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Requests for Admissions

An Underutilized Litigation Tool

by Alan S. Naar

Requests for admissions are an effective way to build a pretrial record that establishes the strengths of your case and the weaknesses of your adversary's case. By requiring parties to admit uncontested facts and the authenticity of documents, requests for admissions are a useful tool to expedite and streamline litigation by eliminating issues that are not in dispute, "but which are difficult and expensive to establish by competent evidence, and thereby expedite the trial, diminish the cost, and focus the attention of the parties upon the matters in genuine controversy."[1]

Requests for admissions can also reduce litigation costs by eliminating the need to establish certain facts through more costly discovery procedures, and to obviate the need to prove those facts at trial. Thus, they allow both parties to narrow and define the claims and defenses that need to be resolved at trial.

Although requests for admissions are a time-saving and effective device, they are often underutilized in favor of traditional discovery methods. If understood and used properly, they can greatly assist the practitioner in preparing a case for summary judgment or trial.

The Rules

Federal Rule 36 and New Jersey Rule 4:22-1 establish the procedure for a party to request and obtain admissions from another party in the litigation.[2] The Federal Advisory Committee Notes explain that the goal of Federal Rule 36 is to help expedite trials by limiting litigation to facts and circumstances that remain in dispute.

> Rule 36 serves two vital purposes, both of which are designed to reduce trial time. Admissions are sought, first to facilitate proof with respect to issues that cannot be eliminated from the case, and secondly, to narrow the issues by eliminating those that can be.[3]

Both the federal and state rules encourage parties to admit requests by specifically providing that the admissions are limited to the pending action only, thereby eliminating the concern that the admission can be used against them in the future.[4]

To use requests for admissions effectively, and to avoid common mistakes and possible penalties, practitioners should fully understand their substance and procedure.

Distinction Between Discovery and Requests for Admissions

By definition, requests for admissions are not discovery because they were not designed to seek discovery of unknown information; rather, they were designed to confirm the accuracy of information already available.

> Strictly speaking[,] Rule 36 is not a discovery procedure at all, since it presupposes that the party proceeding under it knows the facts or has the document[,] and merely wishes its opponent to concede their genuineness.[5]

New Jersey courts have similarly held that Rule 4:22-1 is not the equivalent of discovery.

> Requests for admissions are not discovery devices to ascertain relevant facts. They were designed to ascertain an adversary's position with respect to these facts.[6]

Clearly, basic discovery methods, such as interrogatories and depositions, are designed for exploring and uncovering facts about the case.[7] Courts are careful, however, not to let parties circumvent restrictions on discovery methods, such as limits on interrogatories, by employing requests for admissions improperly.[8] Generally, parties should not use requests to seek unknown additional information, but to settle questions relating to undisputed relevant facts. Thus, requests for admissions permit parties to "focus [their] attention ... upon the matters in genuine controversy."[9]

The Distinctions Between the Federal and State Rules

New Jersey Rule 4:22-1 is patterned after Federal Rule 36, as amended in 1970.[10] However, there are certain distinctions.

Distinction: Opinion and Fact

A major distinction between Federal Rule 36 and New Jersey Rule 4:22-1 is that the federal rule permits requests for admissions as to opinions.

> Federal Rule 36(a) states, in pertinent part, with emphasis added: A party may serve upon any other party a written request for the admission, for the 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.

By contrast, New Jersey Rule 4:22-1 states, in pertinent part, with emphasis added:

> 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 of fact* within the scope of Rule 4:10-2 set forth in the request, including the genuineness of any documents described in the request.

This distinction was added to the federal rules in the 1970 amendment to resolve a conflict that had developed in the courts.[11] The 1970 amendment eliminated the requirement that the admission requested be "of fact." Rule 36 permits a party to obtain an admission of the truth of a matter that relates to "statements or opinions of fact or of applications of law to fact."[12] Thus, "requests which seek opinions of fact, or of mixed fact and law, are appropriate since contention requests were encompassed within Rule 36, by amendment, in 1970."[13] However, requests that are inappropriate include requests for: (1) opinions of law,[14] (2) legal conclusions,[15] and (3) admissions of law that are unrelated to the facts of the case.

