# Requests to Admit Facts and for Genuineness of Documents

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## Introduction

Requests for Admissions of Fact and Genuineness of Documents are effective litigation tools for expediting and simplifying discovery, for compelling admission of incontrovertible facts, and for narrowing issues to be addressed at trial.

## Applicable Supreme Court and local Cook County rules

*Illinois Supreme Court Rule 216. Requests for Admissions of Fact and Genuineness of Documents:*

Illinois Supreme Court Rule 216 provides that a party may serve on any other party a written request for the admission of the truth of any specified relevant fact set forth in the request. *Ill. Sup. Ct. Rule 216(a).* A party may also serve a written request for the admission of the genuineness of any relevant documents described in and attached to the request. *Ill. Sup. Ct. Rule 216(b).*

*Illinois Supreme Court Rule 219(b). Expenses on Refusal to Admit:*

Supreme Court Rule 219(b) provides that reasonable expenses and attorney fees shall be assessed against a party who denies a Rule 216 Request without good reason when the fact or genuineness of the document sought to be admitted is later proved at trial. *Ill. Supp. Ct. Rule 219(b).*

*Circuit Court of Cook County Rule 3.1(c) and Illinois Supreme Court Rule 216(c):*

Illinois Supreme Court Rule 216 (c) and Cook County Circuit Court Rule 3.1(c) require that a response to a Request to Admit be filed within twenty-eight days after the service of the request. The response must be either a sworn statement specifically denying the matters of which admission is requested, or setting forth in detail the reasons why the responding party cannot truthfully admit or deny those matters, or a written objection to each request. *Ill. Sup. Ct. Rule 219(c) and Cook Cty. Cir. Ct. Rule 3.1(c)*

## Purpose

A Request for Admissions of Fact and for Genuineness of Documents can obviate the difficulty and expense of obtaining evidence, save deposition and trial time by eliminating unnecessary foundation testimony and third party witnesses, as well as narrow the issues the court must address at trial. For example, in a divorce proceeding the factual basis for claims of non-marital assets is generally supported by documents. A Request to Admit is an effective vehicle for forcing the opposing party to admit or deny your client's position. The admitted facts and/or documents can provide the basis for a winning motion for partial summary judgment, especially on classification issues.

A Request to Admit cannot be used to admit conclusions or opinions of law; however, a it does extend to "ultimate facts," which are defined as any contested facts necessary to establish a party's case or defense. *PRS Int'l v. Shred Pax Corp.*, 184 Ill. 2d 224, 703 N.E.2d 71, 234 Ill. Dec. 459 (Ill. 1998). A Request for Admission is proper if a finder of fact must make some analytical step, no matter how small, from the contents of the admissions to the final conclusion that the requesting party seeks to establish. *Hubeny v. Chairse,* 305 Ill. App. 3d 1038, 713 N.E.2d 222, 238 Ill. Dec. 796 (2d Dist. 1999).

## Failure to respond

Cook County Circuit Court Rule 3.1(c) and Illinois Supreme Court Rule 216(c) provide that a party served with a Request for Admission shall respond within twenty-eight days of service by either admitting, denying, or setting forth detailed reasons why the party from whom the admissions are sought cannot truthfully admit or deny the matters in the request. *Ill. Sup. Ct. Rule 216(c) and Cook Cty. Cir. Ct. Rule 3.1(c).* Generally, a failure to respond to a Request for Admission within the twenty-eight day period operates to admit the requested facts and genuineness of documents. *Deboe v. Flick,* 172 Ill. App. 3d 673, 526 N.E.2d 913, 122 Ill. Dec. 520 (5th Dist.1988.)

The court may in its discretion allow late filing of a response to prevent prejudice where the responding party can show good cause for the extension. *Bright v. Dicke,* 166 Ill. 2d 204, 652 N.E.2d 275, 209 Ill. Dec. 735 (Ill.1995). Mere inadvertence does not satisfy the good cause requirement. *People v. Mindham,* 253 Ill. App. 3d 792, 625 N.E.2d 835, 192 Ill. Dec. 680 (2d Dist. 1993.) If a practitioner is unable to file adequate responses within the twenty-eight days, he or she should file a motion for an extension before the twenty-eight days has run. As a precautionary measure, a practitioner should serve the Request for Admission via hand delivery so that the date of service is clear. Moreover, the proof of service should appear on the face of the request, which is then filed.

## Effect of admissions

Admissions of fact operate as binding judicial admissions that cannot be controverted at trial. *People v. Mindham,* 253 Ill. App. 3d, 792, 625 N.E.2d 835, 192 Ill. Dec. 680 (2d Dist 1993.) However, the right to rely on an admission at trial is waived if the requesting party introduces evidence on the fact or issue rather than stands on the admission. *Rowe v. State Bank of Lombard,* 247 Ill. App. 3d. 686, 617 N.E.2d 520, 187 Ill. Dec. 312 (2d Dist.1993.)

An admission of genuineness of a document is a pretrial tool for clearing the evidentiary hurdle that the document is genuine. *Gardner v. Navistar Int'l Transp. Corp.,* 213 Ill. App. 3d 242, 571 N.E.2d 1107, 157 Ill. Dec. 88 (4th Dist. 1991.) The documents at issue must also be relevant to a pending issue in the case and copies of the documents must be served with the request unless the requesting party has previously furnished them.

## When a request may be served

Requests for Admissions may be made at any time without leave of court after all parties have appeared or are required to appear. *Ill. Sup. Ct. Rule 201(d).* The procedure is most effective when used long before trial so that other appropriate steps may be taken if the request is denied. Supreme Court Rule 216 places no limit on the number of requests that may be served. However, Supreme Court Rule 201 applies if the party on whom the requests have been served convinces the court that the requests are too numerous or burdensome or that they otherwise violate the rule. *Ill. Sup. Ct. Rule 201.*

## Responses and objections

A denial to a Request to Admit must be in the form of a sworn statement specifically denying the matters of which admission is requested and setting forth in detail why those matters cannot be truthfully admitted or denied. *Ill. Sup. Ct. Rule 216(c).* Where a party fails to adequately set forth the reasons that a request cannot be truthfully denied, the request stands admitted. For example, if the information is within the purview of the party's knowledge, it is improper to respond that insufficient information exists to admit or deny the facts set forth in the request. *Liepelt v. Norfolk & Western Railroad,* 62 Ill. App. 3d 653, 378 N.E.2d 1232, 19 Ill. Dec. 357 (1st Dist. 1978.)

An unsworn denial or other unsworn response constitutes an admission of facts. *Hubeny v. Chairse,* 305 Ill. App. 3d 1038, 713 N.E.2d 222, 238 Ill. Dec. 976 (2d Dist. 1999.) Practically speaking, an answering party may not give "lack of information" as a basis for failure to admit or deny unless the party states that they have made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. If the denial fails to adequately set forth reasons that a request cannot be truthfully admitted or denied, the request stands as admitted.

If a party denies certain facts that are alleged in a Request for Admission within the appropriate amount of time, under oath at a discovery deposition, the statement under oath can constitute a sufficient and adequate denial under Illinois Supreme Court Rule 216. *In re Marriage of Fahy,* 208 Ill. App. 3d 677, 567 N.E.2d 552, 153 Ill. Dec. 594 (1st Dist. 1991.)

A valid objection to a Request for Admission is that the admission sought is privileged or irrelevant or that a request is improper either in whole or in part. *PRS Int'l v. Shred Pax Corp.,* 184 Ill. 2d 224, 703 N.E.2d 71, 234 Ill. Dec. 459 (Ill. 1998). A practitioner should always timely object to the relevancy of the requested documents and not wait until trial, because failure to timely object under Rule 216(c) operates to waive an otherwise valid objection to a party's facts or to a document's relevancy.

## Sanctions against parties making denials later proved at trial

Supreme Court Rule 219(b) provides that reasonable expenses and attorney fees will be assessed against a party who denies a Rule 216 Request without good reasons when the fact or genuineness of the document sought to be admitted is later proved at trial. *Ill. Sup. Ct. Rule 219(b).* What constitutes bad faith depends on the circumstances.

A First District court found good reason where a defendant gave qualified denials to certain requests to admit but then at trial vigorously cross-examined witnesses as to the facts that were the subject of the request; the court found that in making his qualified denials, the defendant did not act in bad faith by not admitting the requests. *In re Marriage of Borowczyk,* 78 Ill. App. 3d 425, 397 N.E.2d 71, 33 Ill. Dec. 738 (1st Dist. 1979.)

## Practical uses

A Request to Admit should be used for simple, ascertainable facts and uncontroverted matters. In a dissolution of marriage proceeding, for example, a Request for Admission can be used to establish the date of the marriage, the location of the parties' residence or the names and ages of minor children. It is also an effective method for establishing account balances as of a certain date and for establishing other values of assets and liabilities that are self-evident from an account statement, invoice, or other document. A Request to Admit may also be used to lay a foundation for genuineness of documents and for collateral facts concerning the documents; for example, the genuineness of a signature or accuracy of a date, or that a party was properly served with a document.