INTERROGATORIES

Interrogatories are written questions asked by one party to an action to another party, before the trial of the action, which are answered by the responding party under oath and in writing. While the word interrogatory seems to derive from the word "interrogate", interrogatories are, by their nature, not as wide in scope as an examination for discovery and are not in the nature of cross-examination.

The use of interrogatories as a tool in the discovery process began in the 15th century. Over the years, it has become evident that, at least in Alberta, interrogatories are not an effective substitute for an oral examination for discovery expect in certain circumstances.

One of the circumstances where interrogatories are being used with regularity is in the case of a corporate party whose employees and former employees have testified about the matters in issue in the lawsuit. Rather than ask the corporate officer the same questions already asked of the employees and former employees, the questioning party is often well served by the use of interrogatories to have the corporate officer acknowledge that, among other things, the evidence of the employees and former employees is "some of the information of the corporation".

In order to better understand interrogatories, we will trace the use of interrogatories and, more specifically, the evolution of their use in Alberta to the present day. In doing so, we will provide a roadmap of how to effectively use interrogatories in your practice.

A. A BRIEF HISTORICAL OVERVIEW

The right of a party to pre-trial discovery first arose in the Court of Chancery in the 15th century and it was through the Ecclesiastical and Chancery courts that interrogatories eventually became the tool by which a party would seek to discover the case of its opponent.[1]

In the 15th century, a plaintiff would commence a suit by serving a bill upon the defendant. The bill consisted of two parts: the "stating" part which contained the general allegations, and the "charging" part which contained the evidence. The defendant would then respond to the bill by admitting, denying or explaining all of the allegations contained in both parts. This procedure was expanded upon in the 18th

[1] B. Cairns, ***The Law of Discovery in Australia*** (Sydney: The Law Book Company Limited, 1984) at page 8.