



United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard
Woodland Hills, CA 91367

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03-AP-074

GERALDINE MUND
United States Bankruptcy Judge

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December 17, 2003

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 F.R.A.P. 32.1

Dear Mr. McCabe: I have reviewed proposed F.R.A.P. 32.1 concerning citation to unpublished opinions. I have had the opportunity to sit by designation on the Bankruptcy Appellate Panel and this experience confirms my belief that the precedential effect of appellate decisions should only be allowed when the panel making that decision so decides. While we carefully crafted each opinion (keeping in mind that we were not only speaking to the parties, but to the Court of Appeals), we decided that certain opinions should not be published for a variety of reasons. Among these are the fact that the opinion adds nothing to the legal literature, merely restates a holding of the Ninth Circuit or the Supreme Court, that the facts of the case tend to limit the holding to those unique circumstances, or that we expected an appeal to be taken from our ruling (which should thus be disregarded as non-dispositive).

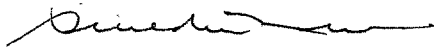
Speaking as a trial judge, the plethora of available opinions makes legal research quite cumbersome. Instead of locating one or more opinions that go to the issue involved, there may be hundreds of case cites which need to be reviewed. It certainly helps to eliminate those which the issuing court feels are not worthy of precedential effect.

As far as denying the courts and the bar the opportunity to review unpublished opinions (as opposed to failing to give them precedential effect). Westlaw and Lexis both pick up a large number of unpublished opinions at all court levels. The researcher certainly has the option to review these for ideas and to locate other cases, even though they are not binding except as law of the case.

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For the above reasons, I urge the committee to reconsider the requirement of citation of unpublished judicial opinions.

Very truly yours,



GERALDINE MUND
United States Bankruptcy Judge

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