

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

RICHARD CUSHING DONOVAN
CLERK

JOHN JOSEPH MOAKLEY
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2500
BOSTON, MA 02210
(617) 748-9057

**NOTICE OF ADOPTION OF AMENDMENTS TO LOCAL RULES 32.3 AND 36
AND RELATED NUMBERING MODIFICATION TO LOCAL RULES**

On September 20, 2006, this court issued notice of proposed amendments to Local Rule 32.3 and Local Rule 36 in light of new Fed. R. App. P. 32.1 ("Citing Judicial Dispositions"). As proposed, Local Rule 32.3 is deleted and replaced by new Local Rule 32.1.0, and minor modifications are made to Local Rule 36. No comments were received. The court hereby provides notice that it adopts the proposed changes with additional minor modification as reflected in the attached rules.

In addition, the court provides notice of a related minor modification to the local rule numbering system. The introduction of new Fed. R. App. P. 32.1 required that this court modify its local number system to add another decimal point - - beginning with .0 - - where the related federal rule includes a decimal point. So, for example, the new local rule following Fed. R. App. P. 32.1 is numbered Local Rule 32.1.0.

For the sake of consistency, the court is inserting .0 after all local rules which are the first of a series, including Local Rules 3, 9, 10, 11, 12, 21, 22, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 45, 46, 47, and 48. So, for example, Local Rule 3 will become Local Rule 3.0 and so forth. The numbers of all other local rules will remain the same. Cross-references within rules have been modified where necessary.

These changes will be effective December 1, 2006. A copy of the court's Rulebook, with all changes incorporated, is available at www.ca1.uscourts.gov.

December 1, 2006

Richard Cushing Donovan

Local Rule 32.1.0 Citation of Unpublished Dispositions

- (a) **Disposition of this court.** An unpublished judicial opinion, order, judgment or other written disposition of this court may be cited regardless of the date of issuance. The court will consider such dispositions for their persuasive value but not as binding precedent. A party must note in its brief or other filing that the disposition is unpublished. The term "unpublished" as used in this subsection and Local Rule 36.0(c) refers to a disposition that has not been selected for publication in the West Federal Reporter series, e.g., F., F.2d, and F.3d.
- (b) **Dispositions of other courts.** The citation of dispositions of other courts is governed by Fed. R. App. P. 32.1 and the local rules of the issuing court. Notwithstanding the above, unpublished or non-precedential dispositions of other courts may always be cited to establish a fact about the case before the court (for example, its procedural history) or when the binding or preclusive effect of the opinion, rather than its quality as precedent, is relevant to support a claim of res judicata, collateral estoppel, law of the case, double jeopardy, abuse of the writ, or other similar doctrine.

Local Rule 36.0 Opinions

- (a) **Opinions Generally.** The volume of filings is such that the court cannot dispose of each case by opinion. Rather it makes a choice, reasonably accommodated to the particular case, whether to use an order, memorandum and order, or opinion. An opinion is used when the decision calls for more than summary explanation. However, in the interests both of expedition in the particular case, and of saving time and effort in research on the part of future litigants, some opinions are rendered in unpublished form; that is, the opinions are directed to the parties but are not published in West's Federal Reporter. As indicated in Local Rule 36.0(b), the court's policy, when opinions are used, is to prefer that they be published; but in limited situations, described in Local Rule 36.0(b), where opinions are likely not to break new legal ground or contribute otherwise to legal development, they are issued in unpublished form.
- (c) **Precedential Value of Unpublished Opinions.** While an unpublished opinion of this court may be cited to this court in accordance with Fed. R. App. P. 32.1 and Local Rule 32.1.0, a panel's decision to issue an unpublished opinion means that the panel sees no precedential value in that opinion.