

\* The proposed amendment to Appellate Rule 65(D) would allow citation of non-precedential decisions issued on or after the amendment's effective date, while maintaining the traditional prohibition for decisions issued before that time. The current rule reflects the traditional prohibition against citing unpublished decisions as precedent, with certain narrow exceptions. The traditional published/unpublished distinction is blurred by non-citable, non-precedential decisions readily available online through legal reporter services and courts' own websites.\*

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## **Rule 65. Opinions And Memorandum Decisions**

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### **D. Precedential Value of Opinions and Memorandum Decisions.**

(1) Published Opinions. A published opinion of the Supreme Court is binding precedent for all other Indiana trial and appellate courts. A published opinion of the Court of Appeals is binding precedent for all Indiana trial courts.

(2) Memorandum decisions. Unless later designated for publication in the official reporter, a memorandum decision is not binding precedent for any court shall not be regarded as precedent and shall not be cited to any court except by the parties to the case to establish *res judicata*, collateral estoppel, or law of the case.

(a) A memorandum decision issued before [effective date] shall not be cited to any court except by the parties to the case and for those purposes only.

(b) A memorandum decision issued on or after [effective date] may also be cited for persuasive value to any court by any litigant.

A party or attorney has no duty to cite a memorandum decision.

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