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# Civil Lawsuit Basics: Interrogatories and Requests for Admission



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Also, this class is limited to general civil cases in state court.



# Interrogatories

An interrogatory (“rog” for short) is a written question asked by one party to another party, who must answer under oath and in writing. The answer may be used in evidence against the answering party.



# Requests for Admissions

A request for admission (RFA) allows one party to force another to admit or deny the truth of any relevant fact or the genuineness of any relevant document.



# Rogs – Why?

**Obtain information from opposing party:**

- What evidence do they have?
- Know what you are up against.
- Limit them later.
- Force them to provide information to help your case (rare).



# Rogs – Why?

- **Broader than deposition:** Other party must provide information “available” to him including from *opposing counsel* or any other agent or employee. Depositions reach only the deponent's personal knowledge.
- **Inexpensive:** Less costly than depositions
- **Less preparation:** less time to draft and serve than to prepare for and take a deposition



# Rogs – Why?

- **Obtaining details:** Can obtain exact dates, times and places; account numbers; exact costs; names. Depositions aren't good for that.
- **Obtaining adversary's contentions:** Can ascertain opinions and contentions of the opposing party





# Rogs – Why?

- **Setting up other discovery:** Find other evidence - witnesses, documents or physical evidence, prepare for deposition.
- **Following up after other discovery:** can be used to update older information; follow up on questions not completely answered at depositions; pursue leads obtained through other discovery; get answers after deposition has been completed



# Rogs – Why not?

- **Slow:** usually at least a 30–day wait between the time the questions are served and the answers are received; often, much longer.
- **More coaching:** Answers are often prepared by counsel, so you won't get spontaneous answers or admissions
- **Not good for broad questions:** no chance for immediate follow-up questions; vague answers are difficult to clarify.
- **Can be sent to parties only:** Only depositions can compel nonparties to give information



# Rogs – Who?

May be sent to “*any other party*” to the action.

[[CCP § 2030.010\(a\)](#)]

- Cannot send to non-parties

**Corporations, partnerships, etc:** must be directed to the *entity* itself not to an officer, director or employee

- cannot designate who will answer
- Entity must provide information known to *any* of its officers or agents.



# Rogs – Who?

My son and I are being sued by my credit card company for the unpaid balance on my account from my purchase of my son's car. We cross-complained against the dealership that sold me the car because it was a lemon.

Can I send rogs to:

My credit card company?

The bank that finances my credit card company?

The car dealership?

The manager of the dealership who told me the car was in perfect condition?

My son?



# Rogs – How?

Can propound both form & special rogs

Need not be all at once



# Rogs – How? Forms

## Official Form Interrogatories:

Available here or on Judicial Council website:

- General (DISC-001) -- primarily for use in personal injury and contract actions
- Employment Law (DISC-002).
- Unlawful Detainer (DISC-003/UD-106).
- Limited Civil Cases (Economic Litigation) (DISC-004)
- Family Law (FL-145)



# Rogs – How? Forms

Advantage: judge is not likely to sustain an objection as to their *form*.

Can object as to content: relevance, privilege

TIP: Form Interrogatory 15.1: “Identify each denial of a *material* allegation . . . in your pleadings (and state facts upon which you base the denial).”



# Rogs – How? Special

Each party also has the right to propound “specially prepared” interrogatories to every other party. [[CCP § 2030.030\(a\)\(1\)](#)]





# Rogs – How? Special

## Numbering questions:

Each *interrogatory* (question) within the set must be identified by number or letter. [[CCP § 2030.060\(c\)](#)]

TIP: Numbering questions consecutively helps keep track.

**No need to provide room for answers**



# Rogs – How? Special

**No subparts:** Specially prepared interrogatories may not contain subparts. [[CCP § 2030.060\(f\)](#)]

**Each question separate and complete:** Each interrogatory must be “separately set forth” and “full and *complete in and of itself*.” [[CCP § 2030.060\(c\)-\(d\)](#)]

**No preface or instructions allowed** [[CCP §§ 2030.060\(d\), 2033.710](#)]

**Defined terms:** Terms used in interrogatories may be given special definitions. The defined terms must be typed in *capital letters* every time they are used. [[CCP § 2030.060\(e\)](#)]



# Rogs – How? Special

## Prohibitions:

Unless Official Form Interrogatory, no “**compound, conjunctive or disjunctive**” questions. [[CCP § 2030.060\(f\)](#)]

**No incorporation of other materials.** Must be able to understand without resort to other materials in order to answer the question.



# Rogs – How? Special

## Common Uses:

**Exploring Other Party's Contentions:** ask a party to state his or her contentions or the facts, witnesses or writings upon which the contentions are based. [[CCP § 2030.010\(b\)](#)];

“Do you contend that...”

