

INTERROGATORIES

This module contains:

- Interrogatories Outline
- Code Sections
- Review Questions
- Supplementary Materials
- Assignments
- Sample Materials

8
9
10
11
12
13
14
15
16
17
18

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

11 JANE DOE,) Case No.: D888888888
12 Petitioner,)
13 vs.) **PETITIONER JANE DOE'S FIRST SET**
14 JOHN SMITH,) **OF SPECIAL INTERROGATORIES TO**
15 Respondent,) **RESPONDENT JOHN SMITH.**
16)
17)

19 Propounding Party: JANE DOE
20 Responding Party: JOHN SMITH
21 Set Number: One (1)

22 To Plaintiff and to his attorney:

23 Defendant, Jane Doe, requests that Plaintiff, John Smith, respond to the following
24 interrogatories separately and fully in writing and under oath, pursuant to Section 2030 of the
25 Code of Civil Procedure, and that the response be signed by the person making them and be
26 served on Defendant, Jane Doe, within 30 days after service of these interrogatories.

27 In answering these interrogatories, furnish all information that is available to you. If you
28 cannot answer an interrogatory completely, answer it to the extent possible. If you do not have
personal knowledge sufficient to respond fully to an interrogatory, so state, but make a

Objectives

In this Module, students will:

- ❖ Familiarize themselves with the rules governing interrogatories
- ❖ Correctly differentiate between interrogatory types
- ❖ Correctly prepare Official Form Interrogatories
- ❖ Correctly prepare Special Interrogatories
- ❖ Correctly prepare Supplemental Interrogatories
- ❖ Correctly respond to Interrogatories
- ❖ Correctly object to interrogatories

INTERROGATORIES OUTLINE

- **Definition**
 - Written questions asked by one party to another party. The responding party must provide written responses under oath. The responses can be used as evidence at trial. Interrogatories can be propounded by the use of either Judicial Council form and/or Special Interrogatories. There is no limit as to number for Judicial Council interrogatories, but there is a limit of 35 Special Interrogatories, unless a declaration of necessity is attached.

- **Advantages**
 - Least expensive.
 - Expedient method
 - Ability to get details.
 - Can ask legal contentions.
 - Responding party has a duty to research answers.
 - Identifies documents relevant to a case.

- **Disadvantages**
 - Limitation on number of Special Interrogators.
 - Only available to parties in the action.
 - Objections can be raised if questions are not carefully drafted.

- **Timing/Hold Period**
 - Plaintiff can serve Interrogatories 10 days after service of summons and complaint on the defendant.
 - Defendant can serve Interrogatories any time after service of summons and complaint or has made an appearance in the action.
 - 30 days to respond, depending how service was effectuated.
 - Cut off: 30 days before trial; 15 days before trial for any motions.

- **Format**
 - Full case caption (CCP 2030.060).
 - Identify the Propounding Party.
 - Identify the Responding Party.
 - Set number.
 - Definition must be stated at the beginning of the discovery request.
 - Each question must be separately set forth, and numbered.
 - Each question must be relevant.
 - Special Interrogatories cannot have SUBPARTS or COMPOUND questions.

- **Information that can be obtained**
 - Contentions – used to determine opposing party’s legal theories.
 - Facts – used to obtain information regarding facts of a case.
 - General and background information.

- **Form Interrogatories**
 - Judicial Council Forms (preprinted forms).
 - No limit as to number.
 - Some Form Interrogatories include:
 - General Civil
 - Family Law
 - Economic Litigation
 - Unlawful Detainer
 - Employment Law

- **Specially Prepared Interrogatories** CCP Sections 2030.030 & 2030.040
 - Limited to 35 on each party, unless Declaration of Necessity is attached.

 - A Declaration of Necessity must show any of the following:
 - Complexity or quantity of the issues
 - Deposition would be too expensive
 - Most expedient method

 - Parties can stipulate (agree) to go beyond 35 Special Interrogatories without use of the Declaration of Necessity.

 - Any additional number of form interrogatories can also be served in combination of Special Interrogatories.

- **Supplemental Interrogatories**
 - Propounding party can affirmatively request responding party to update their responses to questions already asked.

 - Supplemental Interrogatories do not count against Special Interrogatories.

 - Propounding party can only request supplemental interrogatories three (3) times (twice before trial has been set and once after initial trial date has been set).

 - No continuing obligation to report new information. The propounding party must affirmatively demand supplemental interrogatories to obtain additional information.

