

STATE BAR OF TEXAS
COMMITTEE ON COURT RULES
REQUEST FOR NEW RULE OR CHANGE OF EXISTING RULE
TEXAS RULES OF CIVIL PROCEDURE

- I. Exact wording of existing Rule 169.

RULE 169. REQUESTS FOR ADMISSION.

1. **Request for Admission.** At any time after commencement of the action, 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 166b 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 the documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Whenever a party is represented by an attorney of record, service of a request for admissions shall be made on his attorney unless service on the party himself is ordered by the court. A true copy of a request for admission or of a written answer or objection, together with proof of the service thereof as provided in Rule 21a, shall be filed promptly in the clerk's office by the party making it.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted without necessity of a court order unless, within thirty days after service of the request, or within such time as the court may allow, or as otherwise agreed by the parties, 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 his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of fifty days after service of the citation and petition upon that defendant. If objection is made, the reason therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons that 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 his answer or deny only a part of the matter of which an admission is requested, he 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 he states that he has made reasonable inquiry and that the information known or easily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission is requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of paragraph 3 of Rule 215, deny the matter or set forth reasons why he cannot admit or deny it.

2. Effect of Admission. Any matter admitted under this rule is conclusively established as to the party making the admission unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 166 governing amendment of a pre-trial order, and Rule 166b-6 governing duty to supplement discovery responses, the court may permit withdrawal or amendment of responses and deemed admissions upon a showing of good cause for such withdrawal or amendment if the court finds that the parties relying upon the responses and deemed admissions will not be unduly prejudiced and that the presentation of the merits of the action will be subserved thereby. Any admission made by a party under this rule is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

(Amended Sept. 20, 1941, eff. Dec. 31, 1941; Oct. 12, 1949, eff. March 1, 1950; Oct. 3, 1972, eff. Feb. 1, 1973; Dec. 5, 1983, eff. April 1, 1984; July 15, 1987, eff. Jan. 1, 1988; April 24, 1990, eff. Sept. 1, 1990.)

Notes and Comments

Source: Federal rule 36, with minor textual change.

Change by amendment effective December 31, 1941: The method of service is explained to be delivery, etc.

Change by amendment effective March 1, 1950: The third sentence, requiring delivery of the request for admissions to the adverse party's attorney, where he is represented by an attorney of record; the fourth sentence, requiring that the request state that it is made under this rule and the effect of failure to answer; and the last sentence, requiring the filing of copies in the clerk's office, have been added.

Change by amendment effective February 1, 1973: Sentence concerning effect of admission and provisions authorizing court to determine sufficiency of answers or reasons and permit withdrawal or amendment of admission have been added.

Change by amendment effective April 1, 1984: This rule has been revised to conform it to new Rule 166b. Under the amendment to Rule 169, a party may be required to admit or deny the truth of any matters within the scope of discovery. This change follows the pattern established by the 1970 amendment to Federal Rule 36. The time for making a response has been extended to thirty days. This modification is consistent with the objective of making discovery responses generally due within thirty days. Consistent with the view that all "sanction" information be set forth in one rule, noncompliance information has been moved to Rule 215(3). If requests go unanswered for thirty (30) days, no court order is required to deem such requests admitted unless otherwise ordered by the court.

Comment to 1990 change: The rule is amended to provide that the parties may agree to extend or shorten the time to respond to a request. The rule is also amended to permit service of a request at any time after commencement of the action but extending the time to respond in such case to no less than fifty days after service of the citation and petition on the responsive party.

II.

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Each matter of which an admission is requested shall be separately set forth. The matter is admitted without necessity of a court order unless, within thirty days after service of the request, or within such time as the court may allow, or as otherwise agreed by the parties, 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 his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of fifty days after service of the citation and petition upon that defendant. If objection is made, the reason therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons that 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 his answer or deny only a part of the matter of which an admission is requested, he 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 he states that he has made reasonable inquiry and that the information known or easily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission is requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of ~~paragraph 3~~ of Rule 215, deny the matter or set forth reasons why he cannot admit or deny it.

2. **Deemed Admission.** Each matter of which an admission is requested shall be deemed admitted unless, within the time provided by this rule, the party to whom the request is directed serves upon the party requesting the admission a sufficient written answer or objection in compliance with the requirements of this rule, addressed to each matter of which an admission is requested. For purposes of this subdivision an evasive or incomplete answer may be treated as a failure to answer.

3. **Effect of Admission.** Any matter admitted under this rule is conclusively established as to the party making the admission unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 166 governing amendment of a pre-trial order, and Rule 166b-6 governing duty to supplement discovery responses, the court may permit withdrawal or amendment of responses and deemed admissions upon a showing of good cause for such withdrawal or amendment if the court finds that the parties relying upon the responses and deemed admissions will not be unduly prejudiced and that the presentation of the merits of the action will be subserved thereby. Any admission made by a party under this rule is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

III. BRIEF STATEMENT OF REASONS FOR REQUESTED CHANGES AND ADVANTAGES TO BE SERVED BY THEM

The new subdivision is Subdivision 4a of Rule 215 with a slight grammatical modification. That portion of Rule 215 is better suited to be placed within Rule 169 and not a part of a sanctions rule.