“State all facts upon which you base your contention in paragraph 12 of the complaint that...”



# Rogs – How? Special

**Identification of documents or evidence:** find out what documents, records or other physical evidence exists, where it is located, etc.

“Identify all documents relating to the sale of the house at 123 Elm St.”

“State the names of all persons with possession, custody or control of records pertaining to the sale of the house at 123 Elm.”



# Rogs – How many?

No limit on number of form rogs

**Rule of 35:** Limited to 35 “specially prepared” interrogatories to each other party. [[CCP § 2030.030\(a\)\(1\)](#)]

Extras (36+) need not be answered;  
subparts each count



# Rogs – How many?

The “Rule of 35” *not* an absolute limit.

Also permissible:

- “supplemental” rogs to update earlier answers [[CCP § 2030.070\(a\)](#)]; or
- attach “declaration of necessity” [[CCP §§ 2030.040\(a\), 2030.050](#)]; or
- written stipulation [[CCP § 2016.030](#)].



# Rogs – Responding

Unless excused by a protective order, must respond to each question *separately, under oath,* and within the *time limits*. [[CCP § 2030.210\(a\)](#)]

Response may be:

- An *answer*;
- An *objection*; or
- An *election to allow inspection and copying of records*. [[CCP § 2030.210\(a\)](#)]





# Rogs – Time to Respond

Response is due *within 30 days* from the date the *interrogatories* were served [[CCP §§2030.260\(a\) 2016.050](#)]

Extended for service by mail, overnight, fax or electronic delivery per [CCP §§ 1010.6\(a\)\(4\), 1013](#)

If deadline is weekend or holiday, extends to next court day closer to the trial date. [[CCP § 2016.060](#)]



# Rogs – Time to Respond

## **Delay WAIVES objections:**

Failure to respond within the time limit waives most objections, including privilege and “work product” protection!

[[CCP § 2030.290\(a\)](#)]



# Rogs – Time to Respond

Court may shorten or extend time. [[CCP § 2030.260\(a\)](#)] Noticed motion required.

Parties may stipulate to extend time to respond to interrogatories. [[CCP § 2030.270](#)]

Agreement must “be confirmed in a writing that specifies the extended date for service of a response.” [[CCP § 2030.270\(b\)](#)]

Stipulation extending the time to “respond” applies to objections as well as answers. [[CCP § 2030.270\(c\)](#)]



# Rogs – Answering

Must be “*as complete and straightforward* as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, it shall be answered to the extent possible.”

Cannot reference other documents or answers; must answer each question

Must make *reasonable and good faith effort* to obtain the information unless equally available to the propounding party

[[CCP § 2030.220\(a\)-\(c\)](#)]

Evasive response is grounds for sanctions



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# Rogs – Objecting

Instead of answering, may serve objections.

Each objection must be stated *separately* (no objections to entire set), and must bear the same number or letter as the interrogatory to which it is directed. [[CCP § 2030.210\(a\)\(3\)](#)]

Alternative to protective order

TIP: Don't object to form (e.g., opinion, hearsay, assumes facts not in evidence, ambiguous). Courts don't like these and discovery is broad.



# Rogs – Objecting

Possible, proper objections:

- Privilege, work product, or right of privacy
- Exceeds permissible scope of discovery; “not relevant to the subject matter of the action”
- More than 35 special rogs without required declaration
- Question not “full and complete in and of itself”;
- Seeks content or production of documents (not a proper purpose)
- Seeks information equally available to interrogating party
- Is “burdensome and oppressive”

**Failure to object is a waiver.**



# Rogs – Inspection as Alternative Response

Instead of answering, may allow the party asking to inspect and copy records if can show:

- A *compilation, abstract, audit or summary* of the responding party's records is necessary in order to answer the interrogatory; *and*
- No such compilation, etc. presently exists; *and*
- The burden or expense of preparing or making it would be substantially the same for both parties.

[[CCP § 2030.230](#)]



# Rogs – Inspection as Alternative Response

To utilize this option, the response must:

- Be *timely* (delay waives the right to exercise the option; see [CCP § 2030.290\(a\)](#));
- Refer to [CCP § 2030.230](#); and
- *Specify* the documents from which the answer can be derived.





# Rogs – Enforcement

## **Motion to Compel Responses or Further Responses**

Can seek monetary sanctions; court has limited authority to deny monetary sanctions

**Sanctions for Failure to Obey Court Order**  
Monetary; Compelled Answers; Exclusion at Trial; Issue Sanction; Contempt



# Rogs – Using the Responses

## As substantive evidence:

- Use is subject to rules of evidence
- Ok even if party is present or will testify
- May be used by *any* party
- Admissible against responding party only
- Not conclusive; answering party may rebut or explain
- TIP: Very useful for motions



# Rogs – Using the Responses

**Impeachment:** If offer different testimony

**Deem answer binding or exclude inconsistent evidence:**

- If:
1. answers were *willfully* false
  2. the opposing party relied upon them to its prejudice, and
  3. the prejudice *cannot be cured* by a continuance or by using the answers for impeachment.



