

Rule 4003.1. Scope of Discovery. Generally. Opinions and Contentions

(c) Except as otherwise provided by these rules, it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.

NOTE: Interrogatories that generally require the responding party to state the basis of particular claims, defenses or contentions made in pleadings or other documents should be used sparingly and, if used, should be designed to target claims, defenses or contentions that the propounding attorney reasonably suspects may be the proper subjects of early dismissal or resolution or, alternatively, to identify and to narrow the scope of claims, defenses and contentions made where the scope is unclear.

Rule 4005. Written Interrogatories to a Party

(a) Subject to the limitations provided by Rule 4011, 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 similar entity or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served upon any party at the time of service of the original process or at any time thereafter. Interrogatories which are to be served prior to service of the complaint shall be limited to the purpose of preparing a complaint and

shall contain a brief statement of the nature of the cause of action. Interrogatories shall be prepared in such fashion that sufficient space is provided immediately after each interrogatory or subsection thereof for insertion of the answer or objection.

NOTE: Rule 440 requires the party serving interrogatories upon any other party to serve a copy upon every party to the action.

Interrogatories that generally require the responding party to state the basis of particular claims, defenses or contentions made in pleadings or other documents should be used sparingly and, if used, should be designed to target claims, defenses or contentions that the propounding attorney reasonably suspects may be the proper subjects of early dismissal or resolution or, alternatively, to identify and to narrow the scope of claims, defenses and contentions made where the scope is unclear.

Explanatory Comment

Civil Discovery Standard No. 8 of the American Bar Association (2004) establishes a guideline for the use of contention interrogatories. This standard has been added as a note to Rule 4003.1(c) governing discovery of opinions and contentions and as the second paragraph to the present note to Rule 4005(a) governing written interrogatories to a party.

The rationale for the proposal is succinctly set forth in the Comment to Civil Discovery Standard No. 8:

*** Contention interrogatories, like all forms of discovery, can be susceptible to abuse. Among other things, they can be used as an attempt to tie up the opposing party rather than to obtain discovery. The legitimate purpose of contention interrogatories is to narrow the issues for trial, not to force the opposing side to marshal all its evidence on paper.

The potential for overreaching is particularly present when interrogatories seeking the detailed underpinnings of the opposing party's allegations are served early in the case. Although, when used with discretion, interrogatories served near the outset of the case can be useful in narrowing the issues to define the scope of necessary discovery, contention interrogatories ordinarily are more appropriate after the bulk of discovery has already taken place. At that point, the party on whom the interrogatories are served should have the information necessary to give specific, useful responses. [Citations omitted.]

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair