

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
125 South Grand Avenue
Pasadena, California 91105

RECEIVED
2/13/04

Via E-mail

03-AP-366

Raymond C. Fisher
United States Circuit Judge

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February 13, 2004

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

Re: Proposed Federal Rule of Appellate Procedure 32.1

Dear Mr. McCabe:

I am writing to record my opposition to the proposed amendment to Rule 32.1 to the Federal Rules of Appellate Procedure. Rather than reiterate the various arguments already set forth by my colleagues on the Ninth Circuit, I will simply generally concur in them. Although it may seem harmless to authorize litigants to cite to our memorandum dispositions for whatever weight a court may wish to give them, in practice the burdens on the system will be substantial -- for those of us who wish to give some explanation to the immediate parties without the nuances appropriate to a precedent-setting opinion, and for lawyers and judges who have to find or read them as possible "helpful" authority. Information overload is not helpful.

Sincerely,

/s/

Raymond C. Fisher
United States Circuit Judge

RCF/cmj

cc: All Judges of the Ninth Circuit Court of Appeals