

Citation of Unpublished Opinions Issued Prior to January 1, 2007 in Federal Courts

Circuit	Category	Treatment	Authority
First	Discouraging	Not precedent; may be cited regardless of date issued for its persuasive value	1ST CIR. R. 32.1.0(a)-(b)
Second	Restrictive	Not precedent; citation not permitted except for a related case, or for the purposes of estoppel or res judicata	2ND CIR. R. 0.23(c)(2)
Third	Permissive	Not precedent; court, by tradition, does not cite to its non- precedential decisions as authority	3RD CIR. I.O.P. 5.7
Fourth	Discouraging	Citation is disfavored, except for establishing res judicata, estoppel, or law of the case; however, the court will allow it if no published	4TH CIR. R. 32.1

		opinion would serve as well.	
Fifth	Permissive	Permits citation, in compliance with FED. R. APP. P. 32.1(b); unpublished opinions issued before 1996 are precedential; unpublished opinions issued on or after January 1, 1996 are not precedential.	5TH CIR. R. 28.7; 47.5.3 and 47.5.4
Sixth	Permissive	Permits citation, in compliance with FED. R. APP. P. 32.1(b)	6TH CIR. R. 28(g)
Seventh	Restrictive	Not precedent; citation not permitted except to support a claim of preclusion or to establish the law of the case	7TH CIR. R. 32.1(d)

Eighth	Discouraging	Not precedent; citation permitted to establish res judicata, collateral	8TH CIR. R. 32.1A; <u>Anastasoff v. U.S.</u> , 223 F.3d 898 (8th Cir., 2000) (holding
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		estoppel, or the law of the case; court also allows citation for persuasive value if no published opinion would serve as well.	unconstitutional restrictions on citations to unpublished opinions), <i>vacated as moot on other grounds</i> , 235 F.3d 1054 (8th Cir. 2000) (en banc)
Ninth	Restrictive	Not precedent; citation not permitted except to establish law of the case, preclusion, other factual purposes, in a request to publish a disposition or order, or in a petition for rehearing	9TH CIR. R. 36-3(a), (c); <u>Hart v. Massanari</u> , 266 F.3d 1155 (9th Cir., 2001) (holding the restriction of citations to unpublished opinions as constitutional)
Tenth	Permissive	Not precedent; citation permitted for persuasive value, or to establish law of the case and preclusion	10TH CIR. R. 32.1(A)
Eleventh	Permissive	Not precedent; citation permitted for persuasive	11 TH CIR. R. 36-2

		value	
District of Columbia	Permissive	If issued before January 1, 2002, not precedent and may be cited to establish res judicata or law of the case; if issued on or after January 1, 2002, may be cited as precedent	D.C. CIR. R. 32.1(b)(1)(A)-(B)
Federal Circuit	Discouraging	Court may look to unpublished opinion for guidance or persuasive reasoning	FED. CIR. R. 32.1