

**From:** Netzorg, Skip [<mailto:snetzorg@shermanhoward.com>]

**Sent:** Tuesday, January 26, 2016 1:38 PM

**To:** berger, michael

**Cc:** Damon Davis; Debra Knapp; Dick Home; Lee Sternal; Richard Laugesen; Stephanie Scoville

**Subject:** Revisions to Form 20 (Pattern Interrogatories Under Rule 33)

Dear Judge Berger:

Attached is a redline of our subcommittee's draft revisions to the Form 20 Pattern Interrogatories. The subcommittee conferenced by telephone on four occasions, and voted on the proposed changes throughout those conferences. The attached redline is our final product for the Committee, with one exception which I describe below. The subcommittee left that issue early on for later discussion, but I failed to bring it up before the end of our last meeting.

Section 3. Instructions to the Answering Party, (g) currently suggests that answers to be verified "under penalty of perjury" that they are "true and correct":

(g) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers: "I declare under penalty of perjury under the laws of the State of Colorado that the foregoing answers are true and correct."

Section (c) provides that answers be "complete and straightforward" and "[i]f an interrogatory cannot be answered completely, answer it to the extent possible." Similarly, section (d) provides "If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information . . . ."

The suggested declaration seems to be at odds with the goal of securing the best information available. For those without personal knowledge, like corporate representatives, the declaration may be impossible. Could this be cured, and sections (c), (d) and (g) made more consistent by adding "[to the best of my knowledge, information and belief]" following true and correct in section (c)?

Finally, aside from the time consuming task of circulating redlines following each meeting, Dick Holme has provided an explanatory comment for the Committee on the last page of the attached on how we are to count interrogatories, "guided by the leading (and only) Supreme Court case describing counting of interrogatories, *Leafner v. Zarlengo*, 44 P.2d 1072 (Colo. 2002)." Thanks to Dick for his extraordinary efforts.

Best,

Skip

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**SHERMAN & HOWARD** L.L.C.

**PROPOSED CHANGES TO FORM 20 SUBMITTED BY THE FORM 20  
SUBCOMMITTEE OF THE CIVIL RULES COMMITTEE**

**FORM 20. PATTERN INTERROGATORIES UNDER RULE 33**

<input type="checkbox"/> County Court <input type="checkbox"/> District Court <a href="#">[see §2.a.]</a>	
_____ County, Colorado	
Court Address:	
<b>Plaintiff(s):</b>	
v.	
<b>Defendant(s):</b>	
<b>COURT USE ONLY</b>	
Attorney or Party Without Attorney (Name and Address):	Case Number:
Phone Number: _____ E-mail: _____	Division: _____ Courtroom: _____
FAX Number: _____ Atty. Reg. #: _____	
<b>PATTERN INTERROGATORIES UNDER RULE 33</b>	

The following Pattern Interrogatories are propounded to:

[insert name of party] pursuant to C.R.C.P. 16**~~(b)(11)(a)(1)(IV)~~**, 26, and 33(e).

## Section 1. General Instructions to All Parties

(a) These pattern interrogatories and instructions do not change existing Rules or other law relating to interrogatories. ~~These are general instructions.~~ For time limitations, requirements for service on other parties, and other details, *see* C.R.C.P. 16(b)(1)(~~IV~~), 26, 33, 121 § 1-12, and the cases construing those Rules.

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(b) These pattern interrogatories and instructions do not ~~These interrogatories do not change existing law relating to interrogatories nor do they~~ affect an answering party's right to assert any privilege or objection. Parties may object to these pattern interrogatories, including but not limited to, on grounds that the interrogatories exceed the scope of permissible discovery as defined in Rule 26(b)(1) because the inquiry is not relevant to the claims and defenses of any party or is not proportional to the needs to the case.

## Section 2. Instructions to the Asking Party

(a) These interrogatories are designed for optional use in district courts only. These pattern interrogatories are intended as approved sample discovery requests; they are not intended to be served in every case.

(b) Parties should carefully consider the claims and defenses at issue to determine whether these pattern interrogatories are applicable to their particular action. Parties also should carefully consider whether these pattern interrogatories are proportional to the discovery needs of their particular case.

(c) Parties are strongly encouraged to consider whether the information sought through these pattern interrogatories would be better obtained through a request for the production of documents containing the information sought. As one example, an interrogatory asking for information relating to a party's medical treatment might more efficiently ask for the party's medical records in a request for production.

(d) Rule 26(a)(1)(c) requires production of specific information relating to the categories and amounts of a party's claimed damages. As a result, interrogatories requesting information relating to claimed damages may not be necessary, or may be tailored to particular topics relating to a party's claimed damages.