# RFAs – Why?

**Primarily:** Find out what facts are in dispute

Limit discovery and evidence at trial

Support motions

**Secondarily:** Discover evidence



# RFAs – Why?

- **Setting up other discovery:** Find what's in dispute; decide what evidence you need.
- **BINDING:** Answers to rogs and deposition questions can be changed or explained. RFAs are *conclusive* and can only be changed with court permission.
- **Following up after other discovery:** Confirm admissions made at deposition or in responses to rogs so they can't be changed



# RFAs – Why?

- **Chance for immediate win:** If opponent admits key facts, can move for a summary judgment
- **Cost-of-proof sanctions:** If opponent refuses to admit and you prove it at trial, you may be entitled to the expense of proving it.



# RFAs – Why not?

- **Coaching:** Not spontaneous
- **Can be sent to parties only:** Only depositions can compel nonparties to give information
- **Limited number:** Like interrogatories, RFAs are subject to the “Rule of 35 plus”
- **Equivocal denials and stalling:** An equivocal denial requires a court order to clarify



# RFAs – Who?

Same as rogs:

May be sent to “*any other party*” to the action. [[CCP § 2030.010](#)]

Cannot send to non-parties





# RFAs – How? Form

Official Form RFA's not tailored to any particular type of action. Just a shell.

Advantage: judge is less likely to sustain an objection as to their *form*.

*Can object as to content: relevance, privilege*



# RFAs – How? Special

RFAs must be in a *separate document*, not combined with interrogatories or other discovery. [[CCP § 2033.060\(h\)](#)]

**Numbering questions:** Each *RFA* must be identified by number or letter. [[CCP § 2033.060\(c\)](#)]

**No need to provide room for answers**



# RFA – How? Special

Same as rogs:

- **No subparts**
- **Each question separate and complete**
- **No preface or instructions allowed**
- **Defined terms in CAPS**

**If RFA is re genuineness of document, then original document must be available for inspection**



# RFA's – How? Content – Special

## Common Uses:

### Admit verifiable facts

Admit that YOU were driving 60 mph northbound on Elm St at the time of the ACCIDENT.

Admit that EMPLOYEE never received a rating of less than “outstanding” in any written performance evaluation while in YOUR employ.

### Discover opinions (not permissible in depositions of percipient witnesses)

Admit that the value of the vehicle you were driving was less than \$2,000.



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# RFAs – How? Special

## Common Uses:

### Genuineness of Documents

Admit that the Exhibit A is a true and correct copy of the agreement referred to in Paragraph 14 of your Complaint.

### Legal Conclusions

Admit that YOU were acting within the course and scope of your employment when you telephoned PLAINTIFF on January 12, 2010.



# RFAs – How many?

No limit on RFAs re genuineness of documents [[CCP § 2033.030\(a\)](#)]

Same Rule of 35 as rogs. [[CCP § 2030.030\(a\)](#)]

Unlike rogs, form RFAs do count towards 35



# RFAs – How many?

Additional RFAs are permissible:

By attaching a “declaration of necessity” [[CCP §§ 2033.030\(b\)](#)]; or

By written stipulation [([CCP § 2016.030](#))].

**Again, limited civil cases:** limited to 35 total for *all* discovery requests – interrogatories, RFAs and inspection demands combined. [CCP §§ 94–95](#)



# RFAs – Responding

Unless excused by a protective order, must respond to each question *separately, under oath*, and within the *time limits*. [[CCP §§ 2033.210–2033.250](#)]

Response must be:

- An *answer (admit or deny)*;
- An *objection; or*
- A *statement of inability to admit or deny*





# RFAs – Time to Respond

Response due *within 30 days* from date of service [[CCP §§ 2033.250, 2016.050](#)]

Extended for service by mail, overnight delivery, fax or electronically per [CCP §§ 1010.6\(a\)\(4\), 1013](#).

If the last day falls on a weekend or holiday, the time limit is extended to the next court day closer to the trial date. [[CCP § 2016.060](#)]



# RFAs – Time to Respond

Court may shorten or extend time. [[CCP § 2033.250\(a\)](#)]  
Noticed motion required.

