
FLORIDA, MIDDLE DISTRICT DISCOVERY HANDBOOK (2015)
SECTION IV: INTERROGATORIES
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TABLE OF CONTENTS | SECTION IV | INTERROGATORIES

ID	Rule No	Title	Page
401	IV.A	Preparation and Answering of Interrogatories	4
402	IV.B	Objections, Privilege, and Responses	5
403	IV.C	Other Interrogatory Issues	6
-	n/a	Appendix	8

FLORIDA, MIDDLE DISTRICT DISCOVERY HANDBOOK | FEDERAL

SECTION IV INTERROGATORIES

RULES: A-C

IV.A | PREPARATION AND ANSWERING OF INTERROGATORIES

1 - Informal Requests. Whenever possible, counsel should try to exchange information informally. The results of such exchanges, to the extent relevant, may then be included in the record by requests for admissions or stipulations. However, Rule 26(a), Federal Rule of Civil Procedure, now requires a party, without awaiting a discovery request, to provide to the other parties an initial exchange of disclosures.

2 - Number and Scope of Interrogatories. Rule 33(a), Federal Rules of Civil Procedure, and Local Rule 3.03(a), Middle District of Florida, restrict to 25 (including all parts and subparts) the number of interrogatories a party may serve on any other party. Leave of court, which is not routinely given absent stipulation, is required to serve more than 25 interrogatories cumulatively. Pursuant to Rule 26(g), counsel's signature on interrogatories constitutes a certification of compliance with those limitations. Interrogatories should be brief, simple, particularized, unambiguous, and capable of being understood by jurors when read in conjunction with the answer. They should not be argumentative nor should they impose unreasonable burdens on the responding party. In some cases, the court will propound interrogatories for each party to answer. These must be responded to in a timely manner. The 25 interrogatory limit does not apply to court-ordered interrogatories.

3 - Responses. Rule 33(b), Federal Rules of Civil Procedure, requires the respondent to answer an interrogatory separately and fully in writing and under oath, unless the respondent objects, in which event the party objecting shall state the reasons for objection and shall answer to the extent the interrogatory is not objectionable. Interrogatories should be interpreted reasonably, in good faith, and according to the meaning the plain language of the interrogatory would naturally import. When in doubt about the meaning of an interrogatory, the responding party should give it a reasonable interpretation (which may be specified in the response) and offer an answer designed to provide, rather than deny, information.

IV.B | OBJECTIONS, PRIVILEGE, AND RESPONSES

1 - Objections. Absent compelling circumstances, failure to assert objections to an interrogatory within the time for answers constitutes a waiver and will preclude a party from asserting the objection in a response to a motion to compel. All grounds for an objection must be stated with specificity. Specific objections should be matched to specific interrogatories. General or blanket objections should be used only when they apply to every interrogatory. When an answer is narrowed by one or more objections, this fact and the nature of the information withheld should be specified in the response itself.

2 - Assertions of Privilege. Generalized assertions of privilege will be rejected. A claim of privilege must be supported by a statement of particulars sufficient to enable the Court to assess its validity. For a more detailed discussion of the invocation of privilege, see Section V dealing with privilege. The procedures for invoking privilege set forth in Section V also apply to interrogatory answers.

3 - Interrogatory Responses. A party and counsel ordinarily have complied with their obligation to respond to interrogatories if they have:

- (a) Responded to the interrogatories within the time set by the governing rule, stipulation, or court-ordered extension;
- (b) Conducted a reasonable inquiry, including a review of documents likely to have information necessary to respond to interrogatories;
- (c) Objected specifically to objectionable interrogatories;
- (d) Provided responsive answers; and,
- (e) Submitted the answers under oath, signed by the appropriate party representative.

IV.C | OTHER INTERROGATORY ISSUES

1 - Form Interrogatories. There are certain kinds of cases which lend themselves to interrogatories which may be markedly similar from case to case, for example, employment discrimination and maritime cargo damage suits or diversity actions in which form interrogatories have been approved by state law. Aside from such cases, the use of "form" interrogatories is ordinarily inappropriate. Carefully review interrogatories to ensure that they are tailored to the individual case; "boilerplate" is to be avoided.

2 - Contention Interrogatories. Interrogatories that generally require the responding party to state the basis of particular claims, defenses, or contentions in pleadings or other documents should be used sparingly and, if used, should be designed (1) to target claims, defenses, or contentions that the propounding attorney reasonably suspects may be the proper subject of early dismissal or resolution or (2) to identify and narrow the scope of unclear claims, defenses, and contentions. Interrogatories that purport to require a detailed narrative of the opposing parties' case are generally improper because they are overbroad and oppressive.

3 - Reference to Deposition or Document. Because a party is entitled to discovery both by deposition and interrogatory, it is ordinarily insufficient to answer an interrogatory by reference to an extrinsic matter, such as "see deposition of James Smith" or "see insurance claim." For example, a corporation may be required to state its official, corporate response even though one of its high-ranking officers has been deposed, because the testimony of an officer may not necessarily represent a complete or express corporate answer. Similarly, a reference to a single document is not necessarily a full answer, and the information in the document -- unlike the interrogatory answer -- is not ordinarily set forth under oath.

In rare circumstances, it may be appropriate for a corporation or partnership to answer a complex interrogatory by saying something such as "Acme Roofing Company adopts as its answer to this interrogatory the deposition testimony of James Smith, its Secretary, on pages 127-145 of his deposition transcript." This may suffice when an individual has already fully answered an interrogatory in the course of a previous deposition and the party agrees to be bound by this testimony. However, counsel are reminded, as provided in Rule 37(a)(3), Federal Rules of Civil Procedure, that for purposes of discovery sanctions, "an evasive or incomplete answer is to be treated as a failure to answer."

4 - Interrogatories Should Be Reasonably Particularized. Interrogatories designed to force an exhaustive or oppressive catalogue of information are generally improper. For example, an interrogatory such as "identify each and every document upon which you rely in support of your claim in Count Two" is objectionably overbroad in a typical case, although it may be appropriate in, for example, a simple suit on a note. While there is no simple and reliable test, common sense and good faith usually suggest whether such an interrogatory is proper.

5 - Rule 33(d). Rule 33(d), Federal Rules of Civil Procedure, allows a party in very limited circumstances to produce business records in lieu of answering interrogatories. Please refer to Section III A 10 for a detailed discussion of this option.

6 - Answering Objectionable Interrogatories. If any interrogatory is objectionable because of overbreadth, the responding party, although objecting, must answer the interrogatory to the extent that the interrogatory is not overbroad. In other words, an objection for overbreadth does not relieve the duty to respond to an extent that is not overbroad, while a party awaits a judicial determination regarding the objection.

APPENDIX

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