New Jersey did not adopt this change made in the 1970 amendment to Federal Rule 36. Rather, New Jersey Rule 4:22-1 limits requests for admissions to matters of fact.

Distinction: Time for Service of Requests for Admissions

Another distinction between Federal Rule 36 and New Jersey Rule 4:22-1 is the time for service of a request for admissions.

Federal Rule 36(a) states, in pertinent part: "Without leave of court or written stipulation, requests for admission may not be served before the time specified in Rule 26(d)."[16] Federal Rule 26(d) makes clear that "a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)."[17]

New Jersey permits a party to serve a request for admissions "with or after service of the summons and complaint."[18] New Jersey Rule 4:22-1 states, in pertinent part:

> 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.[19]

Notwithstanding the new rule changes that became effective on September 5, 2000, under the heading Best Practices, requests for admissions are specifically excepted from the time within which discovery shall be completed. New Jersey Rule 4:24-1 states, in relevant part:

> Except for proceedings under ... R. 4:22 (request for admissions) ... all proceedings referred to in R. 4:10-1 ... shall be completed within the time for each Track.

Thus, unless precluded by a pretrial order, a party may serve a request for admissions even after its time to complete discovery has expired.

Distinction: Timing of Motion to Determine the Sufficiency of a Response

The federal and state rules permit a party to move to determine the sufficiency of responses, or the validity of objections to a request. An improper response may result in an order that the matter is admitted or that amended answers be served. Moreover, both rules provide that the court may award the expenses incurred in bringing the motion.[20]

Federal Rule 36 and New Jersey Rule 4:22-1 state, in relevant part:

> 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.

Federal Rule 36 adds that:

> [t]he court may, in lieu of these orders, determine that final disposition of the request be made at a pre-trial conference or at a designated time prior to trial.

While the predecessor rule in New Jersey contained no provision for judicial scrutiny prior to trial concerning the sufficiency of a response or the validity of an objection, Rule 4:22-1 specifically places the burden on the party requesting the admissions to move for a determination on these matters.[21]

By contrast, Federal Rule 36

> now makes no provision for court scrutiny of such answers before trial, and it seems to contemplate that defective answers bring about admissions just as effectively as if no answer had been served.[22]

A responding party may, therefore, be presented with the contention that he or she has made a binding admission for the first time at trial. *Some* courts have entertained motions to rule on the defective answers to avoid unfair surprise.[23]

Form

The federal and state rules require that "[e]ach matter of which an admission is requested shall be separately set forth." Federal Local Civil Rule 36.1(a) provides further that:

> Requests for admission shall be so arranged that after each separate request, there shall appear a blank space reasonably calculated to enable the answering party to have the answer to the request for admission typed in.

In addition, requests are required to be simple and direct in form and limited to a single, relevant statement.

> The questions should be so submitted that they are direct, material, relevant and concise, and in general, capable of answer by a yes or no. A request for an admission, except in most unusual circumstances, should be such that it could be answered yes, no, the answerer does not know, or a very simple direct explanation given as to why he cannot answer, such as in the case of privilege. To hold otherwise we are convinced would lead to long and interminable hearings on requests for admissions which would serve no real purpose.[24]

Neither the federal nor the state rules limit the number of requests, or the number of separate sets of requests for admissions, that may be served. Unless restricted by pretrial order, a party may serve separate sets of requests for admissions as discovery advances and trial preparation commences.

Relevancy

Federal Rule 36 and New Jersey Rule 4:22-1 both require that the party serving the request for admissions adhere to a relevancy standard.

Federal Rule 36 states, in relevant part:

> 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)(1)...

Similarly, New Jersey Rule 4:22-1 states, in relevant part:

> 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 R. 4:10-2.

Federal Rule 26(b) and New Jersey Rule 4:10-2 require simply that the information sought be "reasonably calculated to lead to the discovery of admissible evidence."[25]

The relevancy requirement is not a very narrowing limitation.

