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TRIAL NEWS

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Simple Requests For Admission To Help You Sleep At Night

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You wake up at night in a cold sweat. You can't remember whether the defendant in the Smith case was properly served. Or is there some other procedural defect in the case that you don't know about? These things can wake attorneys up at night. Once awake I keep thinking about the case and just can't get back to sleep. Since I like to sleep I try to avoid procedural problems on my cases.

Here are seven requests for admission that you can use in your law practice to clear up procedural issues, and maybe make the case easier to prove at trial.

1. REQUEST FOR ADMISSION. Admit that service of process has been properly affected upon you.

RESPONSE: ___ ADMIT ___ DENY

Although you have read the affidavit of service carefully, isn't it nice to have the defendant admit that he has been properly served?

2. REQUEST FOR ADMISSION. Admit that the plaintiff has properly affected service upon defendant _____ Corporation.

RESPONSE: ___ ADMIT ___ DENY

This is the same request for admission as number one, except that it relates to a corporation. With so many different corporate forms and entities are you certain that you have served the right one? By the way, use your investigator and interrogatories to identify the correct corporation to sue, this request for admission just relates to service.

3. REQUEST FOR ADMISSION. Admit that the defendant _____ was entirely at fault in causing the collision which is the subject of this action.

RESPONSE: ___ ADMIT ___ DENY

I love this request for admission. I send it in nearly every case. The defendants admit liability in far more cases than you might expect. They probably do so because in strong liability cases the defense doesn't want to weaken their damage reducing arguments by making a weak liability

argument. But what a pleasure it is to have an admission of liability in your file.

4. REQUEST FOR ADMISSION. Admit that the plaintiff _____ was without fault in causing the collision which is the subject of this action.

RESPONSE: ____ ADMIT ____ DENY

I love this request for admission too. If the defense admits that the plaintiff has no contributory fault then that issue is off the table. If they feel your client was at fault then you can follow up with appropriate discovery.

5. REQUEST FOR ADMISSION. Admit that no persons or entities not currently party to this lawsuit were at fault in causing the collision that is the subject of this action.

RESPONSE: ____ ADMIT ____ DENY

Empty chairs, I hate them. I want to know who they are. I want to make a reasoned decision whether to bring them into the lawsuit. If the defense is able to admit that all responsible parties are in the lawsuit then that issue is off the table.

6. REQUEST FOR ADMISSION. Admit that defendant _____ was an employee of defendant _____ and acting within the scope of his or her employment at the time of the automobile collision which is the subject of this lawsuit.

RESPONSE: ____ ADMIT ____ DENY

You may as well clear up whether the driver was an employee at the time of the collision. And if that driver is alleged to be acting outside the scope of his authority then you can follow up on the issue with appropriate discovery.

7. REQUEST FOR ADMISSION. Admit that the plaintiff has complied with claim notice requirements, if any, and that the requisite waiting period, if any, has been properly satisfied.

RESPONSE: ____ ADMIT ____ DENY

Don't you hate reading cases about whether "notice of claim" requirements have been met? You don't want to be the attorney who has to litigate some new fact situation and fight over whether the notice of claim requirements have been met. Get this issue off the table.

CONCLUSION

I use these requests for production in almost every case. I file them early, and often serve them with the complaint. I want to know what problems I have, and correct them. But mostly, I like to sleep at night.

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