

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

STATE OF RHODE ISLAND,

Plaintiff,

v.

AECOM TECHNICAL SERVICES, INC., *et al.*,

Defendant.

C.A. No. PC-2024-04526

**DEFENDANT AECOM TECHNICAL SERVICES, INC.’S REPLY BRIEF IN FURTHER
SUPPORT OF ITS MOTION TO COMPEL PLAINTIFF’S RESPONSES TO REQUEST
FOR ADMISSIONS AND TO DEEM REQUESTS ADMITTED**

Defendant AECOM Technical Services, Inc. (“AECOM”) respectfully submits this reply brief in further support of its Motion to Compel Plaintiff, the State of Rhode Island (the “State”) to serve complete and compliant responses to AECOM’s First Requests for Admission (“RFAs”) and to deem certain matters admitted pursuant to Rule 36.

INTRODUCTION

The State’s Opposition accurately recites the governing law under Rule 36, but fails to explain how the State’s responses comply with it. The Opposition does not meaningfully engage with the text of those responses. Instead, the State asserts—conclusorily—that its responses satisfy and Rule 36 and suggests that AECOM merely disagrees with responses that in the State’s view, are substantively sufficient. AECOM did not bring this Motion because it disagrees with the State’s responses. AECOM filed this Motion to enforce what Rule 36 requires: clear, usable responses that fairly meet the substance of each request. The responses identified in AECOM’s Motion do not admit, deny, or properly explain why the matters cannot be admitted or denied, and are therefore noncompliant on their face.

The State's refusal to cure these deficiencies after receiving two detailed deficiency notices underscores the need for judicial intervention. AECOM does not ask the Court to resolve every disputed phrase in every RFA. As the representative examples below demonstrate, the Court should require the State to provide what Rule 36 mandates. At a minimum, the Court should order amended responses to the RFAs addressed herein. For the clearest violations—where the State has failed to serve a compliant response despite ample opportunity—the Court should deem the matters admitted.

ARGUMENT

I. THE STATE'S OPPOSITION DOES NOT DEFEND THE ACTUAL TEXT OF ITS RESPONSES.

In its Opposition, the State correctly recites the general principles of Rule 36 and advances broad, conclusory assertions that its responses comply. Those general propositions do not resolve this Motion. The question is not whether Rule 36 may, in the abstract, permit a qualified response, an objection, or an assertion of insufficient knowledge. The question is whether the responses the State actually served comply with Rule 36's requirements. They do not.

That distinction matters. The State repeatedly asserts that it answered the RFAs and suggests AECOM merely disagrees with the substance of those answers. But many of the disputed responses do not provide a clear admission or denial, rely on unexplained objections, or append a narrative that obscures whether the matter is admitted or denied. These are not mere disputes over wording; they are facial defects in the responses themselves.

The State cannot cure those defects through post hoc explanations in its Opposition. Rule 36 compliance is measured by the responses as served—not by counsel's subsequent effort to explain what those responses supposedly meant. As the representative examples below demonstrate, several of the State's responses do not satisfy Rule 36.

II. REPRESENTATIVE EXAMPLES CONFIRM THE STATE’S RESPONSES DO NOT COMPLY WITH RULE 36.

A. The State’s “Lack of Knowledge” Response to RFA No. 1 Does Not Comply with Rule 36

RFA No. 1 asks the State to admit that it did not provide AECOM with the Lichtenstein Report before initiating this litigation. The State responded that it “lacks sufficient knowledge or information to admit or deny” the request after “reasonable inquiry,” while also denying the request to the extent AECOM may have had access to the report and reserving the right to supplement. That response does not comply with Rule 36.

A lack-of-knowledge response is compliant only if the responding party conducted a reasonable inquiry and explains why the information remains unavailable. The State’s response satisfies neither requirement. It asserts that a “reasonable inquiry” was made but does not describe what inquiry was undertaken or why the information could not be obtained. That is insufficient under Rule 36. *See Asea, Inc. v. S. Pac. Transp. Co.*, 669 F.2d 1242, 1245–47 (9th Cir. 1981) (holding that a response does not comply with Rule 36 where the responding party has not, in fact, made a reasonable inquiry or where information readily obtainable would enable it to admit or deny the request).

That failure is especially clear here. RFA No. 1 asks whether the State provided one of its own consultant reports—the Lichtenstein Report—to AECOM before filing suit. The State’s Amended Complaint affirmatively relies on that report and alleges that AECOM was negligent and in breach for failing to review prior inspection reports; the State has repeated that theory in its interrogatory responses. Having placed the Lichtenstein Report and AECOM’s alleged failure to review it at the center of its liability theory, the State cannot plausibly claim it lacks sufficient knowledge to say whether it provided that report to AECOM. If the State can sue AECOM for allegedly failing to review the report, it can answer whether it furnished AECOM a copy.

Yet the State does not describe any inquiry it undertook, identify any sources it consulted, or explain why the information is not reasonably obtainable. It simply recites Rule 36’s language and declines to answer.

The State’s Opposition does not address these defects. It reiterates that Rule 36 permits a party to assert lack of knowledge after reasonable inquiry, but identifies no inquiry the State actually performed and offers no explanation for why it cannot determine whether it provided the report. Accordingly, the Court should deem RFA No. 1 admitted. At a minimum, the Court should order the State to serve an amended response that complies with Rule 36 by admitting or denying whether it provided the Lichtenstein Report to AECOM prior to filing suit.

