



Office of the Clerk
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
95 Seventh Street
Post Office Box 193939
San Francisco, California 94119-3939



Clerk of Court

Cathy A. Catterson

(415) 556-9800

December 30, 2002

**Notice re Circuit Rule 36-3
Citation of Unpublished Dispositions or Orders**

Acting upon the recommendation of its Advisory Rules Committee, the United States Court of Appeals for the Ninth Circuit has agreed to extend Circuit Rule 36-3(b)(iii) for an additional 30-months, until July 1, 2005. The circuit rule, which was first adopted on July 1, 2000, for an initial 30-month period, permits citation of unpublished dispositions in requests for publication and in petitions for panel rehearing or rehearing en banc in order to demonstrate the existence of a conflict among opinions, disposition or orders.

During this initial 30-month period, from July 1, 2000 to December 31, 2002, the Court received minimal feedback on the rule. The Court received approximately 100 requests for publication during this time period. Six requests were granted. Court staff determined that none of the requests for publication identified a legitimate conflict among unpublished dispositions.

Court staff also examined all petitions for panel rehearing and for rehearing en banc filed during June 2002. Of the 83 petitions filed by counsel during June, only one petition invoked Rule 36-3 and asserted a conflict among unpublished dispositions. The panel denied the petition.

The Judicial Conference of the United States' Advisory Committee on Appellate Rules is considering amendments to the Federal Rules of Appellate Procedure dealing with citation of non-precedential dispositions. Final action by the national committee on the federal rules is not expected for at least two years.

The full text of the federal and circuit rules can be found on the Court's web page at www.ca9.uscourts.gov.