INTERROGATORIES.[1]

Members of the Jury, at an earlier time the [plaintiff] [defendant] [(*name any other party that addressed interrogatories*)] submitted questions to the [plaintiff] [defendant] [(*name any other party that received interrogatories*)]. These questions are called interrogatories. The [plaintiff] [defendant] [(*name any other party that received interrogatories*)] was required to answer the interrogatories under oath. The [plaintiff] [defendant] [(*name any other party that addressed interrogatories*)] has introduced some of the questions and the answers into evidence as the [plaintiff's] [defendant's] [(*name any other party*)] exhibit number ___.

You may treat the answers like admissions of the [plaintiff] [defendant] [(*name any other party that received*

[1]N.C. Gen. Stat. § 1A-1, Rule 33.

INTERROGATORIES. (Continued.)

interrogatories)].[2]

Not only may you consider the answers as evidence, but you may give the answers such weight as you determine is appropriate in light of any other evidence offered by the [plaintiff] [defendant] [(*name any other party*)] as to mistake, excusable neglect or some other justifiable error in these answers.

[You are not, however, to consider the answers of the [plaintiff (*name*)] [defendant (*name*)] [(*name any other party that received interrogatories*)] as evidence against the [(*name another*

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[2]Answers to interrogatories, duly signed, are admissions of a party opponent and are admissible into evidence. *See Karp v. Univ. of North Carolina*, 78 N.C. App. 214, 216, 336 S.E.2d 640, 641 (1985), *aff'd*, 323 N.C. 473, 373 S.E.2d 430 (1988); N.C. Gen. Stat. § 1A-1, Rule 33 (explaining answers may be used to the extent permitted by the rules of evidence). "Statements of a party to an action, spoken or written, have long been admissible against that party as an admission if it is relevant to the issues and not subject to some specific exclusionary statute or rule." *Id.*; *Craven County v. Hall*, 87 N.C. App. 256, 259, 360 S.E.2d 479, 480 (1987) (quoting *Karp*, 78 N.C. App. at 216, 336 S.E.2d at 641)); *see* N.C. R. Evid. 801(d). However, in a proper case, answers to interrogatories may be withdrawn or amended when based upon mistake, excusable neglect or some other justifiable excuse. *See* Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 2181 (2nd ed. 1994). "As a general rule, an answer to an interrogatory does not conclusively bind the answering party in all instances." *Marcoin, Inc. v. Edwin K. Williams & Co.*, 605 F.2d 1325, 1328 (4th Cir. 1979). No North Carolina case appears to have addressed this issue with regard to interrogatories, although there is substantial precedent for the proposition that "to take advantage of" evidential admissions contained in pleadings, "the opponent must introduce them in evidence; and, when introduced, they are not conclusive, but may be controverted or explained on the ground of inadvertence or mistake of counsel or otherwise." Brandis and Broun on North Carolina Evidence § 209 (6th ed. 2004).

INTERROGATORIES. (Continued.)

appropriate party)].][3]

Also, members of the jury, the (*name party introducing the interrogatory answers*) is not bound by those answers. In other words, the (*name party introducing the interrogatory answers*) may offer other evidence to contradict, explain or challenge the answers given by the (*name party answering the interrogatories*).

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[3]*See Mfg. Co. v. Constr. Co.*, 259 N.C. 649, 652, 131 S.E.2d 487, 489 (1963); *see also In re Hill*, 36 N.C. App. 765, 769, 245 S.E.2d 378, 380 (finding pleadings in a separate action amounted to affidavits in the present action and were not admissible as independent evidence to establish facts materials to the issues being tried), *disc. rev. denied*, 295 N.C. 550, 248 S.E.2d 726 (1978).