaintiff has no record.
 11. Plaintiff Plaintiff has no record.
 12. Plaintiff Plaintiff is a witness to the Plaintiff's knowledge to know what the Plaintiff believed.
 13. Plaintiff The Defendant has made no promise to the Plaintiff.

These requests aim to narrow down disputed facts by requiring the recipient to admit or deny the requested fact. The goal is to have the recipient admit the fact, which then becomes a stipulated fact that doesn't need to be proven at trial.

NO. 76-2416-1

IN THE DISTRICT COURT OF
 VS. MCLENNAN COUNTY, TEXAS
 LEAGUE OF UNITED LATIN
 AMERICAN CITIZENS ** 19TH JUDICIAL DISTRICT

MOTION TO DENY REQUEST FOR ADMISSIONS ADMITTED

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Arizona Bank Travel Service, and moves the Court, pursuant to Rule 169, *Texas Rules of Civil Procedure*, to deny all statements, in Plaintiff's Request for Admissions, admitted, and as grounds therefore, shows unto the Court:

1. On or about the 17th day of November, 1976, the Plaintiff served the Defendant, Arizona Bank Travel Service, with Request for Admissions, a copy of which is attached hereto as Exhibit A, and incorporated herein for all purposes. That on the 29th day of November, 1976, the Defendant caused to be served on Plaintiff, Responses to the above Requests, a copy of which is attached hereto as Exhibit B, and incorporated herein for all purposes.

2. Plaintiff would show that the Requests were in proper form and that the statements were proper inquiries to develop information necessary for the prosecution of this case. Plaintiff would show that the Responses of Defendant were vague in that they did not deny specifically the matters of which the Admissions were requested nor did they set forth in detail any reasons why the matters inquired into could be neither admitted or denied.

3. Plaintiff would show that Defendant has no good reason for not admitting or denying the matter requested, that this failure to deny is

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OBJECTIONS TO THE WITNESS	PRIVILEGES
Info will not help Trier of	Trade Secrets
Insufficient foundation to	Attorney - Client
qualify expert	Qualification
Insufficient record of experience of	Marital Communication
layperson	Doctor - Patient
New scientific technique	Confessor - Confessant
Opinion based on	Waiver of Privilege
unreasonable material	Self-Incrimination
Insufficient knowledge of the subject matter	Attorney - Client
Inability to observe,	Competent to Testify
remember & communicate	Exception to Hearsay
Failure to appear and stand	Party Admission
duty to tell truth	Waiver of Privilege
No personal knowledge	OBJECTIONS TO FORM AN ANSWER
Insufficient record of experience of	Nonresponsive
layperson	Arguative
Judge as witness	No time to object
Lacks expert qualification	Insufficient foundation
Answer inadmissible	Nonresponsive
OBJECTIONS TO EXHIBIT	Nonadmissible
Nonresponsive	Nonadmissible
Evidence inadmissible	Nonresponsive
No time to object	Nonadmissible
Insufficient foundation	Nonadmissible
Witness unavailable for	Nonadmissible
Speculation	Nonadmissible
OBJECTIONS TO PLEADING	Inconsistent with Pleadings

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Possible grounds for objection include relevance (seeking information outside the scope of permissible discovery). When a matter is not admitted, the answer must either specifically deny it or explain in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter and specify any part admitted.

An answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if it states that it has made reasonable inquiry and the information known or readily obtainable is insufficient to enable it to admit or deny. Any matter admitted is deemed "conclusively established" unless the court permits withdrawal or amendment on motion. The court may permit withdrawal or amendment if it promotes the presentation of the merits of the action and does not prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding. The failure to provide timely responses to requests for admission constitutes admissions to the requests. If a party fails to admit what is requested under Rule 36 and later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses incurred in making that proof. The court must so order unless the request was held objectionable under Rule 36(a) or the admission sought was of no substantial importance. Under Rule 26(a), parties must supplement or correct their disclosure or response in a timely manner if they learn that it is incomplete or incorrect, unless otherwise ordered by the court. FRCP 26(e). Additionally, parties may move for a protective order under FRCP 26(c). The scope of discovery includes any nonprivileged matter relevant to a party's claim or defense and proportional to the needs of the case, considering factors such as the importance of the issues, the amount in controversy, and the relative access to relevant information. FRCP 26(b)(1). Information need not be admissible in evidence to be discoverable.

The court may alter the limits on depositions, interrogatories, or deposition length under FRCP 30 or limit the number of requests under FRCP 36 by order or local rule. FRCP 26(b)(2)(A). In the context of Rule 1.280(b), the truthfulness of certain matters is crucial. This includes statements or opinions about facts and how laws apply to those facts, as well as the authenticity of documents mentioned in a request. Copies of these documents should be included with the request unless they've been provided elsewhere or made available for inspection and copying. A request for admission can be served on any party involved in the action, including the plaintiff, without court permission. However, this rule has some limitations: it cannot exceed 30 requests, including subparts, unless the court grants a larger number upon motion and notice for good cause, or all parties agree to a larger number. Each matter requested must be listed separately, and admission is granted unless the responding party submits a written answer or objection within 30 days. This deadline may be shortened or extended by the court, but defendants are generally given 45 days after service of process to respond before the court can shorten the time frame. If an objection is made, the reasons must be stated. The response should specifically deny the matter or explain why the party cannot truthfully admit or deny it. A denial must fairly address the substance of the requested admission and clarify what parts are true and what parts are not. An answering party may not use lack of information as a reason for failing to admit or deny unless they state that they have made reasonable inquiries and that the available information is insufficient to enable them to admit or deny. A party that believes an issue presents a genuine dispute at trial cannot object solely on this ground; instead, they can deny the matter or provide reasons why they cannot admit or deny it, subject to Rule 1.380(c). The requesting party may move to determine the sufficiency of answers or objections. Unless the court determines that an objection is justified, it will order a response be served.

If the court finds that an answer does not comply with this rule's requirements, it can either require the matter to be admitted or demand an amended response. Instead of these orders, the court may decide to finalize the request at a pretrial conference or designated time before trial. Rule 1.380(a)(4) applies to the awarding of expenses related to the motion. If presenting the benefits of a particular move will actually help, and the person who initially agreed to reconsider doesn't convince the court that changing or withdrawing would harm their ability to pursue an action or defense based on those merits. Any agreement made under this rule is only relevant for the current lawsuit and can't be used against that party in any other situation.