> Relevancy is given a very broad reading in the context of Rule 26(b) and this [broad interpretation] is now clearly the test to be applied to Rule 36.[26]

The purpose of Federal Rule 36 is to expedite litigation and

> [t]his purpose is best served by adhering to the rule's requirement that the requested admissions be relevant to the issues in the case.[27]

Response Due Within 30 Days After Service

Federal Rule 36 and New Jersey Rule 4:22-1 both require that a party shall respond to a request for admissions within 30 days of service, unless otherwise agreed to by the court or the parties.[28] Courts may allow responses to requests after the 30-day period if justice would be furthered by doing so.[29] Significantly, a party's "failure to respond, either to an entire request or to a particular request, is deemed to be an admission of the matter set forth in that request or requests."[30]

While it may be possible to amend or withdraw a response to a request, *see* discussion, *infra,* any matter "admitted" under both the federal and state rules, whether explicitly admitted or admitted by default, is deemed "conclusively estab-

lished" and not rebuttable.[31] A matter deemed admitted does not require further proof. Of course, the admission is applied to the pending action only.[32] Because an admission cannot be used in any other proceeding, it has no collateral estoppel effect.[33] While some courts have treated an admission the same as sworn testimony, they are not equivalent because an admission is not made under oath.[34]

> In form and substance, a Federal Rule 36 admission is comparable to an admission in pleadings or a stipulation drafted by counsel for use at trial, rather than to an evidentiary admission of a party.[35]

Responding to a Request for Admissions

A response to a request for admissions may consist of an admission, a denial, an objection, a qualification, a statement of lack of information or knowledge, a motion for a protective order, or a combination of any of these responses. Federal Rule 36(a) and New Jersey Rule 4:22-1 clarify that the reasons for an objection or inability to respond must be set forth.

Good Faith and Reasonable Inquiry

The federal and state rules are substantially similar in prohibiting a party responding to a request from answering "lack of information or knowledge" as a reason for failing to admit or deny a request. Both rules require that the parties make a "reasonable inquiry" prior to admitting or denying a request. Moreover, both rules require that a party exercise "good faith" in responding to a request, and qualify a denial if part of the request can be admitted.[36]

Federal Rule 36 states, in relevant part, with emphasis:

> 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.

New Jersey Rule 4:22-1 is virtually identical to Federal Rule 36 in this respect.

While a line of cases exists that permits a party to answer a request based on lack of knowledge,[37] Federal Rule 36 and New Jersey Rule 4:22-1 adopt the majority view "that if a party lacks knowledge, he must inform himself in reasonable fashion."[38] Thus, a claim of insufficient information alone is inadequate under Federal Rule 36(a) because "it fails to allege and specify any reasonable inquiry undertaken to obtain information which would enable a [party] to admit or deny the admissions requested."[39]

The Federal Advisory Committee Notes on Federal Rule 36(a) state that the sanction for a party that fails to inform itself before it responds to a request for admissions is an award of costs after trial, as provided in Federal Rule 37(c)(2). The comments to New Jersey Rule 4:22-1 not only provide for the similar award of fees under New Jersey Rule 4:23-3, but also cite the Federal Advisory Committee Notes on Federal Rule 36(a) with approval.

Federal Rule 37(c)(2) states:

> If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (A) the request was held objectionable pursuant to Rule 36(a), or (B) the admission sought was of no substantial importance, or (C) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or (D) there was other good reason for the failure to admit.

New Jersey Rule 4:23-3 is similar although not identical to Federal Rule 37(c)(2) with respect to the reasons why a court would not order the payment of reasonable expenses and attorney's fees. Thus, practitioners should attempt to resolve issues relating to unclear requests and responses to guard against the potential of costs being awarded.

Objections

The federal and state rules require that a party making an objection set forth a specific, written objection within 30 days of service of the request. If a party responds to a request without objecting to it, possible objections are deemed waived.[40] If the objection goes only to part of the request, "good faith requires" that the party "shall specify so much of it [the request] as is true and qualify or deny the remainder."[41] Rather than making blanket objections, parties must admit those facts and documents that are uncontroverted, and give reasons for their refusal or inability to answer those that call for conclusions or are vague and indefinite, or about which they have no information.[42]

The federal and state rules require parties to set forth their objections to

the specific portion of the objectionable request, and respond to the portion of the request to which the objection does not apply. Valid objections include those based on: (1) form or number;[43] (2) ambiguity;[44] (3) relevance;[45] (4) privilege;[46] (5) compound requests;[47] and (6) in New Jersey, requests that go to opinions.[48] If a party cannot admit or deny a request, the federal and state rules require that party provide a specific, written response that explains why the request cannot be admitted or denied, and that the responding party has made a reasonable inquiry in responding to the request.[49] An unjustified objection is sanctionable under Federal Rules 36(a) and 37 and under New Jersey Rules 4:23(1)(c) and 4:23-3.

