

2.13 Use of Requests for Admission

Evidence [will now be] [was] presented to you in the form of admissions to the truth of certain facts. These admissions were given in writing before the trial, in response to requests that were submitted under established court procedures. You must treat these facts as having been proved.

Comment

See Fed. R. Civ. P. 36 (“A matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended.”). A court may properly exclude evidence at trial that is inconsistent with a Rule 36 admission. *999 v. C.I.T. Corp.*, 776 F.2d 866, 869 (9th Cir. 1985).

Use this oral instruction before admissions are read to the jury; it may also be included in the concluding written instructions to the jury. The attorney should warn the judge ahead of time and give the judge an opportunity to give this oral instruction.

Do not use this instruction for interrogatories. The effect of requests for admission is not the same as the introduction of evidence through interrogatories. See Instruction 2.12 (Use of Interrogatories).