(~~e~~) Check the box next to each interrogatory that you want the answering party to answer. Use care in choosing those interrogatories that are applicable to the case. ~~Each checked box counts as one interrogatory for purposes of C.R.C.P. 26(b)(2)(B) and case management orders.~~

(~~f~~) The interrogatories in section 16.0, Defendant's Contentions--Personal Injury, should not be used until the defendant has had a reasonable opportunity to conduct an investigation or discovery of plaintiff's injuries and damages.

(~~g~~) Subject to the limitations in C.R.C.P. 16(b)(1)(~~IV~~) and 33, additional, non-pattern interrogatories may be included~~attached~~.

### Section 3. Instructions to the Answering Party

(a) An answer or other appropriate response must be given to each interrogatory checked by the asking party.

(b) As a general rule, within 3035 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. *See C.R.C.P. 33 for details.*

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(c) Each answer must be as complete and straightforward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

(d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party.

(e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found. In addition, Rule 33(d) permits an answering party to identify and make available business records in lieu of responding to a particular interrogatory.

(f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(g) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers: "I declare under penalty of perjury under the laws of the State of Colorado that the foregoing answers are true and correct to the best of my knowledge, information and belief."'

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(DATE)\_\_\_\_\_ (SIGNATURE)\_\_\_\_\_

### Section 4. Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

(b) **YOU OR ANYONE ACTING ON YOUR BEHALF** includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON OR ENTITY** includes a natural person, ~~firm, association, or any~~ organization ~~other than a natural person, partnership, business, trust, corporation, or public entity.~~

(d) **DOCUMENT** means a writing, as defined in CRE 1001 and includes the original or a copy of handwriting, typewriting, printing, ~~Photostatting~~ photocopying, photographing, electronically stored information, including emails, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON OR ENTITY** or entity referred to as a “Health Care Professional” or “Health Care Institution” in C.R.S. § 13-64-202(3) and (4).

(f) **ADDRESS** means the street address, including the city, state, and zip code.

## Section 5. Interrogatories

The following interrogatories have been approved by the Colorado Supreme Court under C.R.C.P. 16(b)(~~1~~)(~~IV~~), 26, and 33(e): The Pattern interrogatories have been modified to more appropriately fit the 2015 amendments to C.R.C.P. 16, 26 and 33. A change to or deletion of a pre-2016 pattern interrogatory should not be construed as making that former interrogatory improper, but instead, only that the particular interrogatory is, as of the effective date of the 2016 rule change, modified as stated or is no longer a “pattern interrogatory.”

## CONTENTS

- 1.0 Identity of Persons Answering These Interrogatories
- 2.0 General Background Information--Individual
- 3.0 General Background Information--Business Entity
- 4.0 Insurance (Withdrawn as unnecessary because of C.R.C.P. 26(a)(1)(D). See 2016 Comment to C.R.C.P. 33.)
- 5.0 *(Reserved)*
- 6.0 Physical, Mental, or Emotional Injuries
- 7.0 Property Damage
- 8.0 Loss of Income or Earning Capacity
- 9.0 Other Damages
- 10.0 Medical History
- 11.0 Other Claims and Previous Claims (Withdrawn as unnecessary because of C.R.C.P. 26(b)(1). See 2016 Comment to C.R.C.P. 33.)
- 12.0 Investigation--General
- 13.0 Investigation--Surveillance
- 14.0 Statutory or Regulatory Violations
- 15.0 ~~Affirmative~~ Defenses
- 16.0 Defendant's Contentions--Personal Injury

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- 17.0 Responses to Request for Admissions *(Withdrawn as unnecessary because of C.R.C.P. 36(a). See 2016 Comment to C.R.C.P. 33.)*
- 18.0 *(Reserved)*
- 19.0 *(Reserved)*
- 20.0 How the Incident Occurred--Motor Vehicle
- 25.0 *(Reserved)*
- 30.0 *(Reserved)*
- 40.0 *(Reserved)*
- 50.0 Contract
- 60.0 *(Reserved)*

**1.0 Identity of Person Answering These Interrogatories**

- 1.1 State the name, **ADDRESS**, telephone number, and relationship to you of each person who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

**2.0 General Background Information--Individual**

- 2.1 State:
  - (a) your name;
  - (b) every name you have used in the past;
  - (c) the dates you used each name.

~~2.2~~ State (d) the date and place of your birth.

- 2.23 At the time of the **INCIDENT**, did you have a driver's license or any other permit or license for the operation of a motor vehicle?

If so, state:

- (a) the state or other issuing entity;
- (b) the license number and type;
- (c) the date of issuance;
- (d) all restrictions.

~~2.4~~ At the time of the **INCIDENT**, did you have any other permit or license for the operation of a motor vehicle?

If so, state:

- (a) the state or other issuing entity;
- (b) the license number and type;
- (c) the date of issuance;
- (d) all restrictions.

