

Alabama Rules of Civil Procedure

V. DEPOSITIONS AND DISCOVERY

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. The matter is admitted unless, within thirty (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 forty-five (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.

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 that 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.

(dc) *District court rule.* Rule 36 applies in the district courts in those instances where a request for admissions is permitted by Rule 26(dc).

[Amended eff. 10-1-95.]

Committee Comments on 1973 Adoption

There is no provision corresponding to Rule 36 in Tit. 7, § 474(1)-(18), Code of Ala.

The purpose of this rule is to expedite the trial and to relieve the parties of the cost of proving facts which will not be disputed at the trial and the truth of which can be ascertained by reasonable inquiry. The rule is self-sufficient, and clearly defines its purpose and limits its effect, and it should be liberally construed. See Wright & Miller, *Federal Practice and Procedure, Civil*, § 2252 (1970).

As in Rule 33, Interrogatories, and Rule 34, Request for Production, 30 days in which to admit is allowed unless the Request is served at or shortly after the commencement of the action. Unless otherwise ordered, a defendant is not required to admit any sooner

Rule 36 provides that admissions may reach opinions of the application of law to facts. This is analogous to a companion provision found in Rule 33(b).

Objections must be accompanied by grounds. Inability to admit or deny requires accompanying reasons therefor. When good faith requires qualification, that which can be admitted shall be stated and that which is denied shall be specified.

Lack of knowledge is adequate only when reasonable inquiry could not lead to sufficient information. The duty to make reasonable inquiry does not oblige the responding party to seek discovery from third parties available to the requesting party.

Objections or insufficient answers may be pursued under Rule 37(a) by the party seeking discovery.

Final disposition of certain requests may be postponed until pre-trial or thereafter.

Amendment or withdrawal of admissions is permitted under the conditions set forth in Rule 36(b).

The admission is for the purpose of the pending action only and is not an admission for any other purpose or proceeding.

The same admonition as to the use of canned interrogatories contained in the commentary to Rule 33 is equally applicable to the service and filing of canned requests for admissions. In the commentary dealing with Rule 33, the method of objections to canned discovery devices is discussed.

**Committee Comments to October 1, 1995,
Amendment to Rule 36**

The amendment is technical. No substantive change is intended.