A party can object to a request if a response would impinge on the attorney-client privilege. The cross-reference in Federal Rule 36 and New Jersey Rule 4:22-1 to the requirements set forth in Federal Rule 26(b) and New Jersey Rule 4:10-2, respectively, confirms that parties are entitled to assert the attorney-client privilege or the work-product doctrine as permissible objections to requests for admissions. Both Federal Rule 26(b)(1) and New Jersey Rule 4:10-2 state, in pertinent part: parties may obtain discovery regarding any matter, *not privileged...*" (emphasis added). Those rules also provide that a party may seek discovery of work product only upon a showing of substantial need and the inability to obtain the substantial equivalent without undue hardship. Of course, a party objecting to a request based on privilege or work product must do so with specificity.[50]

> Bare assertions of attorney work product are insufficient. Therefore, it is not sufficient to say 'not an issue at trial' or 'work product' without more; answers must be more specific.[51]

An adequate claim of privilege should detail the nature of the privileged material, and precisely how it is protected from disclosure.[52]

Motion for a Protective Order

If a party believes that the request for admissions contains improper requests or is overly burdensome, it may move for a protective order pursuant to Federal Rule 26(b) or (c), or New Jersey Rule 4:10-3. Protective orders are typically granted to protect a party from annoyance, embarrassment, oppression, or undue expense. Of course, the moving party bears the burden of establishing good cause to obtain the desired protective order.[53] General claims of harm are not specific enough to warrant a protective order.[54]

There is no limit on the number of requests for admissions a party may serve; however, requests that are overly burdensome, repetitive or irrelevant will not be permitted.[55] While the New Jersey rule is silent on the issue, Federal Rule 26(b)(2) states that the court may, by order or local rule, limit the number of requests under Federal Rule 36.

Withdrawal or Amendment of Responses to Requests for Admissions

If facts or circumstances change, both the federal and state rules permit a party to withdraw or amend its response to a request for admissions.

Federal Rule 36 and New Jersey Rule 4:22-1 state, in relevant part:

> Subject to the provisions of [Federal Rule 16 or New Jersey Rule 4:25-1] governing amendment of a pre-trial 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.

This provision of the rules incorporates a two-part test for withdrawal requiring first, that "the presentation of the merits of the action will be subserved thereby," and second, that "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."[56] The court must exercise its discretion in considering this two-part inquiry.

The first element of the inquiry permits withdrawal "if it will facilitate the development of the case in reaching the truth, as in those cases where a party's admissions were inadvertently made."[57] The second part of the inquiry speaks to the prejudice derived from "the difficulty the party opposing the motion to withdraw will face as a result of the sudden need to obtain evidence to prove the matter it had previously relied upon as answered."[58] Amending an admission is carefully scrutinized by the court because the intent behind requests for admission is to allow the parties to rely on admissions in preparation for trial.[59] Courts are willing to allow amendments or withdrawal of an amendment if it would further justice, and not prejudice the opposition.[60]

Under Federal Rule 36, the withdrawal provision is "[s]ubject to the provision of Rule 16 governing amendment of a pretrial order." The court can enter a pretrial order in connection with a Rule 16 conference to give effect to matters resolved at the conferences, which includes admissions and stipulations made by the parties. Modification of the pretrial order will occur only to avoid "manifest injustice."[61]

Use of Admissions

Admissions may be an effective litigation tool to practitioners considering whether to bring a motion for summary

judgment. Because admissions, whether explicitly admitted or admitted by default, are deemed "conclusively established" and not rebuttable, they may provide the basis for summary judgment.[62]

The following hypothetical and suggested requests for admissions are an example of how litigation costs can be reduced by eliminating the need to establish facts through more costly discovery procedures, and to eliminate the need to prove those facts at trial.

A unit owner in a condominium brings suit against the condominium association for the cost of certain repairs that the unit owner claims the condominium association agreed to satisfy by reimbursement to the unit owner. The condominium association failed to reimburse the unit owner for the repairs. The unit owner wants to establish that the association duly authorized the reimbursement at a board meeting. The following are examples of requests for admissions that might be utilized in order to avoid taking depositions of board members.