- **Responding to Interrogatories**
 - Responses are due within 30 days from service. CCP Section 2030.260
 - Must determine how service was effectuated (personal service or by mail).
 - Service by mail provides the responding party an additional 5-10 days to respond depending where the responding party is located.
 - Provide responses to all relevant questions.

 - Assert appropriate objections and state their specific grounds.

- Relevancy
 - Privilege/work product
 - Confidentiality
 - Vagueness/ambiguous term
 - Burdensome/oppressive
 - Excess number of questions
 - Improper form
 - Speculation
 - Requires expert opinion
 - Requires a legal conclusion which the responding party cannot assert
- Extensions: You can request more time to respond from the opposing party. It must always be confirmed in writing by the opposing party. All objections must also be affirmatively preserved and confirmed in writing or they are effectively waived.
- Verifications: Responses must (signed) under oath under penalty of perjury by the responding party
- **Protective Orders:** This is a motion filed by the responding party with the court for an order to be excused from responding to all or part of the Discovery demand. CCP Section 2030.090
 - Basis for Protective Orders include:
 - The information is privileged, confidential or otherwise objectionable.
 - The number of Special Interrogatories are excessive.
 - The Declaration of Necessity does not have a basis.
 - The format of the interrogatories propounded is improper.
 - The form of question is vague, ambiguous, or otherwise improper.
- **Options on Responding to Interrogatories**
 - Provide full responses
 - Assert objections
 - Respond in part and assert objections in part
 - File a motion for Protective Orders
- **Motion to Compel** CCP Section 2030.300
 - Filed by propounding party:
 - *No response*
 - Responding party failed to provide any responses.
 - Waives objections.
 - Do not need to meet and confer.
 - No time limit to bring motion. However, must be heard at least 15 days before trial.
 - No good cause requirement.

- Sanctions, unless substantial justification for refusal to comply.
- *Inadequate response:*
 - Responding party either: responded in part, asserted improper objections, or provided inadequate information.
 - **45 day** limit to bring any motion to compel after service of responses.
 - Meet and confer required.
- Sanctions, unless substantial justification for either no responses or for the inadequate responses. Sanctions can include:
 - Monetary
 - Issue preclusion
 - Evidence preclusion
 - Judgment of case in favor of disobeying party
- **Meet and Confer:** This is procedure whereby a party must make all good faith attempts to resolve the discovery dispute with the opposing party (or their attorney if they are represented) before filing a motion for a Protective Order or a Motion to Compel.

CODE OF CIVIL PROCEDURE

SECTIONS 2030.010-2030.090

Scope of discovery; restrictions

2030.010.

(a) **Any party may obtain discovery ... by propounding to any other party to the action written interrogatories** to be answered under oath.

(b) **An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based.** An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial.

NOTE: Contention interrogatories focus on the heart of a case. They usually refer to the pleadings. These are interrogatories seeking the facts, witnesses and documents supporting a single contention. They seek discovery of an adversary lawyer's thought processes, either explicitly or by obvious implication.

- If the defendant in a personal injury case arising out of a car accident has pled comparative fault, for example, plaintiff can propound a contention interrogatory to find out whether he has any facts upon which to base his defense. Ex:
 - "State all facts upon which you base your affirmative defense of comparative fault."
 - "Identify all witnesses who you believe support your allegations of contributory negligence."

Time to submit interrogatories

2030.020.

(a) **A DEFENDANT may propound interrogatories to a party to the action without leave of court at any time.**

(b) **A PLAINTIFF may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons** on, or appearance by, that party, whichever occurs first.

(c) Notwithstanding subdivision (b), in an **Unlawful Detainer** action ... a **PLAINTIFF may** propound interrogatories to a party without leave of court at any time that is **five**

days after service of the summons on, or appearance by, that party, whichever occurs first.

(d) Notwithstanding subdivisions (b) and (c), on motion with or without notice, the court, **for good cause shown, may grant leave to a PLAINTIFF to propound interrogatories at an earlier time.**

NOTE: The timing for Unlawful Detainer is different than other actions. And any plaintiff may be able to propound earlier than the statutory time frame if plaintiff can show good cause.

Special, official form & restriction on number allowed

2030.030.

(a) A party may propound to another party either or both of the following:

(1) **Thirty-five specially prepared interrogatories** that are relevant to the subject matter of the pending action.

(2) **Any additional number of official form interrogatories** that are relevant to the subject matter of the pending action.