B. The State’s “Denied as Phrased” Response to RFA No. 9 Does Not Fairly Meet the Substance of the Request.

RFA No. 9 asks the State to admit that AECOM’s 2019 contract did not require AECOM to prepare final design or construction drawings. The State responded only: “[d]enied as phrased,” followed by a narrative description of AECOM’s contractual obligations. The response does not fairly meet the substance of the request and therefore does not comply with Rule 36.

A “denied as phrased” response is compliant only if it identifies what wording is objectionable and clearly states whether the substance of the request is admitted or denied. The State’s response satisfies neither requirement. It identifies no objectionable wording and does not state whether the 2019 contract required AECOM to prepare final design or construction drawings. Instead, it substitutes a narrative description of AECOM’s contractual role, leaving AECOM and the Court to infer what, if anything, is being denied. Rule 36 requires responses that narrow issues—not responses that obscure them. If the State contends that AECOM’s contractual

obligations differ from the request's phrasing, Rule 36 required it to say so clearly and directly. It did not.

The State's Opposition again misses the point. It argues in general terms that Rule 36 permits a party to deny a request "as phrased"—a proposition AECOM does not dispute. The problem is that the State's response does not explain what phrasing is objectionable or provide a direct answer to the substance of the request. The Opposition defends the concept of a qualified denial but not the sufficiency of the response actually served. Accordingly, the Court should deem RFA No. 9 admitted. At a minimum, the Court should order the State to serve an amended response that clearly admits or denies whether AECOM's 2019 contract required AECOM to prepare final design or construction drawings.

C. The State's Privilege Objections Improperly Avoid Factual Admissions (RFA Nos. 13, 38, and 39)

RFA No. 13 asks the State to admit that, before this litigation, it did not refer to AECOM as a fiduciary in any written communication or contract. Instead of admitting or denying that straightforward factual proposition, the State asserted attorney-client and work-product objections and purported to admit the request only "subject to" those objections while reserving the right to supplement. That response does not comply with Rule 36.

Rule 36 required the State to admit or deny whether it referred to AECOM as a fiduciary before suit. RFA No. 13 does not seek privileged communications or attorney mental impressions; it asks whether a fact exists. Privilege does not excuse a failure to admit or deny the existence of a fact.

The same defect appears in the State's responses to RFA Nos. 38 and 39. Those RFAs ask whether the State has identified or produced certain analyses and whether it seeks the same categories of damages across defendants—factual questions about what exists and what the State

is pursuing. Rather than admitting or denying those facts, the State asserted objections and declined to answer. Rule 36 does not permit a party to avoid admitting or denying the existence of facts by invoking privilege or “prematurity.”

The State’s Opposition again addresses Rule 36 in the abstract rather than defending the responses actually served. Because the responses to RFA Nos. 13, 38, and 39 contain no admissions or denials, they are noncompliant on their face. Accordingly, the Court should deem RFA Nos. 13, 38, and 39 admitted. At a minimum, the Court should order the State to serve amended responses that admit or deny these requests without objection or qualification.

D. The State’s Argumentative and Qualified Responses to RFA Nos. 58 and 59 Do Not Comply with Rule 36.

RFA Nos. 58 and 59 illustrate a different but equally clear form of noncompliance. The State purports to admit certain facts, but then appends argumentative narratives that obscure what—if anything—is actually admitted. Those are not proper Rule 36 responses.

A qualification under Rule 36 is permissible only if made in good faith and only if it fairly meets the substance of the request. R.I. Super. Ct. R. Civ. P. 36(a). Rule 36 does not permit a party to admit a fact and then append an argumentative narrative that obscures the scope or meaning of the admission. Commentary that reframes the issue or injects advocacy defeats Rule 36’s purpose of narrowing disputed issues for trial.

The State’s responses to RFA Nos. 58 and 59 do exactly that. In response to RFA No. 58, the State purports to admit the requested fact but adds commentary suggesting that it relied on AECOM to recommend additional testing. In response to RFA No. 59, the State partially admits that Cardi did not complete its work, but then adds a narrative asserting that AECOM’s design deficiencies contributed to that outcome. These additions do not clarify the admissions; they reframe them. As a result, it is unclear what the State is admitting.

Rule 36 responses must stand on their own and clearly admit or deny the matter requested. By embedding argument and factual spin, the State's responses fail to do so. Accordingly, the Court should deem RFA Nos. 58 and 59 admitted. At a minimum, the Court should order the State to serve amended responses that provide clear, unqualified admissions or denials without argumentative commentary.

CONCLUSION

For the foregoing reasons, AECOM respectfully requests that the Court grant its Motion. The State's Opposition does not defend the responses it actually served, which fail to provide the clear admissions or denials Rule 36 requires. Accordingly, the Court should deem the RFAs addressed in AECOM's Motion admitted. At a minimum, the Court should order the State to serve amended responses that fully comply with Rule 36 within fourteen (14) days, without objection or qualification, together with such other and further relief as the Court deems just and proper.

Respectfully submitted,

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Dated: April 8, 2026

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2026, I electronically filed and served this document through the electronic filing system on all counsel of record.

The document is available for viewing and/or downloading from the Rhode Island Judiciary's electronic filing system.

/s/ Amanda R. Prosek
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