

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
EDWARD R. ROYBAL FEDERAL BUILDING
255 EAST TEMPLE STREET
SUITE 1634
LOS ANGELES, CA 90012-3334

ELLEN CARROLL
JUDGE

TELEPHONE: (213) 894-4034

DECEMBER 2/5/04
03-AP-278

January 27, 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 write to express my opposition to proposed FRAP 32.1.

I work in a relatively busy Bankruptcy Court. At the present time, each of my colleagues and I carry, on a district-wide average, approximately 2,000 open bankruptcy cases and approximately 240 related lawsuits (known in the bankruptcy world as adversary proceedings). In addition, although the percentages vary from year to year, over the last decade an average of 33% of the bankruptcy cases filed in the Central District of California have been filed by pro se debtors, many of whom speak English as a second language, if they speak it at all.

Pro se parties are already at a serious disadvantage in the legal arena. While Public Counsel makes a valiant effort to assist pro se debtors, there just are not enough pro bono lawyers to go around. The adoption of FRAP 32.1 will cause the playing field to become even more lopsided for these parties than it currently is. This disadvantage will not only be felt by pro se parties, but also by those who cannot afford to pay their lawyers the amounts their deep-pocketed opponents can pay to have lawyers search high and low for that one unpublished decision that just might support their position.

On a personal note, if FRAP 32.1 is adopted, I will not be able simply to ignore citations to unpublished Ninth Circuit decisions. I do not look forward to spending time reviewing and analyzing what I expect will be, for the most part, opinions that are too fact-specific to be relevant and then spending additional time explaining to the parties why the decisions do not appear to apply.

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Thank you for your consideration of my comments.

Very truly yours,

A handwritten signature in cursive script that reads "Ellen Carroll". The signature is written in black ink and is positioned to the right of the typed name.

Ellen Carroll