

ry on this ground, it must be shown that the research required is unduly burdensome and oppressive.<sup>23</sup> The 1993 amendments add-

Interrogatory seeking the home addresses of over 600 agents and stewards of a union local was not objectionable as requiring an excessive amount of research. *McKeon v. Highway Truck Drivers & Helpers, Local 107, of Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of America*, D.C.Del.1961, 28 F.R.D. 592.

Defendant cannot complain merely because, in order to answer plaintiff's interrogatories, it must interrogate personnel or compile information within its control, though degree to which defendant must expend time, effort and money in gathering information is matter within discretion of court. *Harvey v. Eimco Corp.*, D.C.Pa.1961, 28 F.R.D. 381.

If interrogatories were relevant, fact that they involved work, research, and expense was not sufficient to render them objectionable. *U.S. v. Nysco Labs., Inc.*, D.C.N.Y.1960, 26 F.R.D. 159.

When interrogatories require investigation or compilation of data, it is ordinarily no ground of objection thereto that such investigation or compilation will be burdensome, but court has authority to prevent oppression and hold down expense, and to weigh annoyance and expense involved in compiling data as against value of information sought to be obtained. *V. D. Anderson Co. v. Helena Cotton Oil Co.*, D.C.Ark.1953, 117 F.Supp. 932.

Objection was not sustained when value to plaintiff of information sought to be elicited outweighed annoyance and expense involved in disclosure by defendant. *Seff v. General Outdoor Advertising Co.*, D.C.Ohio 1951, 11 F.R.D. 597.

23. Undue burden must be shown  
General objection that interrogatories are onerous and burdensome and re-

quire a party to make research and compile data raises no issue; objection must make specific showing of reasons why interrogatories should not be answered and burden of proof is on party who raises objection. *Sherman Park Community Ass'n v. Wauwatosa Realty Co.*, D.C.Wis.1960, 486 F.Supp. 838.

To resist answering interrogatories, a party cannot invoke defense of oppressiveness or unfair burden without detailing nature and extent thereof; simply decrying expense to the party will not satisfy such obligation; rather, party must show specifically how each interrogatory is burdensome or oppressive. *Martin v. Easton Pub. Co.*, D.C.Pa.1980, 85 F.R.D. 312.

In diversity action to redress alleged theft of cosmetic bag containing jewels valued at \$250,000 from defendants' hotel, interrogatory requiring defendants to identify all documents, internal memoranda, conversations and reports by any agent or employee of the hotel relating to the alleged loss of the jewelry or to efforts to retrieve the jewelry was not unduly burdensome where it appeared that all information sought was contained in a single file within defendants' control and where plaintiff had agreed to accept copies of the documents made at plaintiff's expense, if this would decrease the burden to defendants. *Shang v. Hotel Waldorf-Astoria Corp.*, D.C.N.Y.1978, 77 F.R.D. 468.

Interrogatories in which plaintiffs in antitrust action sought information concerning meetings attended by any of defendants' officers at which there was discussion relating to prices, allocation of business, and market activities, and which sought instances in which officers or employees of defendant corporations checked by tele-

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ed Rule 33(b)(4), which explicitly calls for specifics in any objection to interrogatories; consistent with this, particulars ordinarily should be provided regarding the burden of responding. However, an interrogatory will not be held objectionable as calling for research if it relates to details alleged in the pleading of the interrogated party, about which it presumably has information,<sup>24</sup> or if the interrogated party would gather the information in the preparation of its own case.<sup>25</sup>

phone or personal discussion with any competitor concerning establishment or enforcement of policies relating to prices and marketing conditions were within the scope of first wave discovery delineated by the court and were not unduly burdensome. In re Folding Carton Antitrust Litigation, D.C.Ill.1977, 76 F.R.D. 417.

Mere fact that interrogatories are lengthy or that plaintiff will be put to some trouble and expense in preparing requested answers is not alone sufficient to warrant granting of a protective order. *Flood v. Margis*, D.C.Wis.1974, 64 F.R.D. 59.

#### 24. Alleged in pleading

*Kainz v. Anheuser-Busch, Inc.*, D.C.Ill. 1954, 15 F.R.D. 242.

A party may not object to interrogatories on ground that they would require extensive research, investigation and expense, if they relate to details alleged in its pleading and concerning which it presumably has information. *Bowles v. McMinnville Mfg. Co.*, D.C.Tenn.1946, 7 F.R.D. 64.

#### 25. Preparation of own case

In folding-carton antitrust litigation, plaintiffs' interrogatories were not objectionable on ground of burden, because interrogatories related to details of allegations in defendant's answer to its statute of limitation defense and to information defendant would gather in the preparation of its own case as to plaintiffs' fraudulent concealment claim. In re Folding Carton Antitrust Litigation, D.C.Ill.1979, 83 F.R.D. 256.

Interrogatory will not be held objectionable as calling for research if it relates to details alleged in pleading of interrogated party, about which it presumably has information, or if interrogated party would gather information in preparation of its own case. *Flour Mills of America, Inc. v. Pace*, D.C.Okla.1977, 75 F.R.D. 676.

When interrogatories seek particulars of matters alleged generally in interrogated party's pleading, or otherwise deal with matters pertaining primarily to interrogated party's case, objections based on hardship, burden, or expense of compilation of answers from interrogated party's records are usually overruled, on ground that interrogated party would be obliged to make the investigation before trial in any event. *Kainz v. Anheuser-Busch, Inc.*, D.C.Ill.1954, 15 F.R.D. 242.

In employees' action against employer for portal to portal pay, employer's objection that compilation of answers to employees' interrogatory relating to hours worked and compensation paid, necessitated large expenditures of time and money by employer was not sustained, when employer in making its own investigation would in a large measure gather together the information called for in the interrogatory. *Adelman v. Nordberg Mfg. Co.*, D.C.Wis.1947, 6 F.R.D. 383.

