

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT



MICHAEL DALY HAWKINS
UNITED STATES CIRCUIT JUDGE



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03-AP-291

January 22, 2004

The Honorable Samuel A. Alito, Jr.
United States Court of Appeals
for the Third Circuit
357 United States Courthouse
P.O. Box 999
Newark, New Jersey 07101-0999

Re: Proposed Federal Rule of Appellate Procedure 32.1

Dear Judge Alito:

I join many of my Ninth Circuit colleagues in urging the Advisory Committee to reject this proposed rule. The proposal will not ease the workload of federal judges; it will make their professional lives measurably more difficult. Nor will it sharpen the ability of counsel to make informed arguments; rather, it will create a blizzard of confusion by throwing up what my colleague Ted Goodwin quite accurately describes as "hazards to navigation." Finally, as my colleague Willy Fletcher points out, it will prove harmful to poor and weak litigants who cannot bear the expense of keeping up with the Tsunami of paperwork that will result from the adoption of the proposed rule.

As H.L. Mencken once observed: "There is always an easy solution to every human problem – neat, plausible, and wrong." This is one of those "solutions."

Sincerely,

Michael Daly Hawkins