- 2.35 State:
  - (a) your present residence **ADDRESS**;

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- (b) your residence **ADDRESSES** for the last five years;
- (c) the dates you lived at each **ADDRESS**.

| [] 2.46 State:

- (a) the name, **ADDRESS**, and telephone number of your present employer or place of self-employment;
- (b) the name, **ADDRESS**, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the **INCIDENT** until today.

| [] 2.57 State:

- (a) the name and **ADDRESS** of each school or other academic or vocational institution you have attended beginning with high school;
- (b) the dates you attended;
- (c) the highest grade level you have completed;
- (d) the degrees received.

| [] 2.68 Have you ever been convicted of a felony?

If so, for each conviction state:

- (a) the city and state where you were convicted;
- (b) the date of conviction;
- (c) the offense;
- (d) the court and case number.

| [] 2.79 Can you

- ~~(a) speak or English with ease?~~
- ~~(b) read English with ease? and~~
- ~~(c) write English with ease?~~

If ~~the answer to any of sub-interrogatories of 2.7 (a), (b) or (c) is "no"~~~~not~~, what language and dialect do you normally use?

| ~~[] 2.10 Can you read and write English with ease?~~

~~If not, what language and dialect do you normally use?~~

| [] 2.811 At the time of the **INCIDENT**, were you acting as an agent or employee for any **PERSON OR ENTITY**?

If so, state:

- (a) the name, **ADDRESS**, and telephone number of that **PERSON OR ENTITY**;
- (b) a description of your duties.

| [] 2.942 At the time of the **INCIDENT**, did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the **INCIDENT**?

If so, for each person state:

- (a) the name, **ADDRESS**, and telephone number;
- (b) the nature of the disability or condition;

- (c) the manner in which the disability or condition contributed to the occurrence of the **INCIDENT**.

2.1013 Within 24 hours before the **INCIDENT**, did you or any person who is a party to this action and who was involved in the **INCIDENT** use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)?

If so, for each person state:

- (a) the name, **ADDRESS**, and telephone number;
- (b) the nature or description of each substance;
- (c) the quantity of each substance used or taken;
- (d) the date and time of day when each substance was used or taken;
- (e) the **ADDRESS** where each substance was used or taken;
- (f) the name, **ADDRESS**, and telephone number of each person who was present when each substance was used or taken;
- (g) the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** that prescribed or furnished the substance and the condition for which it was prescribed or furnished.

### 3.0 **General Background Information--~~Business~~ Entity**

3.1

Are you an entity? If so, state:

- (a) the type of entity you are;
- (b) the date and place where you were formed;
- (c) your current name;
- (d) all names under which you have operated within the last ten years, and the dates each name was used;
- (e) the address of your principal place of business.

Are you a corporation?

If you are a corporation, state:

- (a) the name stated in the current articles of incorporation;
- (b) all other names used by the corporation during the past ten years and the dates each was used;
- (c) the date and place of incorporation;
- (d) the **ADDRESS** of the corporation's principal place of business;
- (e) whether you are qualified to do business in Colorado.

3.2

Are you a partnership?

If you are a partnership, state:

- (a) the current partnership name;
- (b) all other names used by the partnership during the past ten years and the dates each was used;
- (c) whether you are a limited partnership and, if so, under the laws of what jurisdiction;



- (d) the name and **ADDRESS** of each general partner;
- (e) the **ADDRESS** of the partnership's principal place of business.

3.3 Are you a joint venture?

If you are a joint venturer, state:

- (a) the current joint venture name;
- (b) all other names used by the joint venture during the past ten years and the dates each was used;
- (c) the name and **ADDRESS** of each joint venturer;
- (d) the **ADDRESS** of the joint venturer's principal place of business.

3.4 Are you an unincorporated association?

If you are an unincorporated association, state:

- (a) the current unincorporated association's name;
- (b) all other names used by the unincorporated association during the past ten years and the dates each was used;
- (c) the **ADDRESS** of the association's principal place of business.

3.25 Have you done business under a fictitious name during the past ten years?

If so, for each fictitious name state:

- (a) the name;
- (b) the dates the name was used;
- (c) the state and county of each fictitious name filing;
- (d) the **ADDRESS** of your principal place of business.

3.36 Within the past five years, has any public entity registered or licensed your businesses?

If so, for each license or registration:

- (a) identify the license or registration;
- (b) state the name of the public entity;
- (c) state the dates of issuance and expiration.

3.4 State the name, **ADDRESS**, and the job title of the manager or managers most responsible for overseeing the **INCIDENT** or events leading to the **INCIDENT**.

3.5 If you are a partnership or joint venture:

- (a) state the name and **ADDRESS** of each partner or joint venturer; and
- (b) state whether each is a general or limited partner or joint venturer.

If the partner or joint venture is another entity, subparts 1 and 2 may be answered by providing name, **ADDRESS**, and partner or joint venturer status of the entity.

