

## **RULE 4:17. Interrogatories To Parties**

### **4:17-1. Service, Scope of Interrogatories**

- **(a) Generally.** Any party may serve upon any other party written interrogatories relating to any matters which may be inquired into under R. 4:10-2. The interrogatories may include a request, at the propounder's expense, for a copy of any paper.
- **(b) Uniform Interrogatories in Certain Actions.**
  - **(1) Limitations on Interrogatories.** In all actions seeking recovery for property damage to automobiles and in all personal injury cases other than wrongful death, toxic torts, cases involving issues of professional malpractice other than medical malpractice, and those products liability cases either involving pharmaceuticals or giving rise to a toxic tort claim, the parties shall be limited to the interrogatories prescribed by Forms A, B and C of Appendix II, as appropriate, provided, however, that each party may propound ten supplemental questions, without subparts, without leave of court. Any additional interrogatories shall be permitted only by the court in its discretion on motion.
  - **(2) Automatic Service of Uniform Interrogatories.** A party defendant served with a complaint in an action subject to uniform interrogatories as prescribed by subparagraph b(1) of this rule shall be deemed to have been simultaneously served with such interrogatories. The defendant shall serve answers to the appropriate uniform interrogatories within 60 days after service by that defendant of the answer to the complaint. The plaintiff in such an action shall be deemed to have been served with uniform interrogatories simultaneously with service of defendant's answer to the complaint and shall serve answers to the interrogatories within 30 days after service of the answer to the complaint. In all actions commenced prior to September 5, 2000, however, answers to uniform interrogatories shall be demanded by letter of demand served upon all adverse parties within the time prescribed by R. 4:17-2, and answers shall be served within the time prescribed by R. 4:17-4(b).
  - **(3) Claims of Privilege, Protection.** Privileged information need not be disclosed provided the claim of privilege is made pursuant to R. 4:10-2(e). Nor need information be disclosed if it is the subject of an identified protective order issued pursuant to R. 4:10-3.
  - **(4) Obligation to Answer Every Question.** Except as otherwise provided in subparagraph (b)(3) of this rule, every question propounded by a uniform interrogatory must be answered unless the court has otherwise ordered.

Note: Source-R.R. 4:23-1, 4:23-9. Last clause of second sentence and third and fourth sentences deleted (see R. 4:10B2(d) and R. 4:17B3) July 14, 1972 to be effective September 5, 1972; new caption for paragraph (a) and new paragraphs (b)(i) and (ii) adopted July 13, 1994 to be effective September 1, 1994; paragraph (b)(i) amended and paragraph (b)(iii) added June 28, 1996 to be effective September 1, 1996; paragraph (b)(i) amended July 10, 1998 to be effective September 1, 1998; paragraphs (b)(i), (b)(ii), and (b)(iii) redesignated as paragraphs (b)(1),(b)(2), and (b)(3), redesignated paragraphs (b)(2) and (b)(3) amended, and new paragraph (b)(4) adopted July 5, 2000 to be effective September 5, 2000.

### **4:17-2. Time to Serve Interrogatories**

Interrogatories may, without leave of court, be served upon the plaintiff or answers demanded pursuant to R. 4:17-1(b) after commencement of the action and served upon or demanded from any other party with or after service of the summons and complaint upon that party. Except as provided in R. 4:17-1(b)(2), initial interrogatories shall be served by plaintiff as to each defendant within 40 days after service of that defendant's answer and each defendant shall serve initial interrogatories within said 40-day period.

Note: Source-R.R. 4:23-2(a)(b)(c). Amended and last two sentences deleted July 14, 1972 to be effective September 5, 1972; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000.

#### 4:17-3. Number of Copies Served; Form of Interrogatories

The party serving the interrogatories shall furnish the answering party with the original thereof. The interrogatories shall be so arranged that after each separate question shall appear a blank space reasonably calculated to enable the answering party to have the answer typed in.

Note: Source-R.R. 4:23-3(a)(b). Amended July 14, 1972 to be effective September 5, 1972 (paragraph (a) formerly in R. 4:17-1); paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended June 29, 1990 to be effective September 4, 1990; introductory sentence added, paragraph (b) amended and paragraph (c) deleted July 13, 1994 to be effective September 1, 1994; paragraph (a) amended and paragraphs (a) and (b) combined June 28, 1996 to be effective September 1, 1996.

