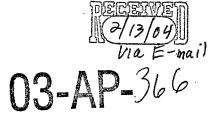
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

125 South Grand Avenue Pasadena, California 91105



Raymond C. Fisher United States Circuit Judge Telephone: (626) 229-7110 Facsimile: (626) 229-7452

February 13, 2004

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

Re: Proposed Federal Rule of Appellate Procedure 32.1

Dear Mr. McCabe:

I am writing to record my opposition to the proposed amendment to Rule 32.1 to the Federal Rules of Appellate Procedure. Rather than reiterate the various arguments already set forth by my colleagues on the Ninth Circuit, I will simply generally concur in them. Although it may seem harmless to authorize litigants to cite to our memorandum dispositions for whatever weight a court may wish to give them, in practice the burdens on the system will be substantial —for those of us who wish to give some explanation to the immediate parties without the nuances appropriate to a precedent-setting opinion, and for lawyers and judges who have to find or read them as possible "helpful" authority. Information overload is not helpful.

Sincerely,

/s/

Raymond C. Fisher United States Circuit Judge

RCF/cmj

cc: All Judges of the Ninth Circuit Court of Appeals