

# Court Review

THE JOURNAL OF THE AMERICAN JUDGES ASSOCIATION  
Volume 38, Issue 2

Summer 2001

## 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 focus 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



*Court Review*, the quarterly journal of the American Judges Association, invites the submission of unsolicited, original articles, essays, and book reviews. *Court Review* seeks to provide practical, useful information to the working judges of the United States. In each issue, we hope to provide information that will be of use to judges in their everyday work, whether in highlighting new procedures or methods of trial, court, or case management, providing substantive information regarding an area of law likely to be encountered by many judges, or by providing background information (such as psychology or other social science research) that can be used by judges in their work. Guidelines for the submission of manuscripts for *Court Review* are set forth on page 25. *Court Review* reserves the right to edit, condense, or reject material submitted for publication.

*Court Review* is indexed in the Current Law Index, the Legal Resource Index, and LegalTrac.

Letters to the Editor, intended for publication, are welcome. Please send such letters to *Court Review's* editor: Judge Steve Leben, 100 North Kansas Avenue, Olathe, Kansas 66061, e-mail address: [sleben@ix.netcom.com](mailto:sleben@ix.netcom.com). Comments and suggestions for the publication, not intended for publication, also are welcome.

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Photo credit: cover photo, Mary Watkins. The cover photo is of the Old Courthouse in St. Louis, Missouri. It was the St. Louis County Courthouse from 1828 (in a predecessor building on the same site) until 1877; it then was the St. Louis City Courthouse until 1930. Two state court trials in which Dred Scott sought his freedom from slavery were held in 1847 and 1850 in this courthouse. In the background of the photo is the Gateway Arch, part of the Jefferson National Expansion Memorial.

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