



**Katherine Gallo, Esq.**  
**Discovery Referee, Special Master, and Mediator**  
**1-650-571-1011**

## **Answering Requests for Admissions— Beware of the Traps**

**By Katherine Gallo**

Answering Requests for Admissions is very similar to answering interrogatories—you have an obligation to respond in good faith and you have to be careful about your garbage objections. However, the code makes it clear that the requirements in responding to Requests for Admissions are higher.

C.C.P. §2033.220 **Completeness of Responses; Reasonable Inquiry** requires:

- (a) Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.
- (b) Each answer shall:
  - (1) Admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party.
  - (2) Deny so much of the matter involved in the request as is untrue.
  - (3) Specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.
- (c) If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.

The Discovery Act does not have such strident language for responding to interrogatories or an inspection demand. This is because Requests for Admissions are not designed to uncover factual information. Rather, their main purpose is to set issues at rest by compelling admission of things that cannot reasonably be controverted. Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1256 citing *Shepard & Morgan v. Lee & Daniel, Inc.* (1982) 31 C3d 256, 261. So when responding to Requests for Admissions, remember to answer as follows:

**969G Edgewater Blvd., Suite 345 Foster City, CA 94404**  
**phone: (650)571-1011 fax: (650)571-0793 [klgallo@discoveryreferee.com](mailto:klgallo@discoveryreferee.com)**



**Katherine Gallo, Esq.**  
**Discovery Referee, Special Master, and Mediator**  
**1-650-571-1011**

**Admit:** If any portion of the Request for Admission is true then you must admit to that portion of the request. You are also allowed to have a hybrid response-- admit the part of the request that is true while denying another part. See C.C.P. §2033.220(b)(1) and *Valero v. Andrew Youngquist Construction* (2002) 103 CA4th 1264, 1273. It is unclear whether or not you need to supply facts to make the request true. However, it is a good idea if it puts the issue to rest. See Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1232 - 1234.

**Deny:** The responding party should not deny based solely on quibbles of with the wording of the request. It may be improper to deny a Request for Admission outright if the request is at least partially true. See Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1332. A denial of all or any portion of the request must be unequivocal. *American Federation of State, County & Municipal Employees v. Metropolitan Water District of Southern California* (2005) 126 CA4th 247, 268. Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1333-1334.1 give these helpful hints on what is unequivocal:

- o Denial “on advice of counsel” is unequivocal “in spite of the rather weaseling qualification.” *Hoguin v. Sup. Ct.* (1972) 22 CA3d 812,
- o “As framed, denied” is also unequivocal. *Smith v. Circle P Ranch Co., Inc.* (1978) 87 CA3d 267,275 Denials following a “boilerplate” statement “without waiving these objections” was unequivocal. *American Federation of State, County & Municipal Employees v. Metropolitan Water District of Southern California* (2005) 126 CA4th, 247, 268.

**Denials on “Information and Belief”:** This is not a proper objection as it is neither “straight forward” and complete nor is it one of the options listed C.C.P. §2033.220. Also, this is in essence a response claiming “inability to admit or deny” for lack of sufficient information which has additional requirements as discussed above.

Unlike interrogatories and or inspection demands, failure to properly respond to Request for Admissions in a timely matter can have great repercussions for you and your client.

### **FAILURE TO RESPOND**

All objections are waived. However, responding party may seek relief from the waiver similar to the way you can do it for interrogatories and inspection demands. C.C.P. §2030.280(a) *Motion for Admissions to be Deemed Admitted* may be filed pursuant to C.C.P. §2030.280(b). The

**969G Edgewater Blvd., Suite 345 Foster City, CA 94404**  
**phone: (650)571-1011 fax: (650)571-0793 [klgallo@discoveryreferee.com](mailto:klgallo@discoveryreferee.com)**



**Katherine Gallo, Esq.**  
**Discovery Referee, Special Master, and Mediator**  
**1-650-571-1011**

statute states “the court shall make this order” unless proposed responses” in substantial compliance with C.C.P. §2033.220 are filed before the hearing. However, even though you filed delayed responses, you will be sanctioned because sanctions are **MANDATORY** pursuant to the code if your tardy responses came after the motion was filed. C.C.P. §2030.280(c)

**RESPOND BUT EITHER NOT TIMELY AND/OR NOT VERIFIED.**

Untimely or unsworn responses to request for admissions are tantamount to no response at all. *Zorro, Inc. Co. v. Great Pacific Securities Corp.* (1977) 69 CA3d 907 *Motion for Admissions to be Deemed Admitted* also can be brought. C.C.P. §2030.280(b)

**FAILURE TO MAKE A REASONABLE INVESTIGATION**

The propounding party may bring a *Motion to Compel Further Responses* or bring a *Motion for Admissions to be Deemed Admitted* if the answering party has not made a reasonable inquiry or has access to “readily available” information that would enable to admit or deny the matter. Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1348

Alternatively, costs may be awarded after trial against a party for failure to inform oneself before answering C.C.P. Section 2033.420(a). The court may find there was no “good reason” for the failure to admit [*Smith v. Circle P. Ranch Co., Inc.* (1978) 87 CA3d 267—proof showing that responding party failed to investigate, when the means of obtaining the information were at hand, supports finding there were no “good reasons” for its denial; hence cost of proof sanctions were justified. Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶ 8:1348

**FAILURE TO ADMIT**

If it is found that you have unreasonably denied a Request for Admission, you may be ordered to pay attorney’s fees and costs incurred by the propounding party in proving the matter. C.C.P. §2033.420(b). This can occur either after a motion for summary judgment or trial. See Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1404 citing *Barnett v. Penske Truck Leasing* (2001) 90 CA4th 494, 497-499. **Remember**, that the cost of proof sanction is designed to compensate for unnecessary having to prove matters that should have been admitted. Thus, cost of proof sanctions can be awarded even if the propounding party lost the case. See Weil and Brown, Cal. Prac. Guide: *Civil Procedure Before Trial* (TRG 2010), ¶8:1405 citing *Smith v. Circle P. Ranch Co., Inc.* (1978) 87 CA3d 267, 276.

**969G Edgewater Blvd., Suite 345 Foster City, CA 94404**  
**phone: (650)571-1011 fax: (650)571-0793 [klgallo@discoveryreferee.com](mailto:klgallo@discoveryreferee.com)**



**Katherine Gallo, Esq.**  
**Discovery Referee, Special Master, and Mediator**  
**1-650-571-1011**

Also, denying a matter that should have been admitted in a sworn response might also subject you to a criminal prosecution for perjury. See CEB Section 9:53 citing *Hoguin v. Sup. Ct.* (1972) 22 CA 3d 812, 820.

***Hint:*** Take the time and make the effort in responding to requests for admissions as your answers may come back and bite you if you don't.

**969G Edgewater Blvd., Suite 345 Foster City, CA 94404**  
**phone: (650)571-1011 fax: (650)571-0793 [klgallo@discoveryreferee.com](mailto:klgallo@discoveryreferee.com)**