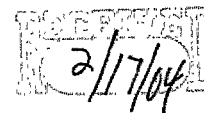


**FARMERS**

FARMERS INSURANCE EXCHANGE  
TRUCK INSURANCE EXCHANGE  
FIRE INSURANCE EXCHANGE  
MID-CENTURY INSURANCE COMPANY  
FARMERS NEW WORLD LIFE INSURANCE COMPANY

**Office of General Counsel**

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February 16, 2004

Via U.S. Mail and Facsimile

**03-AP-417**

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 Federal Rule of Appellate Procedure 32.1**

Dear Mr. McCabe:

Farmers Group, Inc. is a management and holding company. It acts as the attorney-in-fact for Farmers Insurance Exchange, and its employees provide non-claims related services to a variety of related carriers. These carriers write insurance throughout the nation, and thus defend against lawsuits in every state in which they do business. The proposed rule to allow the citation of unpublished opinions in the many federal circuits that currently prohibit this practice, would render legal research much more costly, and result in the citation of dispositions that are often ambiguous and potentially misleading.

As you are aware, the vast majority of unpublished opinions involve routine matters that neither create new, nor clarify existing, law. They often provide little information concerning the facts and procedural history of the case. They are almost always written by law clerks with little, if any, input from the judges as to the actual text of the opinion. Their *only* purpose is to resolve the parties' dispute and to explain, frequently in a cursory fashion, why the prevailing party won. Because of their limited intent, they may contain an incomplete or misleading statement of the law.

Despite the admonition of the Advisory Committee that Proposed Rule 32.1 is "extremely limited" because it does not mandate the precedential weight courts must give to unpublished opinions, its impact could be quite significant. In all probability, trial courts will feel compelled to give unpublished decisions the same deference as they do their published counterparts. Furthermore, while lawyers have an obligation to cite controlling authority within the jurisdiction (supportive or adverse), will they have the same responsibility relative to unpublished opinions? If not, you will have lawyers cherry picking the unpublished decisions that support their position.

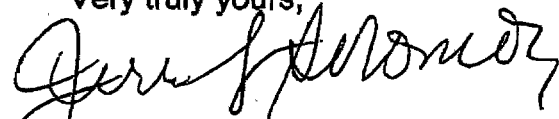
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Peter G. McCabe  
February 16, 2004  
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Passage of Proposed Rule 32.1 could further tax an already overburdened legal system. Knowing that their every word will be dissected, and that some lawyers will attempt to attribute significance to phrases where none was intended, many judges will feel compelled to spend more time on unpublished opinions. By necessity, this will result in less time being spent on cases that actually do have precedential value. It could also further delay rulings and create an even greater backlog of cases than presently exists. Those judges who are unwilling to shift their priorities, will probably abandon any attempt to write opinions in routine cases, instead opting to cryptically affirm or reverse. This would deprive the parties of information that could provide useful guidance in future endeavors.

For the reasons stated above, Farmers Group, Inc. respectfully requests that the Advisory Committee abandon pursuit of Proposed Rule 32.1.

Very truly yours,



Jerri L. Solomon  
Senior Corporate Counsel