(b) Except as provided in Section 2030.070, no party shall, as a matter of right, propound to any other party more than 35 specially prepared interrogatories. If the initial set of interrogatories does not exhaust this limit, the balance may be propounded in subsequent sets.

(c) **Unless a declaration as described in Section 2030.050 has been made, a party need only respond to the first 35 specially prepared interrogatories served**, if that party states an objection to the balance, under Section 2030.240, on the ground that the limit has been exceeded.

NOTE: Official Form interrogatories can usually be found on the presiding court's website. These forms have boxes that a propounding party checks before submitting. Ostensibly the simple options make interrogatories easy to propound because the options specifically requests information. **But** specially prepared interrogatories cannot be modelled after form interrogatories, because form interrogatories break all the rules.

Exception to number restrictions

2030.040.

(a) **Subject to the right of the responding party to seek a protective order** under Section 2030.090, **any party who attaches a supporting declaration** as described in

Section 2030.050 **may propound a greater number** of specially prepared interrogatories to another party **if this greater number is warranted** because of any of the following:

(1) The **complexity or the quantity** of the existing and potential issues in the particular case.

(2) The **financial burden** on a party entailed in conducting the discovery by oral deposition.

(3) the **expediency** of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.

(b) If the responding party seeks a protective order on the ground that the number of specially prepared interrogatories is unwarranted, **the propounding party shall have the burden of justifying the number of these interrogatories.**

Declaration for additional discovery

2030.050.

Any party who is propounding or has propounded more than 35 specially prepared interrogatories to any other party shall attach to each set of those interrogatories a declaration containing substantially the following:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of interrogatories.

3. This set of interrogatories will cause the total number of specially prepared interrogatories propounded to the party to whom they are directed to exceed the number of specially prepared interrogatories permitted by Section 2030.030 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ interrogatories to this party, of which _____ interrogatories were not official form interrogatories.

5. This set of interrogatories contains a total of _____ specially prepared interrogatories.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in the case.

7. I have personally examined each of the questions in this set of interrogatories.

8. This number of questions is warranted under Section 2030.040 of the Code of Civil Procedure because _____. (Here state each factor described in Section 2030.040 that is relied on, as well as the reasons why any factor relied on is applicable to the instant lawsuit.)

9. None of the questions in this set of interrogatories is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

(Signature)

Attorney for _____

Formatting & content requirements

2030.060.

(a) A party propounding interrogatories shall **number each set of interrogatories consecutively**.

(b) **In the first paragraph immediately below the title of the case**, there shall appear the ***identity of the propounding party***, the ***set number***, and the ***identity of the responding party***.

(c) **Each interrogatory in a set** shall be ***separately set forth*** and ***identified by number or letter***.

(d) **Each interrogatory shall be full and complete in and of itself**. No preface or instruction shall be included with a set of interrogatories unless it has been approved under Chapter 17 (commencing with Section 2033.710).

(e) **Any term specially defined in a set of interrogatories shall be typed with all letters capitalized wherever that term appears**.

(f) **No specially prepared interrogatory shall contain *subparts*, or a *compound*, *conjunctive*, or *disjunctive* question.**

(g) An interrogatory may not be made a continuing one so as to impose on the party responding to it a duty to supplement an answer to it that was initially correct and complete with later acquired information.

NOTE: An interrogatory's format is very precise.

- Example for subsection (e): "(IDENTIFY means provide the name, address and telephone number.)"
- An as indicated by subsection (f), a specially prepared interrogatory must contain only one question and that question must truly be a single question. **According to subsection (f) why is this this interrogatory improper?:** "IDENTIFY each person you intended to call as a witness on your behalf in the present preceding and state the substance of those witness' testimony."

Supplemental interrogatories

2030.070.

(a) In addition to the number of interrogatories permitted by Sections 2030.030 and 2030.040, **a party may propound a supplemental interrogatory to elicit any later acquired information bearing on all answers previously made by any party in response to interrogatories.**

(b) A party may propound a supplemental interrogatory **twice before the initial setting of a trial date**, and, **subject to the time limits** on discovery proceedings and motions provided in Chapter 8 (commencing with Section 2024.010), **once after the initial setting of a trial date.**

(c) Notwithstanding subdivisions (a) and (b), on motion, **for good cause shown, the court may grant** leave to a party to propound **an additional number of supplemental interrogatories.**

NOTE: This would occur after the initial round of interrogatories, when new information is learned and the new information is relevant to any answer, made by any party, to a previous interrogatory.

- This tool should be part of your Discovery plan. It will require the opposing counsel to update all their answers with any new information.

Service of documents

2030.080.

(a) The party propounding interrogatories shall **serve a copy of them on the party to whom the interrogatories are directed.**

(b) The propounding party shall also serve a copy of the interrogatories **on all other parties who have appeared** in the action. On motion, with or without notice, the court **may relieve the party from this requirement** on its determination that service on all other parties would be **unduly expensive or burdensome.**

NOTE: This code section ensures that all parties have notice that a particular question was asked.

Protective orders

2030.090.

(a) When interrogatories have been propounded, the responding party, and any other party or affected natural person or organization **may promptly move for a protective order. This motion shall be accompanied by a meet and confer declaration** under Section 2016.040.

(b) The court, **for good cause shown,** may make any order that justice requires to protect any party or other natural person or organization from **unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.** This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of interrogatories, or particular interrogatories in the set, **need not be answered.**

(2) That, contrary to the representations made in a declaration submitted under Section 2030.050, **the number of specially prepared interrogatories is unwarranted.**

(3) That **the time to respond** to the set of interrogatories, or to particular interrogatories in the set, **be extended.**

(4) That **the response be made only on specified terms and conditions.**

(5) That **the method of discovery be an oral deposition instead** of interrogatories to a party.

(6) That a **trade secret** or other confidential research, development, or commercial information **not be disclosed or be disclosed only in a certain way**.

(7) That some or all of the answers to interrogatories **be sealed and thereafter opened only on order of the court**.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the party provide or permit the discovery against which protection was sought on terms and conditions that are just.

(d) **The court shall impose a monetary sanction** under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who **unsuccessfully makes or opposes a motion for a protective order** under this section, **unless it finds** that the one subject to the sanction acted with **substantial justification** or that other **circumstances make the imposition of the sanction unjust**.

CODE OF CIVIL PROCEDURE SECTION 2030.210-2030.310

Mode of response; required contents

2030.210.

(a) The party to whom interrogatories have been propounded shall **respond in writing under oath separately to each interrogatory** by any of the following:

- (1) An **answer** containing the information sought to be discovered.
- (2) An exercise of the party's option to **produce writings**.
- (3) An **objection** to the particular interrogatory.

(b) **In the first paragraph** of the response immediately below the title of the case, there shall appear the **identity of the responding party, the set number, and the identity of the propounding party**.

(c) **Each** answer, exercise of option, or objection in the response **shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated**.

NOTE: The party to whom the interrogatory was propounded may also choose to do nothing, but as defined in a subsequent code section, doing nothing would result in adverse consequences.

Adequacy of response

2030.220.

(a) Each answer in a response to interrogatories shall be as **complete and straightforward as the information reasonably available to the responding party permits.**

(b) If an interrogatory cannot be answered completely, it shall be **answered to the extent possible.**

(c) If the responding party **does not have personal knowledge sufficient to respond fully** to an interrogatory, that party shall so state, but **shall make a reasonable and good faith effort to obtain** the information by inquiry to other natural persons or organizations, **except where the information is equally available to the propounding party.**

NOTE: When answering, if a party doesn't have adequate information to respond, then that answering party must try and obtain the information. But the answering party does not need to make such an effort where the information is as easily available to the propounding party.

Answers supplemented by attached documents

2030.230.

If the answer to an interrogatory would necessitate the preparation or the **making of a compilation, abstract, audit, or summary of or from the documents of the party to whom the interrogatory is directed,** and if the **burden or expense** of preparing or making it **would be substantially the same** for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this section and **to specify the writings from which the answer may be derived or ascertained.** This **specification shall be in sufficient detail** to permit the propounding party to **locate** and to **identify, as readily** as the responding party can, the documents from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these documents and to make copies, compilations, abstracts, or summaries of them.

Objecting

2030.240.

(a) **If only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered.**

(b) If an objection is made to an interrogatory or to a part of an interrogatory, **the specific ground for the objection shall be set forth clearly in the response.** If an objection is based on a claim of privilege, the particular **privilege** invoked shall be clearly stated. If an objection is based on a claim that the information sought is **protected work product** under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

NOTE: What are the privileges? [Evid. 930 et seq.]

