UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
THE ROYBAL BUILDING
255 EAST TEMPLE STREET, SUITE 1682
LOS ANGELES, CALIFORNIA 90012-3334

MAUREEN A. TIGHE
Bankruptcy Judge

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03-AP-294

February 3, 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 Rule of Appellate Procedure 32.1

Dear Mr. McCabe:

I write in opposition to proposed Federal Rule of Appellate Procedure 32.1. I strongly agree with the reasons articulated by others concerning the greater burden the proposed rule would place on the courts. Because court rules are as much about how litigants access the courts as they are about how judges process cases, I am, however, most concerned with the access to the courts issue that this rule raises. This rule would increase the imbalance we already see with respect to low income represented and unrepresented litigants.

I have only recently been appointed to the Bankruptcy Court. Before that, I served as the United States Trustee for the Central District of California for over five years. During that time, I also served as an interim U.S. Trustee at different times for seven other judicial districts in the Ninth Circuit.

My experience in those positions showed me first hand how difficult it is for poor people to adequately access the bankruptcy court system. Each of the judicial districts in California has a higher proportion of *pro se* litigants than anywhere else in the country. The Central District of California has the highest of any district in the country - ranging from 40% of our consumer debtors approximately ten years ago down to a little below 30% last year. In addition to the large number of *pro se* debtors, we have a significant number of unrepresented creditors. When represented, many lower income debtors are poorly represented by relatively low paid counsel.

Large firms and well represented parties will have the ability to collect and index unpublished decisions, while poorer and unrepresented parties will not have ready access to this body of work in their research because of time and money limitations. Even where these unpublished precedents are

available on free databases, searching them requires time - a commodity not available to the many low-paid harried consumer attorneys we see in our bankruptcy courts. The average attorney fee for a consumer debtor in this district is $850. [1] This fee does not allow for extensive research of unpublished decisions.

Where attorneys can take the time to search through unpublished decisions, their fee will necessarily increase. Many litigants cannot afford attorneys right now, and higher fees threaten to increase an already high *pro se* population. The court and the bankruptcy community have worked very hard for many years to gradually reduce the number of *pro se* litigants and are finally seeing the results of those efforts. I would truly hate to see a rule which would increase the likelihood of this trend reversing.

Sincerely,

Maureen A. Tighe

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[1] . This is based on a recent study done by the Office of the United States Trustee which can be found at http://www.usdoj.gov/ust/r16/pdfdocs/Ch7_bpp_atty_stats.pdf.