#### 4:17-4. Form, Service and Time of Answers

- **(a) Form of Answers; By Whom Answered.** Except as otherwise provided in this rule, interrogatories shall be answered in writing under oath by the party upon whom served, if an individual, or, if a public or private corporation, a partnership or association, or governmental agency, by an officer or agent who shall furnish all information available to the party. If a party is unavailable, the interrogatories may be answered by an agent or authorized representative, including a liability carrier who is conducting the defense, whose answers shall bind the party. The party shall furnish all information available to the party and the party's agents, employees, and attorneys. The person answering the interrogatories shall designate which of such information is not within the answerer's personal knowledge and as to that information shall state the name and address of every person from whom it was received, or, if the source of the information is documentary, a full description including the location thereof. Each question shall be answered separately, fully and responsively either in the space following the question or on separate pages. Except as otherwise provided by paragraph (d) of this rule, if in any interrogatory a copy of a paper is requested, the copy shall be annexed to the answer. If the interrogatory requests the name of an expert or treating physician of the answering party or a copy of the expert's or treating physician's report, the party shall comply with the requirements of paragraph (e) of this rule.
- **(b) Service of Answers; Time; Enlargement of Time.** Except as otherwise provided by R. 4:17-1(b)(2), the party served with interrogatories shall serve answers thereto upon the party propounding them within 60 days after being served with the interrogatories. For good cause shown the court may enlarge or shorten such time upon motion on notice made within the 60-day period. Consent orders enlarging the time are prohibited.
- **(c) Copies; Service by Propounding Party.** The original of the answers shall be served upon the propounding party, who shall then serve a copy of the interrogatories and answers upon each of the other parties. Parties against whom default has been entered need not, however, be served, and parties represented by the same attorney need be served with one copy.
- **(d) Option to Produce Business Records.** When the answer to an interrogatory may be derived or ascertained from or requires annexation of copies of the business records of the party on whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation abstract or summary based thereon, or from electronically stored information, 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 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.

- **(e) Expert's or Treating Physician's Names and Reports.** If an interrogatory requires a copy of the report of an expert witness or treating or examining physician as set forth in R. 4:10-2(d)(1), the answering party shall annex to the interrogatory an exact copy of the entire report or reports rendered by the expert or physician. The report shall contain a complete statement of that persons opinions and the basis therefor; the facts and data considered in forming the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; and whether compensation has been or is to be paid for the report and testimony and, if so, the terms of the compensation. If the answer to an interrogatory requesting the name and report of the party's expert or treating physician indicates that the same will be supplied thereafter, the propounder may, on notice, move for an order of the court fixing a day certain for the furnishing of that information by the answering party. Such order may further provide that an expert or treating physician whose name or report is not so furnished shall not be permitted to testify at trial. Except as herein provided, the communications between counsel and expert deemed trial preparation materials pursuant to R. 4:10-2(d)(1) may not be inquired into.
- **(f) Release of Medical Records.** Subject to the issuance of a protective order for good cause under R. 4:10-3, a plaintiff or a counterclaimant in any action in which damages are sought for personal injuries shall serve, contemporaneous with his or her answers to interrogatories, an executed form authorizing disclosure to the opposing party or parties, for purposes of the litigation, of the plaintiff's or counterclaimant's medical records pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§ 1301 et seq., as to each health care provider named in his or her answers to interrogatories excluding non-treating expert witnesses.

Note: Source -- R.R. 4:23-4, 4:23-5, 4:23-6(a)(b)(c)(d). Paragraph (a) amended and paragraph (d) adopted July 14, 1972 to be effective September 5, 1972; paragraph (a) amended September 13, 1976 to be effective September 13, 1976; paragraph (a) amended and paragraph (e) adopted July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 2, 1987 to be effective January 1, 1988; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (c) amended June 29, 1990 to be effective September 4, 1990; paragraphs (a), (b) and (e) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended June 28, 1996 to be effective September 1, 1996; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (e) amended July 12, 2002 to be effective September 3, 2002; paragraph (e) amended July 28, 2004 to be effective September 1, 2004; paragraph (d) amended July 27, 2006 to be effective September 1, 2006; new paragraph (f) adopted July 22, 2014 to be effective September 1, 2014.

