

Dear Precedent:

I read Professor Abrams's article ["Those Pesky Footnotes – Part I," Summer 2007] condemning footnotes in general – but lauding citation footnotes – with interest. I agree with Bryan Garner's assertion that citations in the midst of text interrupt the natural flow of the writing. I do not, however, agree that putting citations in footnotes, even with the textual references that Garner advocates, makes reading the text easier.

When a reader, and like Prof. Abrams, I assume a trained legal reader, comes to a footnote, the reflex—born, no doubt, of reading dozens of law review articles—is to drop the eyes to the bottom of the page and read the footnote. Even if the footnote consists of nothing more than "*Id.*," the damage has been done. The flow of the writing has been interrupted even more greatly than a citation within the text would have done.

No doubt defenders of Garner's proposal will suggest that as readers

become accustomed to citation footnotes, they will skip over the footnote, knowing from the text that it refers to a case introduced in the text. That argument sounds suspiciously like the argument that those who favor citations in the text use—as Prof. Abrams put it, "If they wish, readers know enough to pass over citations in the main text, which normally are italicized."

Somehow that argument was insufficient to overcome the deficiencies of placing citations in the text. That it should be the unspoken answer in the case of citation footnotes seems problematic at best.

The bottom line, however, is that the judges I've talked to about the issue almost uniformly state that they prefer citations in the text. That is good enough reason for me.

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