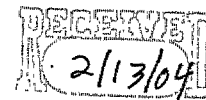


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03-AP-381

February 13, 2004

VIA FACSIMILE AND OVERNIGHT MAIL

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: Commentary on Proposed Rule Change (FRAP 32.1)

Dear Mr. McCabe:

I recently read about the Advisory Committee's proposal (FRAP 32.1) to depart from the Ninth Circuit's rule allowing unpublished dispositions, Circuit Rule 36-3. As an associate in a 500+ attorney law firm, I appreciate the unrelenting workload that lawyers in a law firm face every day. As someone who has read with admiration the meticulously drafted opinions of the Ninth Circuit, I cannot imagine that clerks and judges on the Circuit face any less daunting a task.

I urge the Committee to reject FRAP 32.1. The rule would remove the means by which the judges and clerks of the Circuit efficiently and effectively cope with their enormous workload. Were FRAP 32.1 adopted, one of two things would happen. Either the quality of the Circuit opinions would go down, wreaking havoc on their reliability as good law, or the staff of the Circuit would require augmentation. With the current budget crisis faced by our public institutions, surely now is not the time to require that more scarce taxpayer dollars be allocated to this area.

In closing, I strongly oppose FRAP 32.1. Should the Committee have questions regarding this letter, it can feel free to contact me at 650.849.3066.

Regards

Michael L. Goldman