

### **§ 6-333. Interrogatories to parties.**

(a) Availability; Procedures for Use. Any party may serve upon any other party written interrogatories to be answered by the party served or if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons upon that party. Unless otherwise permitted by the court for good cause shown, no party shall serve upon any other party more than fifty interrogatories. Each question, subquestion, or subpart shall count as one interrogatory.

Each interrogatory shall be repeated and answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within thirty days after the service of the interrogatories, except that a defendant may serve answers or objections within forty-five days after service of the summons upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

(b) Scope; Use at Trial. Interrogatories may relate to any matters which can be inquired into under Rule 26(b), and the answers may be used to the extent permitted by the Nebraska Evidence Rules.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

(c) Option to Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records, including a compilation, abstract, or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries. A specification shall be in sufficient detail as to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

#### **COMMENTS TO RULE 33**

33(a) This subsection differs from the federal rules and former Neb. Rev. Stat. §§ 25-1267.37 and 25-1267.38 (Repealed 1982) by imposing a limit of 50 interrogatories upon any party, unless the court permits more for good cause shown. Because interrogatories are particularly subject to being abused or improperly used, this discovery device has been limited unless a party can show that the complexity of the case requires the use of additional interrogatories.

33(b) This subsection expands former Neb. Rev. Stat. § 25-1267.38 (Repealed 1982) and follows the federal rules by allowing interrogatories that involve opinions. This follows the federal rule by eliminating an unnecessary restriction on interrogatories. The overall limit on interrogatories and consequent elimination of extensive sets of interrogatories should minimize any chance for abuse.

33(c) This follows the federal rule; it is a procedure for handling discovery from voluminous records that is necessary for certain large cases. No Nebraska statutory section served as precedent for this subsection of the rules.

Rule 33(c) amended June 4, 2008, effective June 18, 2008. Renumbered and codified as § 6-333, effective July 18, 2008.