- Privilege of Defendant in Criminal Case
 - Privilege not to be called as a witness and not to testify
- Privilege against Self-Incrimination
- Lawyer-Client Privilege
 - Confidential communication between client and lawyer
- Privilege Not to Testify Against Spouse
 - Privilege not to be called as a witness against spouse
- Privilege for Confidential Marital Communications
- Physician-Patient Privilege
 - Confidential communication between patient and physician
- Psychotherapist-Patient Privilege
 - Confidential communication between patient and psychotherapist
- Clergy Penitent Privileges
- Taxpayer Privilege [Rev. & Tax. 19542]

Signed under oath

2030.250.

(a) **The party to whom the interrogatories are directed shall sign the response under oath unless the response contains only objections.**

(b) If that party is **a public or private corporation**, or a partnership, association, or governmental agency, one of its officers or **agents** shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party

is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Chapter 4 (commencing with Section 2018.010) during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response.

(c) The attorney for the responding party shall sign any responses that contain an objection.

NOTE: The “under oath” requirement means that at the end of the response there is a declaration of validity, which must be signed by the appropriate person. As an example: “I declare under penalty of perjury under the laws of California that the foregoing is true and correct. [Date] [*Signature*]”

Serving responses

2030.260.

(a) Within 30 days after service of interrogatories, **the party to whom the interrogatories are propounded shall serve the original of the response** to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

(b) Notwithstanding subdivision (a), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, the party to whom the interrogatories are propounded shall have five days from the date of service to respond, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

(c) The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the action. On motion, with or without notice, **the court may relieve the party from this requirement** on its determination that service on all other parties would be **unduly expensive or burdensome.**

NOTE: This section gives notice to all parties of the answers to all interrogatories. In conjunction with section **2030.080.**, this section has the practical effect of stopping multiple parties from asking the same question because all parties will receive copies of all questions and all answers. Also, once again, the unlawful detainer action has a shorter time frame than other actions.

Extending time to respond

2030.270.

(a) The party propounding interrogatories and the responding party **may agree to extend the time** for service of a response to a set of interrogatories, or to particular interrogatories in a set, to a date beyond that provided in Section 2030.260.

(b) This agreement may be informal, but it shall be **confirmed in a writing that specifies the extended date** for service of a response.

(c) Unless this agreement expressly states otherwise, it is **effective to preserve to the responding party the right to respond** to any interrogatory to which the agreement applies in any manner specified in Sections 2030.210, 2030.220, 2030.230, and 2030.240.

NOTE: Parties can mutually agree to extend the time allowed to respond, but such an agreement must be in writing.

Not filed with court

2030.280.

(a) The interrogatories and the response thereto shall **not be filed with the court.**

(b) The **propounding party shall retain both the original of the interrogatories, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action.** At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.

NOTE: An interrogatory and its response may be subpoenaed by the court, so keeping it for the proscribed period is very important.

Untimely responses; waiver of rights; motions to compel

2030.290.

If a party to whom interrogatories are directed **fails to serve a timely response**, the following rules apply:

(a) The party to whom the interrogatories are directed **WAIVES any right to exercise the option to produce writings** under Section 2030.230, as well as **any objection to the interrogatories, including one based on privilege or on the protection for work product** under Chapter 4 (commencing with Section 2018.010). **The court, on motion,**

may relieve that party from this waiver on its determination that **both of the following conditions are satisfied**:

(1) The party has **subsequently served a response that is in substantial compliance** with Sections 2030.210, 2030.220, 2030.230, and 2030.240.

(2) The party's failure to serve a timely response was the result of **mistake, inadvertence, or excusable neglect**.

(b) **The party propounding the interrogatories may move for an order compelling response** to the interrogatories.

(c) The court **shall impose a monetary sanction** under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who **unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust**. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an **issue sanction**, an **evidence sanction**, or a **terminating sanction** under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

NOTE: Failure to respond in time does not necessarily mean the responding party waives the rights enumerated in subsection (a).

Motion to compel further response

2030.300

(a) On receipt of a response to interrogatories, the propounding party **may move for an order compelling a further response** if the propounding party deems that any of the following apply:

(1) An **answer to a particular interrogatory is evasive or incomplete**.

(2) An exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate.

(3) An **objection to an interrogatory is without merit or too general**.

(b) A motion under subdivision (a) shall be accompanied by a **meet and confer declaration** under Section 2016.040.

(c) **Unless** notice of this motion is given within **45 days** of the service of the response, or any supplemental response, or on or before any specific later date to which the

propounding party and the responding party have agreed in writing, **the propounding party waives any right to compel a further response** to the interrogatories.