Parties may stipulate to extend time to respond to RFAs.  
[[CCP § 2033.260](#)]

agreement must “be confirmed in a writing that specifies the extended date for service of a response.”  
[[CCP § 2033.260\(b\)](#)]

Stipulation extending the time to “respond” applies to objections as well as answers. [[CCP § 2033.260\(c\)](#)]



# RFAs – Answering

Answer must be “as complete and straightforward” as the available information *reasonably permits* and must “(a) admit so much of the matter involved in the request as is true . . . or *as reasonably and clearly qualified* by the responding party.” [[CCP § 2033.220\(a\),\(b\)\(1\)](#)]

Can qualify an admission: “Admit, except the car was blue.”



# RFAs – Inability

Instead of admitting or denying, may claim *inability* (lack of sufficient information) to admit or deny. [[CCP § 2033.220\(c\)](#)]

Must also state that *a reasonable inquiry was made* to obtain sufficient information



# RFAs – Objecting

Instead of answering, may object. Same objections as rogs.

Cheaper, easier alternative than protective order



# RFAs – Enforcing

**If no responses, can move for “deemed admitted order”**

- motion defeated by late responses
- otherwise motion “shall be granted”
- monetary sanctions mandatory

**If responses incomplete or improper, can move to compel further answers**



# RFAs – Enforcing

Failure to timely respond results in **waiver of all objections** to the requests—even privilege or work product protection. [[CCP § 2033.280\(a\)](#)]

Relief from waiver may be granted if the court finds:

- party's failure to serve a timely response resulted from “mistake, inadvertence or excusable neglect”; and
- party has *subsequently served a response* in “substantial compliance” [[CCP § 2033.280\(a\)-\(c\)](#)].

Must move for relief before court issues “deemed admitted” order



# RFAs - Amend or Withdraw

An admission cannot be amended or withdrawn except by leave of court after noticed motion. [[CCP § 2033.300\(a\)](#)]

Policy favors allowing withdrawal of admissions





# RFAs – Using the Responses

## As substantive evidence:

- Matter admitted is conclusively established; no contrary evidence is admissible
- Use is still subject to rules of evidence (relevance, ambiguity, etc)
- May be used by any party
- Admissible against responding party only and only in same proceeding; hearsay as to others



# RFAs and Form Rogs Together

17.1 is an important form rog! It reads:

Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:

- (a) state the number of the request;
- (b) state all facts upon which you base your response;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of those facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your response and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.



# Rogs & RFAs – When? Limits

“Hold” at outset of case: Plaintiff may not serve rogs or RFAs on defendant within *first 10 days* after service of summons or defendant's appearance (whichever is first). [[CCP § 2030.020\(b\)](#),(d)]

Hold applies only to plaintiff; defendant can serve during this period.



# Rogs & RFAs – When? Limits

Unless otherwise ordered:

- discovery must be *completed 30 days* before the initial trial date; *and*
- discovery motions must be heard no later than *15 days* before trial. [[CCP § 2024.020\(a\)](#)]

“**Completed**” means the day the *response* is due. [[CCP § 2024.010](#)]



# Rogs & RFAs – When? Tips

**Last possible minute:** serve so that the responses are due 30 days before the first trial date.

*What's the problem with this?*

**Better plan:** serve at least 90 days before trial so that the response is due no later than 60 days before trial (not just 30).

*Caution:* Still may not be sufficient. Why?



# Rogs & RFAs – When? Quirks

**Continuance of trial does not reopen discovery:** Cut-offs measured from the *first* trial date. Continuance of the trial date does *not* by itself reopen discovery. [[CCP § 2024.020\(b\)](#)]

**Parties may agree to later deadline:** [[CCP § 2024.060](#)] (called a stipulation)

**Court may grant leave for later RFAs or interrogatories:** [[CCP § 2024.050](#);] (requires a motion – on court's own motion)



# Rogs & RFAs – Service

**Service:** Copies must be served on the party being asked to answer and on all other parties who have appeared in the action.

**Not filed with court:** The propounding party retains the original. They are *not* filed with the court.



# Rogs & RFAs – Format

Below title of the case must show: identity of responding party; identity of propounding party; and set number

**Example:** “PLAINTIFF JOHN SMITH'S SECOND SET OF INTERROGATORIES TO DEFENDANT JANE BROWN”

**Example:** “DEFENDANT JANE BROWN'S RESPONSE TO PLAINTIFF JOHN SMITH'S SECOND SET OF REQUESTS FOR ADMISSIONS ”

Each **response** must be in same order and identified by same number or letter as rog being answered. [[CCP § 2030.210\(c\)](#)]





# Rogs & RFAs – Format

RESPONSES: Do not need to repeat the text of the question in the response.

Responses must be signed under oath by the party responding. If they contain an objection, the *attorney* must also sign the response; and if *entirely* objections, only the attorney's signature is required.



# Questions?



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