



# Federal Pro Se Clinic

## CENTRAL DISTRICT OF CALIFORNIA: WESTERN DIVISION

Guide to Discovery:

### Interrogatories

## What are Interrogatories?

Interrogatories are a list of questions sent by one party in a lawsuit to another party in the lawsuit. Interrogatories are governed by Federal Rule of Civil Procedure 33 and the corresponding Local Rules of the Central District of California. They are best used to get answers to the following questions in your case:

- **Who?** (did something, had possession of something, had knowledge of an event, etc.)
- **Where?** (is something or someone)
- **When?** (did an event happen, did someone first learn about that event, etc.)
- **What?** (does a term mean, are the procedures for certain situations, etc.)

Prepare to write your interrogatories by carefully reading the entire complaint and answer. Your interrogatories will depend heavily on the specific facts of your case and what information you need to obtain from the opposing party. Make a discovery plan before you draft your interrogatories. Create a chart that lists the legal elements of your claim or defense in the first column. List the facts you think prove each element in the second column. The items in the second column will help you decide what interrogatories to ask. A template of this chart is included with this guide.

## Content of Interrogatories

1. State that you are requesting answers to the interrogatories under Federal Rule of Civil Procedure 33.
2. Define the terms you will use in your interrogatories. Title this section "Definitions." Important terms like "document" and "contract" should be defined as they relate to your case. For example, if you are asking about when a police report was taken after a specific incident, make sure to define the "incident." For example:
 

*"Incident" includes the circumstances and events surrounding the alleged wrongful conduct, injury, or other occurrences giving rise to this lawsuit, as alleged in the complaint filed on January 19, 2012.*
3. State your interrogatories. Each interrogatory should be in a separate paragraph and numbered sequentially.

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(Note: if you send more than one set of interrogatories to a party, number each interrogatory sequentially without repeating the numbers you used on any prior set of interrogatories.)

4. Draft interrogatories that are narrowly tailored to the facts of your case. This will help you obtain relevant information and avoid objections by the opposing party.
5. Be sure to include an interrogatory about the identity (name, address, position, etc.) of the person responding to the interrogatories. This will make it easier to introduce the responses to the interrogatories at trial.
6. **“Contention Interrogatories”** are questions that ask for the evidence supporting the opposing party’s claims or defenses. This kind of interrogatory may help you prove that the other side lacks supporting evidence and can be especially useful when drafting a dispositive motion like a motion for summary judgment. Here is a sample contention interrogatory in an employment discrimination case:

*“State all the facts you rely upon to support the allegation in paragraph 15 of the complaint that Plaintiff adequately and completely performed all of the functions, duties, and responsibilities of his employment with Defendant ABC Company.”*

7. Last, sign and date the last page of your interrogatories.

## **How Many Interrogatories are Allowed?**

**A. Each party is entitled to ask a total of 25 interrogatories of each other party.**

You must ask the Court for permission if you want to serve another party with more than 25 interrogatories. Draft your interrogatories wisely because your 25-interrogatory limit includes even interrogatories to which your opponent objects.

**B. Each interrogatory must contain one question.**

If you include sub-parts to an interrogatory, they must relate to the primary question or be of a common theme with the primary question. The sub-part will otherwise be counted as a separate interrogatory. The following is an example of one interrogatory with proper sub-parts:



**INTERROGATORY TIP:**

The 25-interrogatory limit should encourage you to be strategic about the interrogatories you draft and when you serve them. Consider serving only a few interrogatories in an initial set and then sending another set after you have received responses to the initial set. Doing this will allow you to follow up on any new facts you obtain in your first set of discovery requests.

*“Was Plaintiff given any disciplinary warning during her employment with Defendant? If so, identify each warning by date of incident, a brief description of the incidents, and the person who administered the warning by name, gender, position and address.”*

In contrast, the following questions will be considered more than one interrogatory because each sub-part is a distinct question that is unrelated to a primary question:

*“When did Plaintiff begin employment with Defendant? Was Plaintiff given any disciplinary warning during her employment with Defendant? On what date did Plaintiff’s employment terminate?”*

Combining distinct and separate questions into one interrogatory will likely result in an objection by the responding party. If the Court believes doing so amounts to an “abuse of discovery,” you may also be subject to discovery sanctions (i.e., a penalty by the Court).

