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03-AP-204

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Comments:

Secretary  
Committee on Rules of Practice and  
Procedure  
Administrative Office of the United States Courts  
Washington,  
D.C. 20544

Dear Members of the Committee:

As an attorney and appellate practitioner, I write to express my opposition to the proposed rule 32.1 of FRAP.

Allowing the citation of unpublished opinions is poor policy. Our appellate courts in California have rejected allowing citation of unpublished opinions, and there is no reason why the federal appellate courts should allow citation of those opinions.

The proposed rule will be expensive and cumbersome and will result in an overall reduction in the quality of appellate opinions. In those instances where an issue is of sufficient importance, the court generally will issue a published opinion, with the understanding that the opinion will be citable. The courts do not have the resources to devote that level of legal scholarship to all opinions, especially those which currently are unpublished.

I believe that the proposed rule change will overtax the resources of the courts and of the lawyers who practice before them.

I urge the committee to reject adoption of proposed rule 32.1.

Sincerely,

David M. Luboff

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