**-4.0 Insurance** *(Withdrawn as unnecessary because of C.R.C.P. 26(a)(1)(D). See 2016 Comment to C.R.C.P. 33.)*

4.1 At the time of the **INCIDENT**, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro rata, or excess liability coverage or medical expense coverage) for the damages, claims, or

~~actions that have arisen out of the **INCIDENT**?~~

~~If so, for each policy state:~~

~~the kind of coverage;~~

~~the name and **ADDRESS** of the insurance company;~~

~~the name, **ADDRESS**, and telephone number of each named insured;~~

~~the policy number;~~

~~the limits of coverage for each type of coverage contained in the policy;~~

~~whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company;~~

~~the name, **ADDRESS**, and telephone number of the custodian of the policy.~~

4.2 Are you self insured under any statute for the damages, claims, or actions that have arisen out of the **INCIDENT**?

~~If so, specify the statute~~

**5.0 (Reserved)**

## **6.0 Physical, Mental, or Emotional Injuries**

6.1 Do you attribute any physical, mental, or emotional injuries to the **INCIDENT**?

If your answer is "no," do not answer interrogatories 6.2 through 6.7.

6.2 Identify each injury you attribute to the **INCIDENT** and the area of your body affected.

6.3 Do you still have any complaints that you attribute to the **INCIDENT**?

If so, for each complaint state:

(a) a description;

(b) whether the complaint is subsiding, remaining the same, or becoming worse;

(c) the frequency and duration.

6.4 Did you receive any consultation or examination (except from expert witnesses covered by C.R.C.P. 35 or treatment from a **HEALTH CARE PROVIDER** for any injury you attribute to the **INCIDENT**?

If so, for each **HEALTH CARE PROVIDER** state:

(a) the name, **ADDRESS**, and telephone number;

(b) the type of consultation, examination, or treatment provided;

(c) the dates you received consultation, examination, or treatment;

(d) the charges to date.

6.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the **INCIDENT**?

If so, for each medication state:

(a) the name;

(b) the **PERSON OR ENTITY** who prescribed or furnished it;

- (c) the date prescribed or furnished;
- (d) the dates you began and stopped taking it;
- (e) the cost to date.

6.6 Are there any other medical services not previously listed (for example, ambulance, nursing, prosthetics)?

If so, for each service state:

- (a) the nature;
- (b) the date;
- (c) the cost;
- (d) the name, **ADDRESS**, and telephone number of each provider.

6.7 Has any **HEALTH CARE PROVIDER** advised that you may require future or additional treatment for any injuries that you attribute to the **INCIDENT**?

If so, for each injury state:

- (a) the name and **ADDRESS** of each **HEALTH CARE PROVIDER**;
- (b) the complaints for which the treatment was advised;
- (c) the nature, duration, and estimated cost of the treatment.

## **7.0 Property Damage**

7.1 Do you attribute any loss of or damage to a vehicle or other property to the **INCIDENT**?

If so, for each item of property:

- (a) describe the property;
- (b) describe the nature and location of the damage to the property;
- (c) state the amount of damage you are claiming for each item of property and how the amount was calculated;
- (d) if the property was sold, state the name, **ADDRESS**, and telephone number of the seller, the date of sale, and the sale price.

7.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to interrogatory 7.1?

If so, for each estimate or evaluation state:

- (a) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who prepared it and the date prepared;
- (b) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has a copy;
- (c) the amount of damage stated.

7.3 Has any item of property referred to in your answer to interrogatory 7.1 been repaired?

If so, for each item state:

- (a) the date repaired;
- (b) a description of the repair;

- (c) the repair cost;
- (d) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who repaired it;
- (e) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who paid for the repair.

**8.0 Loss of Income or Earning Capacity**

~~8.1 Do you attribute any loss of income or earning capacity to the **INCIDENT**? If your answer is "no," do not answer interrogatories 8.2 through 8.8.~~

8.12 State:

- (a) the nature of your work;
- (b) your job title at the time of the **INCIDENT**;
- (c) the date your employment began.

8.23 State the last date before the **INCIDENT** that you worked for compensation.

8.34 State your monthly income at the time of the **INCIDENT** and how the amount was calculated.

8.45 State the date you returned to work at each place of employment following the **INCIDENT**.

8.56 State the dates you did not work and for which you lost income.

~~8.7 State the total income you have lost to date as a result of the **INCIDENT** and how the amount was calculated.~~

8.68 Will you lose income in the future as a result of the **INCIDENT**?

If so, state:

- (a) the facts upon which you base this contention;
- (b) an estimate of the amount;
- (c) an estimate of how long you will be unable to work;
- (d) how the claim for future income is calculated.

8.7 *(Pattern interrogatory 8.7 was withdrawn as unnecessary because of C.R.C.P. 26(a)(1)(C). See 2016 comment to C.R.C.P. 33.)*

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**9.0 Other Damages**

9.1 Are there any other damages that you attribute to the **INCIDENT**?

If so, for each item of damage state:

- (a) the nature;
- (b) the date it occurred;
- (c) the amount;
- (d) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** to whom an obligation was incurred.

