

Numerical Limit on Requests For Admissions Under Discussion by Rules Drafters

While most litigators have yet to encounter problems with the abuse of requests for admissions, practitioners in Northern Virginia and in Tidewater have experience with service of up to 290 requests for admissions under Rule 4:11 of the Rules of procedure.

At its May 2014 meeting the Advisory Committee on Rules of Practice and Procedure resolved to obtain feedback from the Bench and Bar on the issue of whether a numerical limit (subject, of course, to expansion by agreement of counsel or motion to the court) would be a desirable pre-set or starting position for operation of the Rule.

The draft language takes cognizance of the fact that often Requests for Admissions are simply used to authenticate documents, and thus the draft Rule provision places *no limit on that use of Requests*. Thus the proposal would allow unlimited use of Requests for document-authentication purposes, and a modifiable limit of 30 on factual Requests for Admissions.

The language of the draft Rule, which has not been approved by the Advisory Committee, by the Judicial Council of Virginia, or the Supreme Court and is only published seeking comment, would add a new subsection (e) to Rule 4:11:

(e) *Limitation on Number of Requests.* –

- (1) **Requests for admission not related to genuineness of documents.** Unless all parties agree, or the court grants leave for good cause shown, no party shall serve upon any other party, at any one time or cumulatively, requests for admission that do not relate to the genuineness of documents exceeding 30 in number, including all parts and sub-parts
- (2) **Requests for admission relating to the genuineness of documents.** The number of requests for admissions relating to the genuineness of documents shall not be limited unless the court enters a protective order pursuant to the provisions of Rule 4:1(c) upon a finding that justice so requires in order to protect the responding party from unwarranted annoyance, embarrassment, oppression, or undue burden or expense.

Comments on this draft Rule may be sent by August 15 to Steven Dalle Mura, Director of Research, Supreme Court of Virginia, 100 North Ninth Street, Richmond, VA 23219, or by email, with the subject line: "Rule 4:11(e)," to proposedrules@courts.state.va.us