

Fact Pattern:

Green was working on a construction site when a scaffold collapsed and fell and killed him instantly. Green's estate brought a federal court action against Rainbow Construction in connection with the construction site accident. Green's estate learned that Blue personally observed the construction site accident. Blue was on his way home and happened to pass the construction site.

Attorneys for the estate of Green served Blue a set of written interrogatories pursuant to FRCP 33(a) asking Blue to describe what he observed. Prior to serving the interrogatories, the attorneys for the state of Green did not receive Court approval.

Questions:

Must Blue answer the written interrogatories?

Example Answer:

No. Federal Rules of Civil Procedure 33 is quite clear in that the Rule only applies to parties in the lawsuit. Although Court approval is not required prior to serving interrogatories, the receiving side must still be a party to the lawsuit. Typically, if a party wishes to conduct discovery against a non-party witness, she must do so by taking the witness' deposition.