- 9.2 Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 9.1?  
If so, state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT**.

**10.0 Medical History**

- 10.1 At any time before the **INCIDENT**, did you have complaints or injuries that involved the same part of your body claimed to have been injured in the **INCIDENT**? ~~True~~  
~~broader~~

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If so, for each state:

- (a) a description;
- (b) the dates it began and ended;
- (c) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** whom you consulted or who examined or treated you.

- ~~10.2~~ *(Pattern interrogatory 10.2 was withdrawn as unnecessary because of C.R.C.P. 26(b)(1). See 2016 Comment to C.R.C.P. 33.)* ~~List all physical, mental, and emotional disabilities you had immediately before the **INCIDENT**. (You may omit mental or emotional disabilities unless you attribute any mental or emotional injury to the **INCIDENT**.)~~

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- 10.3 At any time after the **INCIDENT**, did you sustain injuries of the kind for which you are now claiming damages?

If so, for each incident state:

- (a) the date and the place it occurred;
- (b) the name, **ADDRESS**, and telephone number of any other **PERSON OR ENTITY** involved;
- (c) the nature of any injuries you sustained;
- (d) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** that you consulted or who examined or treated you;
- (e) the nature of the treatment and its duration.

**11.0 Other Claims and Previous Claims** *(Withdrawn as unnecessary because of C.R.C.P. 26(b)(1). See 2016 Comment to C.R.C.P. 33.)*

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- ~~11.1~~ ~~Except for this action, in the last ten years have you filed an action or made a written claim or demand for compensation for personal injuries?~~

~~If so, for each action, claim, or demand state:~~

- ~~(a) the date, time, and place and location of the **INCIDENT** (closest street **ADDRESS** or intersection);~~
- ~~(b) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** against whom the claim was made or action filed;~~
- ~~(c) the court, names of the parties, and case number of any action filed;~~
- ~~(d) the name, **ADDRESS**, and telephone number of any attorney representing you;~~

~~(e) whether the claim or action has been resolved or is pending.~~

~~[ ] 11.2 In the last ten years have you made a written claim or demand for workers' compensation benefits?~~

~~If so, for each claim or demand state:~~

~~(a) the date, time, and place of the **INCIDENT** giving rise to the claim;~~

~~(b) the name, **ADDRESS**, and telephone number of your employer at the time of the injury;~~

~~(c) the name, **ADDRESS**, and telephone number of the workers' compensation insurer and the claim number;~~

~~(d) the period of time during which you received workers' compensation benefits;~~

~~(e) a description of the injury;~~

~~(f) the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** that provided services;~~

~~(g) the case number of the workers' compensation claim.~~

## 12.0 Investigation--General

[ ] 12.1 State the name, **ADDRESS**, and telephone number of each individual:

(a) who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;

(b) who made any statement at the scene of the **INCIDENT**;

(c) who heard any statements made about the **INCIDENT** by any individual at the scene;

(d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claims to have knowledge of the **INCIDENT** (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4)).

[ ] 12.2 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any individual concerning the **INCIDENT**?

If so, for each individual state:

(a) the name, **ADDRESS**, and telephone number of the individual interviewed;

(b) the date of the interview;

(c) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who conducted the interview.

[ ] 12.3 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** obtained a written or recorded statement from any individual concerning the **INCIDENT**?

If so, for each statement state:

(a) the name, **ADDRESS**, and telephone number of the individual from whom the statement was obtained;

(b) the name, **ADDRESS**, and telephone number of the individual who obtained the statement;

(c) the date the statement was obtained;

(d) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the original statement or a copy.

12.4 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any photographs, films, or videotapes depicting any place, object, or individual concerning the **INCIDENT** or plaintiff's injuries?

If so, state:

- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, **ADDRESS**, and telephone number of the individual taking the photographs, films, or videotapes;
- (e) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the original or a copy.

12.5 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4)) concerning the **INCIDENT**?

If so, for each item state:

- (a) the type (i.e., diagram, reproduction, or model);
- (b) the subject matter;
- (c) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has it.

12.6 Was a report made by any **PERSON OR ENTITY** concerning the **INCIDENT**?

If so, state:

- (a) the name, title, identification number, and employer of the **PERSON OR ENTITY** who made the report;
- (b) the date and type of report made;
- (c) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** for whom the report was made.

12.7 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of the **INCIDENT**?

If so, for each inspection state:

- (a) the name, **ADDRESS**, and telephone number of the individual making the inspection (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4));
- (b) the date of the inspection.

| **13.0 Investigation--Surveillance**

13.1 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** conducted surveillance of any individual involved in the **INCIDENT** or any party to this action?

If so, for each surveillance state:

- (a) the name, **ADDRESS**, and telephone number of the individual or party;
- (b) the time, date, and place of the surveillance;
- (c) the name, **ADDRESS**, and telephone number of the individual who conducted the surveillance.

