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 Appellate: Yes
 Comments:

I am a Professor of Law at Tulane Law School where I teach, among other subjects, Civil Procedure and Complex Litigation. I have been involved in appellate practice in the Fifth Circuit, the Supreme Court and state appellate courts for more than twenty years. I am writing to comment on proposed Rule 32.1 Citation of Judicial Dispositions.

I think proposed Rule 32.1 is unnecessary and a bad idea because it will have the effect of preventing various circuits from experimenting with no-publication and no-citation rules. The circuits differ substantially regarding workloads, number of judges and geographical area. If a circuit wants to allow citation of unpublished opinions, it is free to do so, but to compel such a result through a uniform rule would seem to me to do a disservice to courts that have decided for that circuit's own needs to take a different route. I fear that imposition of a uniform rule will result either in more unpublished decisions that contain no explanation at all for the result reached by the court or a diminution in the quality and quantity of decisions that are published. Neither result seems to me to be justified by what I gather to be the major rationale for the proposed rule - the difficulty lawyers who practice in different circuits have in understanding and applying the differing rules regarding citations in the various circuits. I have never heard any suggestion that this is a major hardship but, even if it is, the argument can be applied to all local rules. This is certainly an area where uniformity is not necessary and could have a very unfortunate impact on the work of some federal circuits.

George
 Strickler

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