

RULE 1:36. Opinions; Filing; Publication

1:36-1. Filing of Opinions

The original of each written opinion handed down in each court, including letter opinions and memorandum decisions, shall be filed with the clerk of the court in which rendered and copies thereof shall be sent to counsel and, on all appeals, to the court or agency below. Opinions of the Appellate Division shall have typed or stamped thereon the following notice: "Not for Publication Without the Approval of the Appellate Division." Opinions of the trial courts shall have typed or stamped thereon the following notice: "Not for Publication Without the Approval of the Committee on Opinions."

Note: Source-R.R. 1:32(a)(b); amended July 13, 1994 to be effective September 1, 1994.

1:36-2. Publication

(a) Appellate Opinions. All opinions of the Supreme Court shall be published except where otherwise directed by the Court. Opinions of the Appellate Division shall be published only upon the direction of the panel issuing the opinion.

(b) Committee on Opinions; Trial Court Opinions. The Chief Justice shall appoint a Committee on Opinions to review formal written opinions submitted for publication by a trial judge. Except in extraordinary circumstances, the Committee shall not review a trial court opinion until the time for appeal from the final judgment in the cause has expired. If an appeal has not been taken, the Committee shall determine whether to approve publication of the trial court opinion. If an appeal has been taken, the Appellate Division panel shall determine, when it decides the appeal, whether the trial court opinion shall be published. A trial judge submitting an opinion for review for publication shall file it with the Administrative Office of the Courts in triplicate with the notation on its face that it is being submitted for publication.

(c) Request for Publication. Any person may request publication of an opinion by letter to the Committee on Opinions explaining the basis of the request with specificity and with reference to the guidelines prescribed by paragraph (d). In the case of Appellate Division opinions, the Committee shall transmit the request to the presiding judge of the panel together with its recommendation, but the court shall retain the publication decision.

(d) Guidelines for Publication. An opinion in appropriate form, excluding letter opinions and transcripts of oral opinions, shall be published where the decision (1) involves a substantial question under the United States or New Jersey Constitution, or (2) determines a new and important question of law, or (3) changes, reverses, seriously questions or criticizes the soundness of an established principle of law, or (4) determines a substantial question on which the only case law in this State antedates September 15, 1948, or (5) is based upon a matter of practice and procedure not theretofore authoritatively determined, or (6) is of continuing public interest and importance, or (7) resolves an apparent conflict of authority, or (8) although not otherwise meriting publication, constitutes a significant and nonduplicative contribution to legal literature by providing an historical review of the law, or describing legislative history, or containing a collection of cases that should be of substantial aid to the bench and bar.

Note: Source-R.R. 1:32(c) (d); amended July 29, 1977, to be effective September 6, 1977; text deleted and paragraphs (a)(b)(c) and (d) substituted July 13, 1994 to be effective September 1, 1994.

1:36-3. Unpublished Opinions

No unpublished opinion shall constitute precedent or be binding upon any court. Except for appellate opinions not approved for publication that have been reported in an authorized administrative law reporter, and except to the extent required by res judicata, collateral estoppel, the single controversy doctrine or any other similar principle of law, no unpublished opinion shall be cited by any court. No unpublished opinion shall be cited to any court by counsel unless the court and all other parties are served with a copy of the opinion and of all contrary unpublished opinions known to counsel.

Note: Adopted July 16, 1981 to be effective September 14, 1981; caption and rule amended July 13, 1994 to be effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002; amended July 23, 2010 to be effective September 1, 2010.