13.2 Has a written report been prepared on the surveillance?

If so, for each written report state:

- (a) the time;
- (b) the date;
- (c) the name, **ADDRESS**, and telephone number of the individual who prepared the report;
- (d) the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the original or a copy.

#### 14.0 Statutory or Regulatory Violations

14.1 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** contend that any **PERSON OR ENTITY** involved in the **INCIDENT** violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the **INCIDENT**?

If so, identify each **PERSON OR ENTITY** and the statute, ordinance, or regulation.

14.2 Was any **PERSON OR ENTITY** cited or charged with a violation of any statute, ordinance, or regulation as a result of this **INCIDENT**?

If so, for each **PERSON OR ENTITY** state:

- (a) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY**;
- (b) the statute, ordinance, or regulation allegedly violated;
- (c) whether the **PERSON OR ENTITY** entered a plea in response to the citation or charge and, if so, the plea entered;
- (d) the name and **ADDRESS** of the court or administrative agency, names of the parties, and case number.

#### 15.0 Defenses

15.1 Identify each denial of a material allegation ~~and each affirmative defense~~ in paragraph (insert paragraph number) of your defensive pleadings and for each:

- (a) state the facts ~~all facts~~ upon which you base the denial ~~or affirmative defense~~;
- (b) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS OR ENTITIES** who have knowledge of ~~those facts~~ the facts;
- (c) identify all **DOCUMENTS** and other tangible things which support your denial ~~or affirmative defense~~, and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT**.

[Note: This interrogatory may be repeated as an additional interrogatory for any paragraphs of the pleading which the responding party has denied.]

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[] 15.2 ~~For your Identify each denial of a material allegation and each~~ affirmative defense ~~of~~  
~~in your pleadings-~~ \_\_\_\_\_ (insert name of affirmative defense) ~~and for each:~~

- (a) state ~~the facts~~ all facts upon which you base the ~~denial or~~ affirmative defense;
- (b) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS OR ENTITIES** who have knowledge of ~~those facts~~ the facts;
- (c) identify all **DOCUMENTS** and other tangible things which support your ~~denial~~  
~~or~~ affirmative defense, and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT**.

[Note: This interrogatory may be repeated as a new interrogatory for any affirmative defenses which the responding party has pleaded.]

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## 16.0 Defendant's Contentions--Personal Injury

[See Instructions Section 2(c) ]

[] 16.1 Do you contend that any **PERSON OR ENTITY**, other than you or plaintiff, contributed to the occurrence of the **INCIDENT** or the injuries or damages claimed by plaintiff?

If so, for each **PERSON OR ENTITY**:

- (a) state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY**;
- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITIES** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

[] 16.2 Do you contend that plaintiff was not injured in the **INCIDENT**?

If so:

- (a) state ~~all facts~~ the facts upon which you base your contention;
- (b) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITIES** who have knowledge of the facts;
- (c) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

[] 16.3 Do you contend that the injuries or the extent of the injuries claimed by plaintiff as disclosed in discovery proceedings thus far in this case were not caused by the **INCIDENT**?

If so, for each injury:

- (a) identify it;
- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR**

- ENTITYS** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

16.4 Do you contend that any of the services furnished by any **HEALTH CARE PROVIDER** claimed by plaintiff in discovery proceedings thus far in this case were not due to the **INCIDENT**?

If so:

- (a) identify each service;
- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITYS** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

16.5 Do you contend that any of the costs of services furnished by any **HEALTH CARE PROVIDER** claimed as damages by plaintiff in discovery proceedings thus far in this case were unreasonable?

If so:

- (a) identify each cost;
- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITYS** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

16.6 Do you contend that any part of the loss of earnings or income claimed by plaintiff in discovery proceedings thus far in this case was unreasonable or was not caused by the **INCIDENT**?

If so:

- (a) identify each part of the loss;
- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITYS** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

16.7 Do you contend that any of the property damage claimed by plaintiff in discovery proceedings thus far in this case was not caused by the **INCIDENT**?

If so:

- (a) identify each item of property damage;

- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITYS** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

16.8 Do you contend that any of the costs of repairing the property damage claimed by plaintiff in discovery proceedings thus far in this case were unreasonable?

If so:

- (a) identify each cost item;
- (b) state ~~all facts~~ the facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSON OR ENTITYS** who have knowledge of the facts;
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT** or thing.

16.9 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** have any **DOCUMENT** (for example, insurance bureau index reports) concerning claims for personal injuries made before or after the **INCIDENT** by a plaintiff in this case?

If so, for each plaintiff state:

- (a) the source of each **DOCUMENT**;
- (b) the date each claim arose;
- (c) the nature of each claim;
- (d) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT**.

