

USE OF REQUESTS FOR ADMISSIONS

A powerful tool at the disposal of a litigator is a Request for Admission (RFA). An RFA is a written request by one party that another party admit or deny, under oath, the truth of certain matters or the genuineness of certain documents.

The power lies in the answers; well-crafted RFAs can narrow the claim and allegations, as any admissions will not need to be proved at trial. If the answering party fails to admit the truth of any fact or the genuineness of any document and the requesting party later proves that fact or genuineness of document, the answering party may be subject to attorney's fees incurred in making that proof.

Code of Civil Procedure § 2033.060 instructs on the drafting of an RFA:

- Each request must be numbered consecutively. C.C.P. §2033.060(a)
- The first paragraph immediately shall state the identity of the party requesting the admissions, the set number, and the identity of the responding party. C.C.P. §2033.060(b)
- Each request shall be “*separately set forth and identified by letter or number.*” C.C.P. § 2033.060(c)
- Each request shall be “*full and complete in and of itself*” and there shall be no preface or instructions. C.C.P. §2033.060(d)
- Any term specifically defined shall be capitalized whenever the term appears. C.C.P. §2033.060(e)
- No subparts or “*compound, conjunctive or disjunctive*” requests. C.C.P. §2033.060(f)
- If you are requesting an admission of the genuineness of documents, then they must be attached. C.C.P. §2033.060(g)
- No other discovery method to be combined with requests for admissions. C.C.P. §2033.060(h)

It is important to keep the RFA simple in order to avoid objections such as “compound” or ambiguous” and to avoid denials. *Fredericks v. Kontos Indus., Inc.* (1987) 189 CA 3d 272, 27 (if admission is susceptible to more than one meaning, trial court must exercise its discretion to determine scope and effect of admission “so that it accurately reflects what facts are admitted in the light of other evidence”.) Trial courts may consider parol evidence that explains an admission but cannot use parol evidence to contradict the plain meaning of a response to an RFA; if a response to an RFA is unambiguous, the matter admitted is conclusively established. *Monroy v. City of Los Angeles* (2008) 164 CA4th 248, 260.

RFAs can help you build a solid foundation for discovery and proof at trial. For example, if you are defending a case where plaintiff was injured in a prior accident, and you would like to rule out that your accident caused a specific injury:

RFA No. 1: Admit plaintiff [name] was involved in a motor vehicle accident on [date];

RFA No. 2: Admit plaintiff [name] fractured his left arm as a result of a motor vehicle accident on [date];

RFA No. 3: Admit plaintiff 's left arm was not injured as a result of the subject motor vehicle accident on [date].

Finally, always serve the RFAs with Form Interrogatory 17.1, to ensure that you obtain the most effective evidence, that your discovery plan is being followed, and to set the matter up for cost-of-proof sanctions at trial for any RFAs that were not admitted.