(d) **The court shall impose a monetary** sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who **unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless it finds that** the one subject to the sanction acted with **substantial justification** or that other **circumstances make the imposition of the sanction unjust**.

(e) If a party then fails to obey an order compelling further response to interrogatories, the court may make those **orders that are just**, including the imposition of an **(1) issue sanction, (2) an evidence sanction, (3) a terminating sanction** under Chapter 7. In lieu of or in addition to that sanction, the court may impose **a monetary sanction**.

NOTE: A propounding party only has 45 days to file a motion to compel a further response. And failure of a party to obey an order compelling further response will result in adverse consequences.

Amended answers

2030.310.

(a) Without leave of court, **a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory**. At the trial of the action, the propounding party or any other party may use the initial answer under Section 2030.410, and the responding party may then use the amended answer.

(b) The party who propounded an interrogatory to which an amended answer has been served **may move for an order that the initial answer to that interrogatory be deemed binding on the responding party** for the purpose of the pending action. **This motion shall be accompanied by a meet and confer declaration** under Section 2016.040.

(c) **The court shall grant a motion under subdivision (b)** if it determines that all of the following conditions are satisfied:

(1) **The initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory.**

(2) **The responding party has failed to show substantial justification for the initial answer to that interrogatory.**

(3) **The prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer** under Section 2030.410.

(d) **The court shall impose a monetary sanction** under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who **unsuccessfully makes or opposes a motion to deem binding an initial answer to an interrogatory, unless it finds that** the one subject to the sanction acted with **substantial justification** or that other **circumstances make the imposition of the sanction unjust**.

NOTE: A responding party may correct their answer to an interrogatory if the mistake was accidental or they didn't have the information at the time of the response. But the propounding party may be able to deny the corrected response.

CODE OF CIVIL PROCEDURE SECTION 2030.410

Used as evidence

2030.410.

At the trial or any other hearing in the action, **so far as admissible** under the rules of evidence, the propounding party or **any party other than the responding party may use any answer or part of an answer to an interrogatory only against the responding party**. It is not ground for objection to the use of an answer to an interrogatory that the responding party is available to testify, has testified, or will testify at the trial or other hearing.

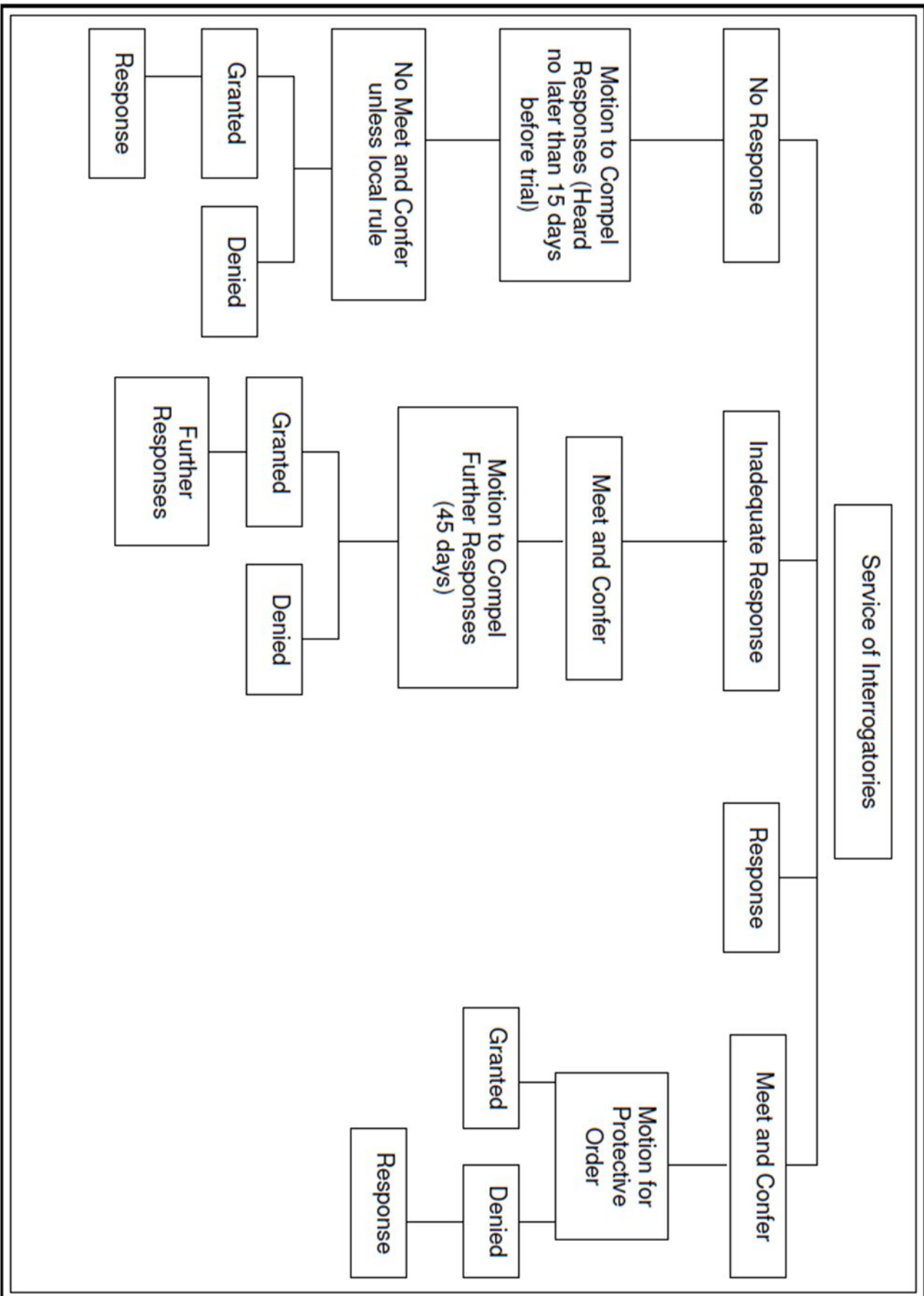
Use with RFAs:

