



UNITED STATES COURT OF INTERNATIONAL TRADE

ONE FEDERAL PLAZA
NEW YORK, NY 10278-0001

1/20/04

03-AP-137

CHAMBERS OF
JANE A. RESTANI
CHIEF JUDGE

January 15, 2004

Mr. 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: Proposed F.R.A.P. Rule 32.1

Dear Mr. McCabe:

I write in opposition to proposed Rule F.R.A.P. 32.1. Like several other judges who have written to express similar views, I am designated to several different Circuit Courts of Appeals each year. This experience leads me to urge that the current system, in which each Circuit decides this issue for itself, be permitted to remain. I see no particular need for uniformity in this regard. As with many other matters, local conditions should drive local practice.

The change, I believe, will cause real harm in some places. In anticipation of this rule, I have already altered my practice as to non-precedential opinions, shortening such writings to a point where they are meaningless to non-participants. This has proven to be a time consuming process. There is simply too much work to do to spend time and efforts on such artificial tasks.

Further, the body of federal appellate law is already too large and these decisions add little, if anything, of worth. I cannot recall any occasion on which the citation of non-precedential cases, where permitted or attempted, has or could have aided disposition of the case. Moreover, I can only recall one case where a request for publication was arguably meritorious. We erred on the side of publication and granted the request.

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I cannot see anything to be gained by this change and much to lose in terms of proper and efficient case dispositions. Normally, litigants should be provided a modicum of the reasoning behind the decision which affects them directly. This rule change is not likely to promote such a result.

I understand the important considerations behind the rule change and understand it was carefully deliberated, but I find myself on the opposite side of the question.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jane A. Restani". The signature is written in a cursive style with a large, looping initial "J".

Jane A. Restani
Chief Judge

JAR/jp