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03-AP-157

January 15, 2004

Peter G. McCabe, Secretary  
Committee on rules of Practice and Procedure  
Administrative Office of the U.S. Courts  
One Columbus Circle, N.E.  
Washington, D.C. 20544

Re: Proposed FRAP 32.1

Dear Mr. McCabe,

I have learned about the proposed Federal Rule of Appellate Procedure 32.1 and oppose it. I own and operate a hotel casino company in Nevada and develop real estate in California. Previously, I practiced law and have been a member of the New York, California and Nevada Bar Associations. I remain only a member of the Nevada Bar, which Bar Number is 5045.

I believe allowing litigants to cite unpublished opinions and memorandums complicates the practice of law, because it requires attorneys to research what would otherwise be irrelevant writings of judges and law clerks and then requires attorneys to understand their context.

I fear that FRAP 32.1 will needlessly increase the costs of practicing law. I believe only those clients, who desire to increase their legal costs because they use increasing legal costs to their advantage, benefit from such a rule that expands the universe of citable material. Furthermore, even judges may be required to spend more time writing, because now even unpublished opinions can be cited. If time is money, FRAP 32.1 will cost businesses more.

Lastly, I believe FRAP will undermine knowledge of the law. By limiting citation to only codified laws and published opinions, the legal system puts business on notice of what is the state of the law. By enabling attorneys to cite unpublished opinions, the state of the law is needlessly obscured and complicated.

Based upon my experience as a lawyer and businessperson, I believe FRAP 32.1 is a bad idea.

Very truly yours,

Gregory T.H. Lee  
President