If you serve Requests for Admission simultaneously with the Official Form Interrogatories DISC-001, you can use "Interrogatory 17.1" (below) which, in effect, provides 35 additional contention interrogatories that are not included in the limit of 35. This section of DISC-001 means that when you receive the responses to your requests for admission, you will also receive the factual basis for those responses:

Note: When you review DISC-001 read 17.1 and consider how it might be used to obtain pertinent information.

INTERROGATORY REVIEW QUESTIONS

- What is the definition of an interrogatory?
- What are two types of interrogatories that can be propounded?
- What are the advantages of interrogatories?
- What are the disadvantages of interrogatories?
- What is the cut-off period to propound interrogatories?
- Interrogatories must be answered within how many days?
- What if they were served by mail?
- What is the first date a plaintiff may serve interrogatories?
- What is the first date a defendant may serve interrogatories?
- What is the cut-off date for motions?
- Is there a limit to the number of form interrogatories?
 - If so, what is the number?
- Is there a limit to the number of special interrogatories?
 - If so, what is the number?
- What is a declaration of necessity?
- What are some of the elements or conditions you must show in a declaration of necessity?
- Can the propounding party supplement his questions?
 - If so, what is the limit?
- What are some objections that can be asserted?
- What are some of grounds for filing a motion to compel?
- What is a Motion for a Protective Order?



Objections to Interrogatories

Proper Objections

- [8:1087] Question seeks information protected by privilege, work product, or right of privacy
 - Examples: attorney-client privilege, impressions and thoughts of the attorney or possibly any representative of the client
- [8:1089] Question exceeds permissible scope of discovery
 - Information sought in the discovery process must be relevant to the claims or defenses asserted in the case
- [8:1090] More than 35 specially prepared interrogatories have been served without a declaration of necessity
 - In one set or in all sets combined
 - The objection can lie solely on the number of the interrogatories, but if a declaration of necessity is served with the interrogatories proper procedure would be to challenge the declaration of necessity by a motion for a protective order
- [8:1091] Question is improper in form because not “full and complete in and of itself” or because it contains:
 - Subparts [CCP § 2030.060(f)]; or
 - “Compound, conjunctive, or disjunctive” questions [CCP § 2030.060(f)]; or
 - A preface or instructions [CCP § 2030.060(d)]; or
 - Special definitions or terms carried over from question to question are not capitalized [CCP § 2030.060(e)].
- [8:1092] Question seeks content or production of documents
 - Interrogatories cannot act as requests for production but can ask for a description and location of where the documents or information can be found; *West Pico Furniture Co. of Los Angeles v. Sup. Ct.* 56 C.2d 407, 419 (1961).
- [8:1093] Question seeks information equally available to interrogating party; *Alpine Mut. Water Co. v. Sup. Ct.* 259 CA.2d 45, 53 (1968).
 - Can't be lazy! Example: Information found in the public records
- [8:1094] Question is “burdensome and oppressive”
 - The Court can issue a protective order so that the party will not have to answer questions that are a “unwarranted annoyance, embarrassment, or oppression” [CCP § 2030.090(b)]
 - Oppression can also be raised rather than making a motion for a protective order; *West Pico Furniture Co. of Los Angeles v. Sup. Ct.* 56 C.2d 407, 418 (1961).

