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Friday, April 30th 2004

03-AP-515

THE HONORABLE JUDGE
ANTHONY J. SCIRICA, CHAIR
STANDING COMMITTEE ON RULES OF
PRACTICE & PROCEDURE
Office of Public Affairs
Administrative Office of the U.S. Courts
Washington, D.C. 20544

I wish to comment favorably on the *Proposed Rule 32.1*, offered by Advisory Committee for *Federal Rules of Appellate Procedure*.

Dear Judge Scirica:

In a nutshell, I strongly agree with the proposed rule and believe, despite sophistic refutations and controversy, the rule should be simpler, plainer and stronger; *to-wit*, All judicial opinions should be eligible for citation, and All judicial opinions should bear precedential value.

The simple rationale: In our judicial system, based as it is on precedent and the doctrine of *stare decisis*, what cogent justification lies for exempting some cases? Little justification lies for idiosyncratic rulings, the ramifications of which issuing courts may sidestep. The natural consequence is result-oriented adjudications, not a refined, equitable and fair jurisprudence.

The current variability between Circuit rules is vexatious, as the Advisory Committee correctly points out, but it is more than merely inconvenient. It undermines continuity and predictability in ways that damage our judicial system. It goes to the system's integrity.

Regarding so-called "Unpublished Opinions": West Publishing Company has published a new reporter since September 1st 2001 (content retrospective to that year's beginning), namely *West's Federal Appendix*, which publishes "unpublished" U.S. Circuit Court cases *with traditional West editorial enhancements (i.e., Synopses, Digest paragraphs, Topics & Key numbers, etc.)* for all U.S. Circuit Courts of Appeals except the 3rd, 5th and 11th Circuits – Those *exceptional* Circuits do not submit all opinions to West electronically until the decision has been made to publish them. (See: Borlase, Rod, "West's New Reporter: *Federal Appendix*," at <http://www.RodBorlase.com/Guides>.)

All opinions contain research information, as well as precedential potential, and I believe all federal courts should be required to "publish" all opinions – If nothing else, that would preserve valuable historical information.

With thanks for your consideration, I am

Sincerely yours,



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