

89-R-99001

FILED
SEP 06 2019
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SUPREME COURT
COURT OF APPEALS

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

IN RE: AMENDMENT OF M.R.C.P. 33

MOTION TO AMEND M.R.C.P. 33

Comes now the Supreme Court Advisory Committee on Rules, pursuant to M.R.A.P. 27(f), and moves the Mississippi Supreme Court to amend M.R.C.P. 33(d) as discussed below. The amendment requires a party who chooses to respond to an interrogatory by producing business records from which the response can be ascertained by the requesting party upon substantially the same burden as the responding party to specify the records from which each response may be ascertained in sufficient detail so that the requesting party may locate and identify the records as readily as the responding party could.

Rule 33. Interrogatories to Parties

(a) Availability; Procedures for Use.

(b) Answers and Objections

(c) Scope; Use at Trial.

(d) Option to Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon 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, 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 in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts,

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or summaries. The specification provided shall include sufficient detail to permit the interrogating party to identify readily the individual documents from which the answer may be ascertained.

[Amended effective April 13, 2000; _____]

Advisory Committee Historical Note

Effective _____, Rule 33(d) was amended to require a party who chooses to respond to an interrogatory by producing business records to specify the records from which each response may be ascertained in sufficient detail so that the requesting party may locate and identify the records as readily as the responding party could.

Effective April 13, 2000, Rule 33 was amended to require parties to produce all nonobjectionable information and to clearly state the ground for objection to each interrogatory. 753-754 So. 2d XVII (West Miss. Cas. 2000).

Advisory Committee Notes

The thirty interrogatories permitted as a matter of right are to be computed by counting each distinct question as one of the thirty, even if labeled a sub-part, subsection, threshold question, or the like. In areas well suited to non-abusive exploration by interrogatory, such as inquiries into the names and locations of witnesses, or the existence, location, and custodians of documents or physical evidence, greater leniency may be appropriate in construing several questions as one interrogatory.

Rule 33(b)(4) requires that the grounds for any objection be stated with specificity. “General objections’ applicable to each and every interrogatory...are clearly outside the bounds of this rule.” See Ford Motor Co. v. Tennin, 960 So. 2d 379 (Miss. 2007). If an interrogatory is only partially objectionable, the responding party shall clearly indicate the extent to which the interrogatory is objectionable and the basis for the partial objection. The responding party must also fully respond to the extent the interrogatory is not objectionable. If, for example, an interrogatory seeking information about 30 facilities is deemed objectionable, but an interrogatory seeking information about 10 facilities would not have been objectionable, the interrogatory should be answered with respect to the 10 facilities, and the grounds for the objection to providing the information with respect to the remaining facilities should be stated specifically.

[Advisory Committee Note Adopted effective July 1, 2014.]

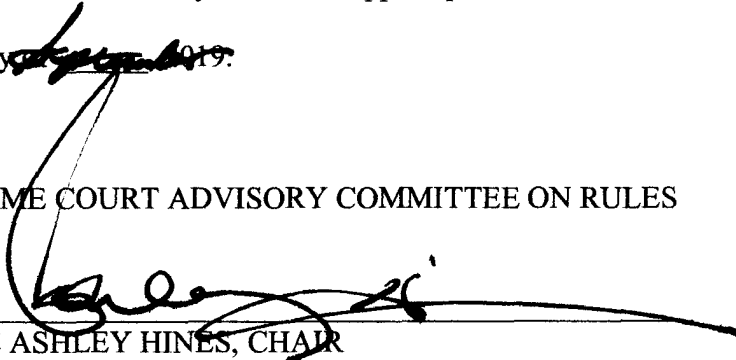
The Committee believes this amendment furthers the intent and purpose of the original rule. A party may only respond to an interrogatory by producing business records when the burden on the requesting party in finding and locating the responsive information is the substantially the

same as the burden would be on the responding party. Thus, the responding party should specify the records with sufficient detail. The amendment is consistent with F.R.C.P. 33(d)(1). The motion to amend M.R.C.P. 33 was unanimously approved by the Committee on November 2, 2018.

The Supreme Court Advisory Committee on Rules therefore moves that the above proposed amendment to M.R.C.P. 33 be considered by the Mississippi Supreme Court.

SO MOVED, this the 6th day of December, 2019.

SUPREME COURT ADVISORY COMMITTEE ON RULES



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