

The Coca-Cola Company

COCA-COLA PLAZA
ATLANTA, GEORGIA

12/9/03

03-AP-027

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December 2, 2003

Mr. Peter G. McCabe
Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Court
One Columbus Circle, N.E.
Washington, DC 20544

Dear Mr. McCabe:

I write as one who has been involved in litigation in the Federal Courts at all levels for more than 20 years to express my respectful opposition to the proposal to require all federal circuits to permit citation of unpublished memorandum dispositions.

When I was a law clerk many years ago, "unpublished" or "non-precedential" memorandum dispositions accounted for 80 to 90 percent of all appeals. As you know, they are abbreviated, written explanations to the parties designed to advise them of the result and assure them that the Court was aware of the issues raised. Requiring all circuits to allow citation of these dispositions would substantially increase the work of conscientious judges, as well as of all litigators. Further, many, many disputes – frankly, even some of the ones I have found myself involved in – simply do not warrant the time and care demanded by a decision worthy of publication.

I hope you will consider these views and abandon the proposal.

Sincerely yours,