**References are to The Rutter Group, Civil Procedure Before Trial, 2012

Improper Objections:

- [8:1078]: Interrogatory questions that calls for “hearsay” because hearsay can lead to admissible evidence. *Greyhound Corp. v. Sup. Ct.* (Clay) 56 C.2d 355, 392 (1961). (***Red Flag on this case in Westlaw: some negative history that has been overruled**)
- [8:1079]: Interrogatory question calls for an opinion or a conclusion. *West Pico Furniture Co. of Los Angeles v. Sup.Ct.* 56 C2d 407, 416-17, 15 (1961)
- [8:1080]: Question has been asked and answered during deposition. *Coy v. Sup. Ct.* 58 C2d 210, 218, (1962)
- [8:1081]: Question assumes facts not in evidence. *West Pico Furniture Co. of Los Angeles v. Sup.Ct.* 56 C2d at 421
- [8:1082]: Interrogating party is “conducting a fishing expedition.” *Greyhound Corp. v. Sup.Ct.* This term refers to a party who does not know what type of information they seek but wants to obtain all possible information for the case
- [8:1084]: Interrogatory question is “ambiguous, confusing or overbroad.” This type of objection is not sustained unless the question is unintelligible. The answering party has a duty to respond in good faith as best as they can. An objection could be stated if the question is so broad that it is “oppressive”
- [8:1085]: Question seeks “confidential information.” The answering party should seek a protective order to excuse the duty to answer. *Columbia Broadcasting System, Inc. v. Sup. Ct.* (1968) 263 CA2d 12, 23, 69 CR 348, 355. If the information is privileged or protected by the constitutional right of privacy, an objection can be stated on those grounds
- [8:1086]: If any of the questions are proper, objections would not be sustained. *Wooldridge v. Mounts* 199 CA2d 620, 628 (1962)
- [8:1086.5]: Where an interrogatory asks about the existence of a document, it is improper to object on the ground of privilege. The document must be described although a privilege claim may later be asserted concerning its contents. *Best Products, Inc. v. Sup. Ct.* 119 CA.4th 1181, 1190 (2004)

**References are to The Rutter Group, Civil Procedure Before Trial, 2012

**IN CLASS EXERCISE:
FORM AND SPECIAL INTERROGATORIES**

MEMO

From: Bill Tanner
Attorney at Law
21100 N. Main
Orange County, CA 92701
(714) 555-5200

To: Incubator Student

Re: Official Form and Special interrogatories

Our client is a driver involved in a traffic collision in Orange, CA. Our client claims that on the morning of June 1st, 2014, while driving through the intersection of First and Main, she was struck by the defendant. Our client further claims that she had the green light and therefore the defendant must have been negligent. Client suffered serious injuries as a result of the accident and was taken to the hospital before she could gain further information.

Our client's name is Jane Johnson. The defendant's name is John Smith.

We have filed a complaint alleging negligence and praying for \$100,000. The defendant has answered.

Part 1: Please review form DISC-001 and consider the sections which should be propounded. Your instructor may ask for volunteers to make selections.

Part 2: Consider what Special Interrogatories might be served on the defendant. During class your instructor will demonstrate the process of forming and propounding special interrogatories. After the demonstration you will draft your own special interrogatories for this client.

Part 3: Assume that it has been six months since you propounded your Special Interrogatories. By this time the opposing counsel has completed their own investigation and their knowledge of the facts has changed. Imagine scenarios where Supplemental Interrogatories may be needed.

(Remember that form interrogatories do not necessarily follow the same rules as special interrogators. No subparts or compound questions are allowed when propounding Special Interrogatories. Terms should also be defined before the Special Interrogatory questions are set forth).

The trial date has not been set. The following is the court information:
Case Number CL08901
Superior Court of California, County of Orange, Central Justice Center.