16.10 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** have any **DOCUMENT** concerning the past or present physical, mental, or emotional condition of any plaintiff in this case from a **HEALTH CARE PROVIDER** not previously identified (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4))?

If so, for each plaintiff state:

- (a) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER**;
- (b) a description of each **DOCUMENT**;
- (c) the name, **ADDRESS**, and telephone number of the **PERSON OR ENTITY** who has each **DOCUMENT**.

**17.0 Responses to Request for Admissions** *(Withdrawn as unnecessary because of C.R.C.P. 36(a). See 2016 Comment to C.R.C.P. 33.)*

~~17.1 Is your response to each request for admission served with these interrogatories an unqualified admission?~~

~~If not, for each response that is not an unqualified admission:~~

- (a) ~~state the number of the request;~~
- (b) ~~state all facts upon which you base your response;~~
- (c) ~~state the names, ADDRESSES, and telephone numbers of all S who have knowledge of those facts;~~
- (d) ~~identify all DOCUMENTS and other tangible things that support your response and state the name, ADDRESS, and telephone number of the who has each DOCUMENT or thing.~~

18.0 (Reserved)

19.0 (Reserved)

**20.0 How the Incident Occurred--Motor Vehicle**

- 20.1 State the date, time, and place (closest street address, intersection, or highway) of the **INCIDENT**.
- 20.2 For each vehicle involved in the **INCIDENT**, state:
  - (a) the year, make, model, and license number;
  - (b) the name, **ADDRESS**, and telephone number of the driver;
  - (c) the name, **ADDRESS**, and telephone number of each occupant other than the driver;
  - (d) the name, **ADDRESS**, and telephone number of each registered owner;
  - (e) the name, **ADDRESS**, and telephone number of each lessee;
  - (f) the name, **ADDRESS**, and telephone number of each owner other than the registered owner or lien holder;
  - (g) the name of each owner who gave permission or consent to the driver to operate the vehicle.
- 20.3 State the **ADDRESS** and location where your trip began, and the **ADDRESS** and location of your destination.
- 20.4 Describe the route that you followed from the beginning of your trip to the location of the **INCIDENT**, and state the location of each stop, other than routine traffic stops, during the trip leading up to the **INCIDENT**.
- 20.5 State the name of the street or roadway, the lane of travel, and the direction of travel of each vehicle involved in the **INCIDENT** for the 500 feet of travel before the **INCIDENT**.
- 20.6 Did the **INCIDENT** occur at an intersection?  
If so, describe all traffic control devices, signals, or signs at the intersection.
- 20.7 Was there a traffic signal facing you at the time of the **INCIDENT**?  
If so, state:
  - (a) your location when you first saw it;
  - (b) the color;
  - (c) the ~~number of seconds~~ approximate length of time it had been that color;

(d) whether the color changed between the time you first saw it and the **INCIDENT**.

[] 20.8 State how the **INCIDENT** occurred, giving the speed, direction, and location of each vehicle involved:

- (a) just before the **INCIDENT**;
- (b) at the time of the **INCIDENT**;
- (c) just after the **INCIDENT**.

[] 20.9 Do you have information that a malfunction or defect in a vehicle caused the **INCIDENT**?

If so:

- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who is a witness to or has information about each malfunction or defect;
- (d) state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has custody of each defective part.

[] 20.10 Do you have information that any malfunction or defect in a vehicle contributed to the injuries sustained in the **INCIDENT**?

If so:

- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who is a witness to or has information about each malfunction or defect;
- (d) state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has custody of each defective part.

[] 20.11 State the name, **ADDRESS**, and telephone number of each owner and each **PERSON OR ENTITY** who has had possession since the **INCIDENT** of each vehicle involved in the **INCIDENT**.

**25.0 (Reserved)**

**30.0 (Reserved)**

**40.0 (Reserved)**

**50.0 Contract**

[] 50.1 For each agreement alleged in the pleadings:

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- (a) identify all **DOCUMENTS** that are part of the agreement and, if you do not

have a copy of all documents. for each document you do not have. state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the **DOCUMENT**;

- (b) state each part of the agreement not in writing, the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** agreeing to that provision, and the date that part of the agreement was made;
- (c) identify all **DOCUMENTS** that evidence each part of the agreement not in writing and if you do not have a copy of all documents. for each document you do not have. state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the **DOCUMENT**;
- (d) identify all **DOCUMENTS** that are part of each modification to the agreement, and if you do not have a copy of all documents. for each document you do not have. state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the **DOCUMENT**;
- (e) state each modification not in writing, the date, and the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** agreeing to the modification, and the date the modification was made;
- (f) identify all **DOCUMENTS** that evidence each modification of the agreement not in writing and if you do not have a copy of all documents. for each document you do not have. state the name, **ADDRESS**, and telephone number of each **PERSON OR ENTITY** who has the **DOCUMENT**.