1. On January 15, 2001, the board of directors of the ABC Condominium Association held a board meeting.
2. Annexed hereto as Exhibit A is a true and correct copy of the minutes from the January 15, 2001, meeting of the board of directors of the ABC Condominium Association.
3. Exhibit A, annexed hereto, accurately sets forth the actions taken by the board of directors of the ABC Condominium Association at its January 15, 2001, meeting.

Conclusion

Federal Rule 36 and New Jersey Rule 4:22-1 provide a similar framework for the use of requests for admissions. When used properly, requests can highlight the strengths and weaknesses of the case, eliminate issues that are not in dispute, and reduce the time and expense of trial.

Endnotes

1. *Hungerford v. Greate Bay Casino Corp.*, 213 N.J. Super. 398, 404 (App. Div. 1986) (quotations omitted).
2. *See* C. Wright & A. Miller, 8 *Federal Practice & Procedure* § 2251, p. 519 (1994).
3. Federal Advisory Committee Notes on Fed. R. Civ. P. 36(a).
4. *See United States v. Lewis*, 10 F.R.D. 56, 57 (D.N.J. 1950).
5. C. Wright & A. Miller at § 2253, p. 524.
6. *Van Langen v. Chadwick*, 173 N.J.Super. 517, 522 (Law Div. 1980).
7. Unlike requests for admissions, Federal Rule 33 limits the number of interrogatories that a party may serve without seeking leave to serve additional interrogatories. However, a party can also request that requests for admissions be limited in number.
8. *See Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 445-46 (C.D.Cal. 1998).
9. *Klimowich v. Klimowich*, 86 N.J. Super. 449, 452 (App. Div. 1965) (*quoting Hunter v. Erie R.R. Co.*, 43 N.J. Super. 226, 231 (Law Div. 1956)).
10. *See Van Langen*, 173 N.J. Super. at 522.
11. *See* Federal Advisory Committee Notes on Fed. R. Civ. P. 36, 1970 Amendment.
12. Fed. R. Civ. P. 36.
13. *Lakehead Pipe Line Co. v. American Home Assur. Co.*, 177 F.R.D. 454, 457 (D. Minn. 1997).
14. *See Currie v. United States*, 111 F.R.D. 56, 59 (M.D.N.C.,1986) (legal conclusions are not admissions).
15. *See Golden Valley Microwave Foods, Inc. v. Weaver Popcorn Co., Inc.*, 130 F.R.D. 92, 95-96 (N.D.Ind. 1990) (Request for legal conclusion improper).
16. Fed. R. Civ. P. 36(a).
17. Fed. R. Civ. P. 26(d).
18. New Jersey Rule 4:22-1.
19. *Id.*
20. *See* Fed. R. Civ. P. 37(a)(4); New Jersey Rule 4:23-1(c).
21. *See* Comments, New Jersey Rule 4:22-1.
22. Federal Advisory Committee Notes on Fed. R. Civ. P. 36(a) (*citing Southern Ry. Co. v. Crosby*, 201 F.2d 878 (4th Cir. 1953) and *United States v. Laney*, 96 F. Supp. 482 (D.C.S.C.1951)).
23. *See* Federal Advisory Committee Notes on Fed. R. Civ. P. 36(a).
24. *Johnstone v. Cronlund*, 25 F.R.D. 42, 46 (E.D.Pa. 1960).
25. Fed. R. Civ. P. 26(b)(1); New Jersey Rule 4:10-2.
26. C. Wright & A. Miller at § 2254, p. 528.
27. *Burns v. Phillips*, 50 F.R.D. 187, 188 (N.D. Ga. 1970).
28. *See* Fed. R. Civ. P. 36(a); New Jersey Rule 4:22-1.
29. *See Ark-Tenn Distrib. Corp. v. Breidt*, 110 F. Supp. 644, 646 (D.N.J. 1953), *aff'd* 209 F.2d 359 (3d Cir. 1954). The court in *Ark-Tenn* noted that "simple justice demands that a person who has no knowledge of a request for admission should not be held liable for his failure to deny."
30. C. Wright & A. Miller at § 2259, p. 549.
31. *See* Fed. R. Civ. P. 36(b); New Jersey Rule 4:22-2.
32. *See* Fed. R. Civ. P. 36(a) and (b); New Jersey Rule 4:22-1.
33. *See In re Pizante*, 186 B.R. 484, 489-490 (B.A.P. 9th Cir. 1995), *aff'd without opinion*, 107 F.3d 878 (9th Cir. 1997) (prior fraudulent transfer proceeding did not have collateral

