

UNITED STATES COURT OF APPEALS
NINTH CIRCUIT

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03-AP-046

ROBERT BOOCHEVER
SENIOR CIRCUIT JUDGE
125 S. GRAND AVE.
P.O. Box 91510
PASADENA, CA 91109-1510

December 8, 2003

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

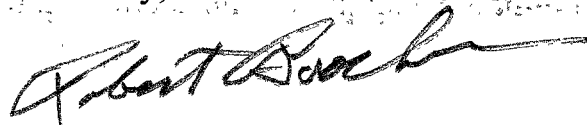
RE: Proposed F.R.A.P. 32.1

Dear Mr. McCabe:

As a senior judge of the United States Court of Appeals for the Ninth Circuit, I oppose the proposed F.R.A.P. 32.1 which would authorize citation of unpublished judicial opinions. I formerly served as Justice and Chief Justice of the Alaska Supreme Court.

A great deal more time and work is required to produce a published opinion than an unpublished memorandum disposition. In many appeals, the legal issues have previously been decided in published opinions, so that it is unnecessary to discuss the reasons in detail and to publish the disposition in the same manner as one that may be cited. On the other hand, if memorandum dispositions are to be cited, the advantage of speed will be lost as the author will have to devote more time and give more detailed explanations of the reason for the decision. As the workload of appellate judges constantly increases, requiring the additional time and care required for publication of memorandum decisions would be an unnecessary burden on already overworked active appellate judges. That time can be better spent on the many substantial issues of first impression coming before the appellate courts.

Sincerely,



Robert Boochever