

101.42 REQUESTS FOR ADMISSION.¹

Under the law of our state, one party is permitted before trial to ask another party to admit the truth of facts relevant to the lawsuit. The [plaintiff (*name plaintiff*)] [defendant (*name defendant*)] has introduced into evidence certain "requests for admission" which have been identified as [plaintiff's] [defendant's] exhibit number _____. These were presented to the [defendant (*name defendant*)] [plaintiff (*name plaintiff*)] to give him an opportunity to deny or challenge them.

[He did not do so.²]

[He admitted them.]

As a result, you are to take the facts stated in [plaintiff's] [defendant's] exhibit number _____ as true for the purposes of this case.

[You are not to consider one party's [admission of facts] [failure to respond to a request] as evidence against any other party.]³

1. N.C. Gen. Stat. § 1A-1, Rule 36

2. Any matter admitted under this rule is conclusively established, unless the court on motion allows an amendment or a withdrawal of an admission. That an admission may be withdrawn with the court's permission is clearly within the judge's discretion. *Whitley v. Coltraine*, 65 N.C. App. 679, 309 S.E.2d 712 (1983). An admission to a request, in form and substance, is comparable to an admission in pleadings or a stipulation drafted by counsel for use at trial. See *Comment following* N.C. Gen. Stat. § 1A-1, Rule 36.

3. Facts admitted by one defendant are not binding on a co-defendant. *Barclays Am. Fin., Inc. v. Haywood*, 65 N.C. App. 387, 308 S.E.2d 921 (1983).