

**Proposal 06-02 (P.R.0148)**  
**Amends Rules 216 and 222**

**Offered by the Illinois Judicial Conference Committee on Discovery Procedures**

**Rule 216. Admission of Fact or of Genuineness of Documents**

**(a) Request for Admission of Fact.** Subject to the limitations set forth in subsection (f) below, a party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request.

**(b) Request for Admission of Genuineness of Document.** A party may serve on any other party a written request for admission of the genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

**(c) Admission in the Absence of Denial.** Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 28 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters 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. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission. If good faith requires that a party deny only a part, or requires qualification, of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder. Any objection to a request or to an answer shall be heard by the court upon prompt notice and motion of the party making the request.

**(d) Public Records.** If any public records are to be used as evidence, the party intending to use them may prepare a copy of them insofar as they are to be used, and may seasonably present the copy to the adverse party by notice in writing, and the copy shall thereupon be admissible in evidence as admitted facts in the case if otherwise admissible, except insofar as its inaccuracy is pointed out under oath by the adverse party in an affidavit filed and served within 14 days after service of the notice.

**(e) Effect of Admission.** Any admission made by a party pursuant to request under this rule is for the purpose of the pending action and any action commenced pursuant to the authority of section 13--217 of the Code of Civil Procedure (Ill. Rev. Stat. 1983, ch. 110, par. 13--217) only. It does not constitute an admission by him for any other purpose and may not be used against him in any other proceeding.

(f) Limitations on Application. In civil actions seeking money damages not in excess of \$50,000 exclusive of interest and costs, and to cases for the collection of taxes not in excess of \$50,000, the following limitations shall apply:

(1) No requests may be served without prior leave of court, with proper notice given to all parties upon which the admissions are requested;

(2) No requests may be served more than 120 days after the filing of a responsive pleading to the complaint, counter-complaint, third-party complaint, etc., unless the parties otherwise agree, or for good cause shown, if the court shortens or extends the time.

### Committee Comments

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Subparagraph (f) was amended in 2006 to limit the application of Rule 216 in small cases where the strict requirements of the rule were being misused. In high volume courtrooms, the Committee found instances where Requests to Admit were buried among other discovery requests, thereby more likely to go undetected by responding party until after the deadline has passed. In other instances, parties were filing Requests to Admit on the eve of trial in relatively simple cases, rather than at an early stage, to narrow the issues. The Committee adopted the amendment to curb the misuse of Rule 216 requests and to return to the original purpose of the Rule, which is to clarify and simplify evidentiary issues at trial.

## Rule 222. Limited and Simplified Discovery in Certain Cases

(a) - (e) [no changes]

**(f) Limited and Simplified Discovery Procedures.** Except as may be ordered by the trial court, upon motion and for good cause shown, the following limited and simplified discovery procedures shall apply:

(1) Each party may propound to any other party a total of 30 interrogatories and supplemental interrogatories in the aggregate, including subsections. Interrogatories may require the disclosure of facts upon which a party bases a claim or defense, the enumeration, with proper identification, of all persons having knowledge of relevant facts, and the identification of trial witnesses and trial exhibits.

(2) *Discovery Depositions.* No discovery deposition shall exceed three hours, absent agreement among the parties. Except as otherwise ordered by court, the only individuals whose discovery depositions may be taken are the following:

(a) *Parties.* The discovery depositions of parties may be taken. With regard to corporations, partnerships, voluntary associations, or any other groups or entities, one representative deponent may be deposed.

(b) *Treating Physicians and Expert Witnesses.* Treating physicians and expert witnesses may be deposed, but only if they have been identified as witnesses who will testify at trial. The provisions of Rule 204(c) do not apply to treating physicians who are deposed under this Rule 222. The party at whose instance the deposition is taken shall pay a reasonable fee to the deponent, unless the deponent was retained by a party to testify at trial or unless otherwise ordered by the court.

(3) *Evidence Depositions.* No evidence depositions shall be taken except pursuant to leave of court for good cause shown. Leave of court shall not be granted unless it is shown that a witness is expected to testify on matters material to the issues and it is unlikely that the witness will be available for trial, or other exceptional circumstances exist. Motions requesting the taking of evidence depositions shall be supported by affidavit. Evidence depositions shall be taken to secure trial testimony, not as a substitute for discovery depositions.

(4) Requests pursuant to Rules 214, 215 and 216 are permitted, as are notices pursuant to Rule 237.

(5) Requests pursuant to Rule 216 are permitted, subject to the limitations set forth in Rule 216(f).

**(g) - (j)** [no changes]

### **Committee Comments**

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Subparagraph (f)(5) was added in 2006 to reflect the amendments to Rule 216 adopted that same year.