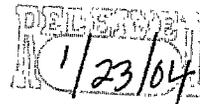


03-AP-166



Nobody  
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Salutation: Ms.  
First: Marcy  
MI: J  
Last: Tiffany  
Org: Wyner & Tiffany  
MailingAddress1: 3878 Carson Street, Suite 104  
MailingAddress2:  
City: Torrance  
State: California  
ZIP: 90503  
EmailAddress: mtiffany@specialedlaw.org  
Phone: 310-792-8999  
Fax: 310-792-8988  
Appellate: Yes  
Comments:

I strongly oppose the proposed amendment to FRAP 32.1 that would require courts of appeals to permit citation of currently "unpublished" opinions. I believe this will impose a burden that will fall disproportionately on the shoulders of smaller firms. My practice is focused on special education and I represent families, not deep-pocket corporations. My clients do not have the funds to pay for extensive research, and the research burden will increase exponentially if every single case that is decided by the circuit court must be reviewed whenever I draft a brief.

My experience with unpublished decisions is that there is a good reason they should not be cited. They are often bare-bones decisions without fully developed facts and little by way of legal clarity. Nevertheless, if these cases are now made citable, I will have to read them all, even though they are unlikely to contain anything of relevance, and thus dramatically increase the cost of providing legal services to my clients. Even more disturbing is having to dispute the meaning of ambiguous and vague dispositions with opposing counsel in briefs.

I urge the committee not to adopt a national rule on this issue. However, if the committee believes a national rule is necessary, it should adopt a rule like that in the Ninth Circuit, prohibiting citation of unpublished opinions except in limited circumstances.

Thank you for consideration of my comments.

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