estoppel effect so as to bar relitigation of debtor's intent in creditor's subsequent proceeding when judgment in avoidance proceeding was entered against wife based on wife's deemed admissions, which admissions could only be deemed admitted in that proceeding).

34. *See McSparran v. Hanigan*, 225 F. Supp. 628, 637-38 (E.D. Pa. 1963), aff'd 356 F.2d 983 (3d Cir. 1966); *see also* Federal Advisory Committee Notes on Fed. R. Civ. P. 36(a) and Comments, New Jersey Rule 4:22-1 (recognizing the deletion of the requirement that answer to a request for admissions be sworn).
35. Federal Advisory Committee Notes on Fed. R. Civ. P. 36(a), 1970 Amendment; *American Auto. Ass'n. v. AAA Legal Clinic of Jefferson Crooke*, 930 F.2d 1117, 1120 (5th Cir. 1991).
36. *See id.*
37. *See Jackson Buff Corp. v. Marcelle*, 20 F.R.D. 139, 140-41 (E.D.N.Y. 1957); *Sladek v. General Motors Corp.*, 16 F.R.D. 104, 105 (S.D. Iowa 1954).
38. Federal Advisory Committee Notes on Fed. R. Civ. P. 36(a)(citations omitted); Comments, New Jersey Rule 4:22-1 (*citing* Federal Advisory Committee Notes with approval).
39. *Han v. Food and Nutrition Serv. of U.S. Dep't of Agric.*, 580 F. Supp. 1564, 1566 (D.N.J. 1984).
40. *See Pleasant Hill Bank v. United States*, 60 F.R.D. 1, 4 (W.D. Mo. 1973).
41. Fed. R. Civ. P. 36(a); New Jersey Rule 4:22-1.
42. *See Jackson Buff*, 20 F.R.D. at 140.
43. *See Minnesota Mining & Mfg. Co. v. Norton Co.*, 36 F.R.D. 1, 3 (N.D. Ohio 1964).
44. *See Dubin v. E.F. Hutton Group, Inc.*, 125 F.R.D. 372, 376 (S.D.N.Y. 1989).
45. *See* discussion, *supra; see also* cross-reference in Federal Rule 36 and New Jersey Rule 4:22- 1 to Federal Rule 26(b) and New Jersey Rule 4:10-2, respectively.
46. *See* discussion, *supra.*
47. The federal and state rules state that: "[e]ach matter of which an admission is requested shall be separately set forth."
48. *See* discussion, *infra,* explaining that a major distinction between Federal Rule 36 and New Jersey Rule 4:22-1 is that Federal Rule 36 permits requests for admissions as to opinions.
49. *See* discussion, *supra.*
50. *See* Federal Local Civil Rule 36.1(b); *Schneck v. IBM, Corp.*, 1993 WL 765638, *7-8 (D.N.J. 1993).
51. *Id.* at *8.
52. *See id.*
53. *See Frank v. County of Hudson*, 924 F. Supp. 620, 623 (D.N.J. 1996) (quotation omitted).
54. *See id.*
55. *See* Federal Rule 26(b)(2); *Minnesota Mining & Mfg*, 36 F.R.D. at 3.
56. Federal Rule 36; New Jersey Rule 4:22-1.
57. James WM. Moore, 4A *Moore's Federal Practice*, ¶36.08 (1992-1993).
58. *Id.*
59. *See Gardner v. Southern Ry. Sys.*, 675 F.2d 949, 953-54 (7th Cir. 1982).
60. *See* C. Wright & A. Miller at § 2264, note 20.
61. *See id.*
62. *See Nick-O-Val Music Co., Inc. v. P.O.S. Radio, Inc.*, 656 F. Supp. 826, 827 (M.D. Fla. 1987).

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