

[CAPTION]

MOTION TO PUBLISH MEMORANDUM DECISION

The Appellant, by counsel respectfully requests the Court of Appeals to publish the Memorandum Decision in the above captioned cause entered [insert date]. In support of this Motion, the Appellant states the following:

1. On [insert date], in a Memorandum Opinion, the Court of Appeals in the above captioned cause [CHOOSE: reversed or affirmed] the Appellant's conviction for [insert offense(s)].
2. The Court of Appeals [CHOOSE: reversed or affirmed] the conviction because [insert holding].
3. In [CHOOSE: reversing or affirming] the conviction, the Court of Appeals establishes, in Indiana, a new rule of law. [Insert specific rule].
4. The Court of Appeals' opinion [CHOOSE: reversing or affirming] the conviction also involves a legal and factual issue of unique interest and public importance. [Explain significance to public. For instance, is the issue one that will occur on a routine basis].
5. In the very least, the Court of Appeals' opinion limited the extension of Indiana Supreme Court precedent and clarified the rule of law established in [insert case].
7. Pursuant to Appellate Rule 65, the Court of Appeals' opinion in the above-captioned cause should be published because it establishes a new rule of law concerning [insert specifics], it involves a legal and factual issue of substantial public importance, being [insert specifics], and, in the very least, clarifies the rule of law set forth by the Indiana Supreme Court.

WHEREFORE, the Appellant, by counsel, respectfully requests the Court of Appeals to publish the Memorandum Opinion entered on [insert date], and for all other relief just and proper in the premises.

(Signature)

REFERENCES:**CASEBANK G. 13**

Indiana Rule of Appellate Procedure 65(B) (a Motion for Publication must be filed within thirty (30) days of the entry of the decision).

Indiana Rule of Appellate Procedure 65(D) (prohibiting citation to not-for-publication memorandum decisions except to establish res judicata, collateral estoppel or law of the case). But see State v. Black, 177 Ind. App. 588, 380 N.E.2d 1261 (Ind. Ct. App. 1978) (absolute ban in Indiana courts on reference to unpublished U.S. Court decisions is unwarranted; more prudent course would be to allow trial court, or appellate court, wide discretion in its determination of weight, if any, to be given to these orders; such orders may or may not be dispositive of particular issues in given case; accordingly, determination of which orders are relevant to particular case will have to be made on case-by-case basis; here, the court declined to accept unpublished order as dispositive or as persuasive on propositions decided therein).