#### **4:17-5. Objections to Interrogatories**

- **(a) Objections to Questions; Motions.** A party upon whom interrogatories are served who objects to any questions propounded therein may either answer the question by stating "The question is improper" or may, within 20 days after being served with the interrogatories, serve a notice of motion, to be brought on for hearing at the earliest possible time, to strike any question, setting out the grounds of objection. The answering party shall make timely answer, however, to all questions to which no objection is made. Interrogatories not stricken shall be answered within such unexpired period of the 60 days prescribed by R. 4:17-4(b) as remained when the notice of motion was served or within such time as the court directs. The propounder of a question answered by a statement that it is improper may, within 20 days after being served with the answers, serve a notice of motion to compel an answer to the question, and, if granted, the question shall be answered within such time as the court directs.
- **(b) Objections to Request for Copies of Papers.** A party served with interrogatories requesting copies of papers who objects to the furnishing thereof shall, in lieu of complying with the request, either state with specificity the reasons for noncompliance or invite the propounder to inspect and copy the papers at a designated time and place. The

propounder of a request for a copy of a paper which is not complied with, may, within 20 days after being served with the answers, serve a notice of motion directing compliance with the request or for other appropriate relief.

- **(c) Interrogatory Motions; Form.** Motions to strike interrogatories or to compel more specific answers thereto shall include a short statement of the nature of the action and shall have annexed thereto the text of the questions and answers, if any, objected to.
- **(d) Costs and Fees on Motion.** If the court finds that a motion made pursuant to this rule was made frivolously or for the purpose of delay or was necessitated by action of the adverse party that was frivolous or taken for the purpose of delay, the court may order the offending party to pay the amount of reasonable expenses, including attorney's fees, incurred by the other party in making or resisting the motion.

Note: Source-R.R. 4:23-8 (first, second, third, fourth and seventh sentences). Paragraph (c) adopted July 14, 1972 to be effective September 5, 1972; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994.

#### **4:17-6. Limitation of Interrogatories**

Except as otherwise provided by R. 4:17-1(b), the number of interrogatories or of sets of interrogatories to be served is not limited except as required to protect the party from annoyance, expense, embarrassment, or oppression. The party to whom interrogatories are propounded may apply for a protective order in accordance with R. 4:10-3.

Note: Source-R.R. 4:23-11. Amended and first sentence deleted (see R. 4:10-4) July 14, 1972 to be effective September 5, 1972; amended July 13, 1994 to be effective September 1, 1994.

#### **4:17-7. Amendment of Answers**

Except as otherwise provided by R. 4:17-4(e), if a party who has furnished answers to interrogatories thereafter obtains information that renders such answers incomplete or inaccurate, amended answers shall be served not later than 20 days prior to the end of the discovery period, as fixed by the track assignment or subsequent order. Amendments may be allowed thereafter only if the party seeking to amend certifies therein that the information requiring the amendment was not reasonably available or discoverable by the exercise of due diligence prior to the discovery end date. In the absence of said certification, the late amendment shall be disregarded by the court and adverse parties. Any challenge to the certification of due diligence will be deemed waived unless brought by way of motion on notice filed and served within 20 days after service of the amendment. Objections made thereafter shall not be entertained by the court. All amendments to answers to interrogatories shall be binding on the party submitting them. A certification of the amendments shall be furnished promptly to any other party so requesting.

Note: Source -- R.R. 4:23-12; amended July 29, 1977 to be effective September 6, 1977; amended September 9, 1982 to be effective September 14, 1982; amended July 22, 1983 to be effective September 12, 1983; amended June 29, 1990 to be effective September 4, 1990; amended July 5, 2000 to be effective September 5, 2000; amended July 12, 2002 to be effective September 3, 2002; amended July 28, 2004 to be effective September 1, 2004.

#### **4:17-8. Use, Filing and Effect of Interrogatories**

- **(a) Use.** Answers to interrogatories may be used to the same extent as provided by R. 4:16-1(a) and R. 4:16-1(b) for the use of the deposition of a party. If less than all of the interrogatories and answers thereto are marked or read into evidence by a party, an adverse party may read into evidence any other of the interrogatories and answers or parts thereof necessary for a fair understanding of the parts read into evidence. Interrogatories shall not be marked into evidence without good cause.
- **(b) Filing.** Neither the interrogatories nor the answers shall be filed unless the court so directs at the pre-trial conference or trial.

- **(c) Pleading Not Stayed.** The service of interrogatories shall not stay the time for service of an answering pleading.

Note: Source-R.R. 4:23-7, 4:23-10, 4:23-13. Paragraph (a) amended July 14, 1972 to be effective September 5, 1972; paragraph (b) amended July 24, 1978 to be effective September 11, 1978.