Plaintiff's answer stating that he had not received the hospital bill in reply to an interrogatory asking him to enumerate in detail charges made at hospital was insufficient, since plaintiff was under a duty to find out and

The burden is on the party objecting to interrogatories to show that the information sought is not readily available to it.<sup>26</sup> If there is a conflict the court may make its own determination of the cost and inconvenience of answering the interrogatories, rather than relying on bare assertions about this by the interrogated party.<sup>27</sup>

The courts' attitudes described above in this section may need to be recalibrated as the 1993 amendments' numerical limitation on interrogatories comes into effect because the more egregious examples of overlong and burdensome sets of interrogatories ordinarily could occur only by leave of court or stipulation. Once that is granted, it may be urged partly or entirely to foreclose later objection, but such an argument ought not have substantial force where the objectionable features were not known or knowable at

disclose hospital expenses. And an interrogatory asking plaintiff to itemize all expenses incurred as a result of the accident, to which plaintiff replied that he had not as yet received bills, was required to be answered. *Lowe v. Greyhound Corp.*, D.C.Mass.1938, 25 F.Supp. 643.

**Cf.**

Because of the substantial possibility that a class action could not be maintained, defendant railroad should be spared the burdensome task of replying directly to interrogatories of plaintiff, where interrogatories were directed to merits of claims of class members rather than to maintainability of class action, but since defendant railroad would presumably be engaged in similar discovery in the Middle District of North Carolina, and where effort that would be involved in supplying counsel for plaintiff with copies of that discovery would be minimal, railroad would be ordered to do so. *Turner v. Seaboard Coast Line R. Co.*, D.C.N.C.1974, 62 F.R.D. 611.

**26. Burden on objecting party**

*Trabon Engineering Corp. v. Eaton Mfg. Co.*, D.C. Ohio 1964, 37 F.R.D. 51.

General objection that interrogatory would be burdensome is insufficient when no showing is made as to the exact nature of the burden. *Zatko v.*

*Rogers Mfg. Co.*, D.C. Ohio 1964, 37 F.R.D. 29.

Mere statement of lack of knowledge by plaintiffs of facts sought by interrogatories, without any recital of what attempt, if any, had been made to acquire knowledge, was insufficient. *Breeland v. Bethlehem Steel Co.*, D.C.N.Y.1959, 179 F.Supp. 464.

*Kainz v. Anheuser-Busch, Inc.*, D.C.Ill. 1954, 15 F.R.D. 242.

When defendants prior to institution of a patent-infringement suit had charged plaintiff with infringement, and plaintiff thereafter had submitted interrogatories requesting specification of infringed claims and asking whether defendants charged infringement of any other patents, defendants' answer, that they charged no infringement by a certain machine, or by plaintiff's present apparatus because they had no information regarding it, was stricken upon demand of plaintiff that offered to permit examination of such apparatus. *Booth Fisheries Corp. v. General Foods Corp.*, D.C.Del.1939, 27 F.Supp. 268.

**27. Court to decide**

*Tivoli Realty v. Paramount Pictures, Inc.*, D.C.Del.1950, 10 F.R.D. 201.

*State ex rel. Gamble Constr. Co. v. Carroll*, Mo.1966, 408 S.W.2d 34, 38.

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the time the dispensation from the numerical limitation was granted.

To begin with the stipulation situation, it may often occur that both parties recognize from the nature of the case that it will be necessary to exceed the 25-interrogatory limitation. Their stipulation to do so hardly waives otherwise valid objections about the questions later propounded. Where leave of court is sought, the actual interrogatories may already have been written to afford the court a chance to evaluate the propriety of additional interrogatory discovery.<sup>28</sup> If so, the opposing party may have raised its objections as grounds for denial of leave to propound more interrogatories and, in the context of the case, the court's decision to allow the interrogatories may implicitly reject the objections. In many cases, however, it is likely that the decision to grant leave to exceed the 25-interrogatory limit does not implicitly rule on such objections, and the responding party would still be able to raise them.

§ 2175. Protective Orders

In 1948 the following language was added by amendment to Rule 33. "The provisions of Rule 30(b) are applicable for the protection of the party from whom answers to interrogatories are sought under this rule." That language was in turn removed in the 1970 amendments since it was no longer necessary. The protective order provisions formerly found in Rule 30(b) were transferred in 1970 to Rule 26(c). Rule 26 is now a rule containing general provisions governing discovery and applies to interrogatories as it does to all other discovery devices. Accordingly there has since 1970 been no need for a special reference in Rule 33 and the discussion in connection with Rule 26(c) about the procedure and grounds for protective orders and the kinds of protective orders that can be made is fully applicable to interrogatories.<sup>1</sup>

§ 2176. Discretion of Court

The district court has broad discretion in deciding whether to require answers to interrogatories.<sup>1</sup> Whether the matter is

28. Interrogatories already written  
See § 2168.1 at nn. 21-22.

Co., C.A.1st, 1969, 871 F.2d 179, 186,  
citing Wright & Miller.

§ 2175

1. Rule 26(c)  
See §§ 2035-2044.

Determination on appeal as to relevancy  
of information sought by plaintiff  
through filing of interrogatories in  
suit brought pursuant to equal em-  
ployment provisions of Civil Rights

§ 2176

1. Broad discretion  
Mack v. Great Atlantic and Pacific Tea

**CERTIFICATE OF SERVICE**

I, Natalie Moses, a secretary in the Complaints and Investigations Branch, Mass Media Bureau, certify that I have, on this 8th day of February 1996, sent by regular First Class United States mail, copies of the foregoing "Wireless Telecommunications Bureau's Consolidated Response" to:

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Natalie Moss