

A plaintiff sued a defendant in a federal district court for negligently causing an accident in which the plaintiff suffered severe injuries. The defendant answered the complaint and denied liability.

The plaintiff served a request for admission on the defendant. The plaintiff requested that the defendant admit that the defendant failed to stop at the intersection where the collision occurred. The defendant did not respond to the request. At the final pretrial conference two months later, the plaintiff claims that the defendant's failure to stop at the intersection should be deemed conclusively established at trial.

Is the plaintiff correct?

- A. No, because the defendant denied liability in his answer to the complaint.
- B. No, because the defendant did not admit that he failed to stop at the intersection.
- C. Yes, because the defendant failed to respond to the request for admission.
- D. Yes, but only if the plaintiff demonstrates by a preponderance of the evidence that the defendant failed to stop at the intersection.

## Explanation:

A [request for admission](#) seeks to expedite litigation and decrease costs by alleviating the need to prove undisputed matters at trial. In this [method of discovery](#), a party requests that another party **admit the truth about matters** within the scope of discovery that relate to facts, the application of law to facts, opinions about either, or the genuineness of documents. The party served with the request must then **serve a written response\*** within 30 days that:

- **admits** the matter
- **specifically denies** the matter in whole or in part
- **explains** why the matter **cannot be admitted or denied** *or*
- **objects** that the matter falls outside the scope of discovery.

An admission or a **failure to adequately respond** within 30 days **results in** the matter being admitted and **conclusively established** in the action unless the admission is later withdrawn or amended.

Here, the plaintiff requested that the defendant admit that he failed to stop at the intersection where the collision occurred. The defendant did not admit this fact, but he failed to respond before the final pretrial conference that took place two months after the request was served. As a result, the plaintiff is correct that the defendant's failure to stop at the intersection should be deemed conclusively established at trial **(Choice B)**.

\*Alternatively, a party served with a request for admission may move for a protective order or ask for an extension of time to respond to the request.

**(Choice A)** The defendant's denial of liability in the answer to the complaint does not serve as a denial to the plaintiff's request for admission.

**(Choice D)** To prevail at trial, the plaintiff must prove each element of [negligence](#) by a preponderance of the evidence. But the plaintiff need not satisfy this burden to conclusively establish a fact in a request for admission. The plaintiff simply needs to show that the defendant failed to respond to the request (as seen here).

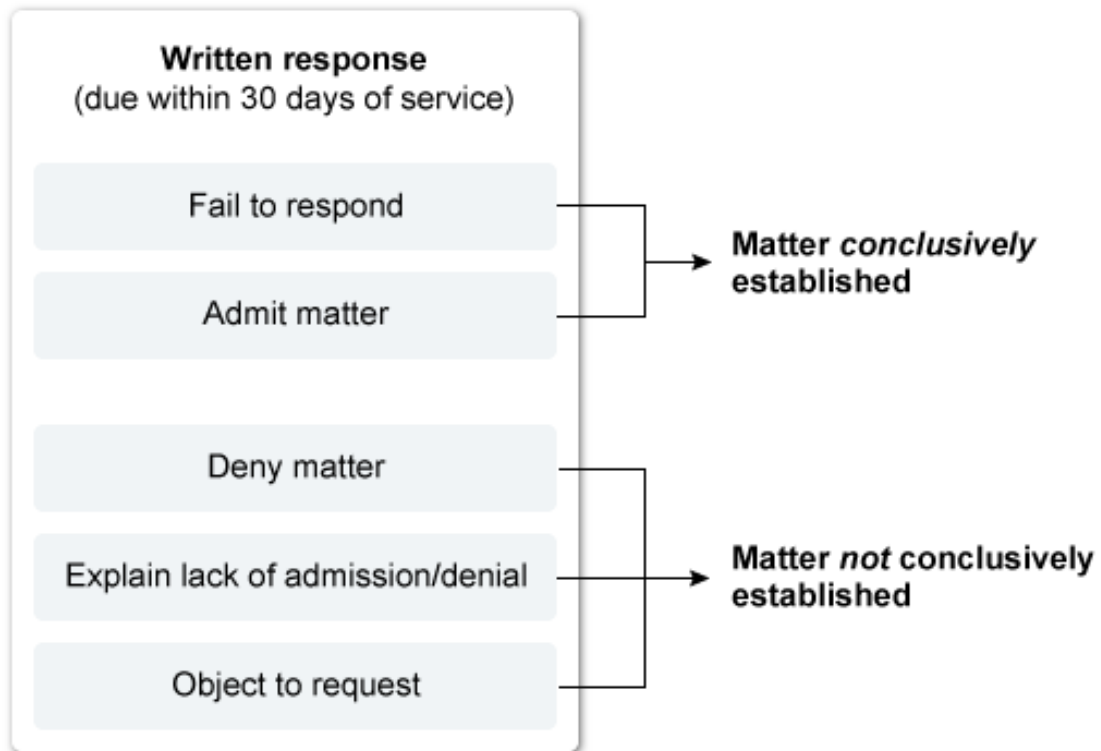
## Educational objective:

A party's admission or failure to adequately respond to a request for admission within 30 days after being served with the request results in the matter being conclusively established in the action.

## References

- Fed. R. Civ. P. 36 (requests for admission).
- 8B Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, Federal Practice and Procedure § 2259 (3d ed. 2020) (responses to requests for admissions).

## Effect of response to request for admission (FRCP 36)



**FRCP** = Federal Rule of Civil Procedure.