### Serving Interrogatories

**Do not** file interrogatories with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep the original for yourself. Remember to send interrogatories long before your discovery cut-off date to give the other party the full 30 days to respond. In fact, consider sending your interrogatories at least 60 days before your discovery deadline in case the other side fails to respond adequately to your discovery request and you need additional time to file a motion to compel.

### Responding to Interrogatories

The other party is also entitled to send you interrogatories. Within 30 days after being served with the interrogatories, you must answer the interrogatories truthfully and/or object to them under the penalty of perjury. The time to respond can be increased or decreased by agreement of the parties or if your judge orders a different deadline to respond.

1. The opening paragraph below the title caption should include the identity of the party who has requested the discovery, the identity of the responding party, and the set number of the discovery.
2. Copy the request exactly as it is written in the interrogatory, immediately above your response.
3. You must answer the interrogatory truthfully and/or state your grounds for an objection to the interrogatory. The following are some possible grounds (if applicable) for objecting to an interrogatory:
  - The interrogatory is overbroad.
  - The interrogatory is so ambiguous that the responding party would have to speculate if required to provide an answer.

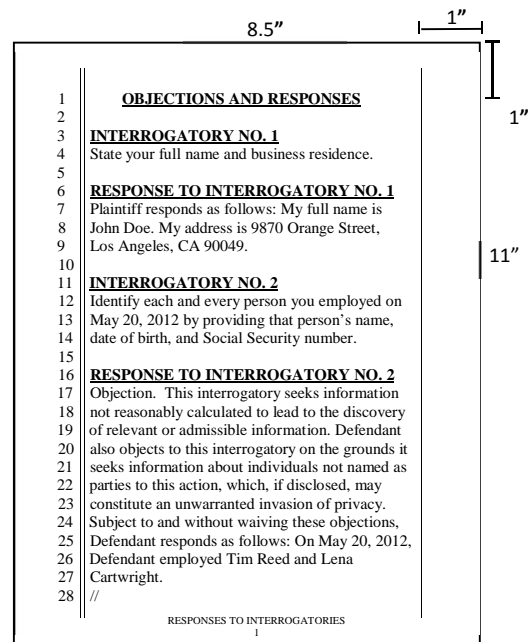
- The interrogatory contains improper subparts.
- The interrogatory is unduly burdensome. (Note: This objection cannot be used simply because it will take a long time to respond to the request.)
- The information requested is protected by attorney-client privilege.
- The request is not relevant to this case.
- The request is not proportional to the needs of this case. (If you use this objection, specify why the request is not proportional. Address the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.)
- The interrogatory seeks confidential information, which, if disclosed, may constitute an unwarranted invasion of privacy.
- The request is improperly worded as a Request for Production or Request for Admission.
- The party has exceeded the 25 interrogatories allotted under Federal Rule of Civil Procedure 33.

4. Include the following statement at the end of your response to the interrogatories, right above your signature:

“I declare under penalty of perjury that the foregoing responses are true and correct.”

5. Last, date and sign the last page of your response to the interrogatories.

6. **Do not** file your response to the interrogatories with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep a copy for yourself.



**Do you need more time to respond to an Interrogatory?**

If you need more time to answer or object to an interrogatory, first contact the opposing counsel (or your unrepresented opponent(s)) and ask him or her to agree to an extension of time. Make sure you receive some form of written confirmation of the extension, even if it is just in an email. If the other side refuses, you may file a “Request for Extension of Time to Respond to an Interrogatory” with the Court.

**What can happen if you fail to respond to an Interrogatory?**

If you do not answer or object to an interrogatory in a timely or satisfactory manner, the requesting party may file a “motion to compel” your response and the Court may impose sanctions on you, which may include having to pay the requesting party’s attorney’s fees and costs incurred in bringing the motion.

## Guide to Discovery: Discovery Worksheet

**Claim or Defense:**

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State each <u>element</u> of your claim or defense	State each of the <u>facts</u> that will prove this element	List the <u>evidence</u> you will need to support the facts that prove this element	Formulate your discovery request (RFP, RFA, or Interrogatory)