

61-3101. Admission of facts and genuineness of documents; withdrawal or amendment of admission. (a) When an answer has been filed in an action or if the defendant appears and disputes the claims in the petition commenced pursuant to the provisions of the code of civil procedure for limited actions, any party may submit to any other party a written request for that party to admit:

(1) The genuineness of any relevant document described in and attached to the request; or

(2) the truth of any relevant matter of fact set forth in the request. The request shall be in a form which will permit the party to whom it is submitted to answer the questions on the request form under oath. A request for admissions may not contain more than 10 requests unless permission of the court is obtained to increase the number.

(b) Each of the matters requested shall be deemed to be admitted for purposes of the pending lawsuit, unless within 14 days after the request is served, the party to whom the request is directed submits to the party propounding the request either:

(1) A sworn statement denying specifically the matters requested; or

(2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part.

(c) If the answering party cannot truthfully admit or deny a request, the party shall set forth in detail the reasons why. If the answering party denies a request, the denial shall be in good faith and shall fairly address the substance of the request. If in good faith the answering party can deny only a part of the request or qualify a request, the party shall specify which part is admitted and qualify or deny the remaining part. If the answering party objects to a request, the party shall notify the court and the party propounding the request and schedule a hearing on the objection to be held within 14 days after making the objection.

(d) The judge may permit withdrawal or amendment of any admission made by nonresponse when the party to whom the admissions were sent shows good cause for failure to respond and shows evidence that the admission is not true and the party who obtained the admission fails to satisfy the judge that withdrawal or amendment will prejudice such party in maintaining such party's action or defense on the merits. In the event such withdrawal or amendment is made by the party to whom the admissions were sent at trial, the party who obtained the admissions shall be allowed a continuance of the trial setting. Any admission made by a party under this section is for the purpose of the pending action only and is not an admission by such party for any other purpose nor may it be used against such party in any other proceeding.

History: L. 2000, ch. 161, § 25; L. 2004, ch. 176, § 4; L. 2010, ch. 135, § 202; July 1.