[] 50.2 ~~If Was~~ there was a breach of any agreement alleged in the pleadings<sub>?</sub>  
~~If so,~~ for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.

[] 50.3 ~~If Was~~ performance of any agreement alleged in the pleadings was excused<sub>?</sub>  
~~If so,~~ identify each agreement excused and state why performance was excused.

[] 50.4 ~~If Was~~ any agreement alleged in the pleadings was terminated by mutual agreement, release, accord and satisfaction, or novation<sub>?</sub>  
~~If so,~~ identify each agreement terminated and state why it was terminated including dates.

[] 50.5 ~~If Is~~ any agreement alleged in the pleadings is unenforceable<sub>?</sub>  
~~If so,~~ identify each unenforceable agreement and state why it is unenforceable.

[] 50.6 ~~If Is~~ any agreement alleged in the pleadings is ambiguous<sub>?</sub>  
~~If so,~~ identify each ambiguous agreement and state why it is ambiguous.

**60.0 (Reserved)**

**C.R.C.P. 33**

**Rule 33. Interrogatories to Parties**

(a) [NO CHANGE]

(b) **Answers and Objections.**

(1) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objecting party shall state the reasons for objection and shall answer to the extent the interrogatory is not objectionable. An objection must state with specificity the grounds for objection to the Interrogatory and must also state whether any responsive information is being withheld on the basis of that objection. A timely objection to an Interrogatory stays the obligation to answer those portions of the Interrogatory objected to until the court resolves the objection. No separate motion for protective order pursuant to C.R.C.P. 26(c) is required.

(2) – (5) [NO CHANGE]

(c) – (d) [NO CHANGE]

(e) **Pattern and Non-Pattern Interrogatories; Limitations.** The pattern interrogatories set forth in the Appendix to Chapter 4, Form 20, are approved. Any pattern interrogatory and its subparts shall be counted as one interrogatory. Any discrete subparts ~~to~~ a non-pattern interrogatory shall be considered as a separate interrogatory.

**COMMENTS**

**1995 [NO CHANGE]**

**2016**

Pattern interrogatories [Form 20, pursuant to C.R.C.P. 33(e)] have been modified to more appropriately fit the 2015 amendments to C.R.C.P. 16, 26 and 33. A change to or deletion of a pre-2016 pattern interrogatory should not be construed as making that former interrogatory improper, but instead, only that the particular interrogatory is, as of the effective date of the 2016 rule change, modified as stated or no longer a “pattern interrogatory.”

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The change to Rule 33(e) is made to conform to the holding of *Leaffer v. Zarlengo*, 44 P.2d 1072 (Colo. 2002).

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## COMMENT FOR CIVIL RULES COMMITTEE

Following my unsuccessful efforts to persuade the Civil Rules Committee to abolish Form 20, I have attempted to propose appropriate limitations on the pattern interrogatories.

I was also guided by the leading (and only) Supreme Court case describing counting of interrogatories, *Leaffer v. Zarlengo*, 44 P.2d 1072 (Colo. 2002). It holds, in pertinent parts, as follows:

(1) “C.R.C.P. 33(e) should be construed to mean that only discrete subparts of non-pattern interrogatories count toward the interrogatory limit in a Case Management Order.” Likewise, Rule 33(a) “provides that only ‘discrete subparts’ shall be counted as separate interrogatories.” *Id.* at 1078.

Pattern Interrogatories are defined so that “any pattern interrogatory and its subparts shall be counted as one interrogatory.” C.R.C.P. 33(e). *Id.* at 1079. Thus, both pattern and non-pattern interrogatories are counted the same way.

(2) “We hold that only discrete subparts of non-pattern interrogatories—and not those logically or factually subsumed within and necessarily related to the primary question—must be counted toward the interrogatory limit set forth in the Case Management Order.” *Id.* at 1075.

(3) “Parties cannot evade this presumptive limitation through the device of joining as “subparts” questions that seek information about discrete separate subjects.” *Id.* at 1081 (Citation omitted.).

(4) “Probably the best test of whether subsequent questions, within a single interrogatory, are subsumed and related, is to examine whether the first question is primary and subsequent questions are secondary to the primary question. Or, can the subsequent question stand alone? Is it independent of the first question? Genuine subparts should not be counted as separate interrogatories. However, discrete or separate questions should be counted as separate interrogatories, notwithstanding they are joined by a conjunctive word and may be related.” *Id.* (Citation omitted.)

I recommend that we make the changes suggested below to C.R.C.P. 33(e) to make the Rule conform to the precise decision in *Leaffer*.

C.R.C.P. 33(e) – Pattern and Non-Pattern Interrogatories; Limitations. –  
The pattern interrogatories set forth in the Appendix to Chapter 4, Form 20, are approved. Any pattern interrogatory and its subparts shall be counted as one interrogatory. Any discrete subparts ~~to~~in a non-pattern interrogatory shall be considered as a separate interrogatory.

Dick Holme