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EDITOR’S NOTE

In early July, when I opened the Sunday New York Times, I was surprised to see a front-page article devoted to whether legal citations in court opinions should appear in text or be placed in footnotes. Before the end of the day—thanks to the modern miracle of e-mail and people so driven that they are online on Sundays—both Bryan Garner and Judge Richard Posner, each among the best writers the legal world has known, had agreed to write articles on this topic for Court Review. The next day, Justice Rodney Davis joined the group and the debate over citational footnotes had moved squarely to our pages.

Garner has written a masterful article in support of citational footnotes. Just as the New York Times was forced to change its front-page layout to accommodate examples—with and without footnotes—right on its pages, we have modified our normal two-column format and type sizes so that his article and the examples within it would be easy to read. Judge Posner, who has never used footnotes in his 20 years as a judge, both responds to Garner’s arguments and discusses his personal reasons for opting against the use of footnotes in opinions for any purpose. Justice Davis, who switched to the use of citational footnotes after hearing a Garner seminar a year ago, adds his personal experience about the hurdles he encountered in making the change. Garner then rounds out the series with a brief Afterword in response both to Judge Posner and Justice Davis.

We augmented the focus on opinion writing with an article by law school writing professor Joseph Kimble, who took on the task of demonstrating how a good summary can improve an opinion. We also offer a Resource Page focusing section on legal writing and opinion writing.

In addition, two other articles are included in this issue. Professor William Ross, both a law professor and a former news reporter, provides a practical discussion about the limits of permissible comments by judges to the public, especially the media. His article goes beyond the U.S. v. Microsoft case, which has been excerpted here in the preceding issue, discussing both applicable canons and cases. Last, Professor Charles Whitebread presents his annual review of the criminal decisions from the past Term of the United States Supreme Court; his review of civil cases will be in the next issue.—SL.