

## APPENDIX 2 RECURSIVE CITATIONS

Recursive citations, and knowing when to use “(citation omitted),” can be a bit tricky. The primary operative rules are BB rule 10.6.2 (requiring one level of recursion for cases, whether citations or quotations), BB rule 5.2(e) (requiring one level of recursion for quotations), and BB rule 5.3(c) (addressing omissions of footnotes and citations).

**Cases citing or quoting other cases.** Under BB rule 10.6.2, cases citing or quoting another case for a given point require a parenthetical.

- *Zadvydas v. Davis*, 533 U.S. 678, 719 (2001) (Kennedy, J., dissenting (citing *Shaughnessy v. United States ex rel. Mezei*, 348 U.S. 206 (1953))).

**Sources of any kind quoting other sources.** Although the text of BB rule 5.2(e) is not explicit on this point, our construction of the rule is that whenever a cited source, of any kind, quotes another source, that information should be included in a parenthetical.

- Linda S. Mullenix, *Unconstitutional Rulemaking: The Civil Justice Reform Act and Separation of Powers*, 77 MINN. L. REV. 1283, 1324 n.195 (1993) (quoting JACK B. WEINSTEIN, REFORM OF COURT RULE-MAKING PROCEDURES 25 (1977)).

**Bear in mind** that if an author has left out such parenthetical information, you must supply it. Authors receive no deference if he omits necessary information. However, if an author supplies what is a technically unnecessary citing parenthetical, do not delete the parenthetical. We defer to the author’s decision to include additional citation information.

Any source listed in a “citing” or “quoting” parenthetical will need to be in the source binder.

**Use of “(citation omitted).”<sup>\*</sup>** As mentioned above, if an author has left out information that should be included in a parenthetical, it is up to you to supply the parenthetical. An author’s use of “(citations omitted)” in place of the citing parenthetical is not acceptable. As the text of BB rule 5.3(c) suggests, the only appropriate use of “(citation omitted)” is when a source is being quoted—what this means is that you will not be including footnotes in the quotation itself. All footnotes within the quoted text should be deleted and subsumed into one footnote at the end.

If there are more than three footnotes or citations within language that is being quoted in an article, you need only cite the first three sources listed in a “(citing, e.g.)” parenthetical. If there are other sources listed that are especially important (and what qualifies as “especially important” is a matter committed to your and your PC’s discretion), include those as well.

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\* “(citation omitted)” can refer in this document to either “(citation omitted)” or “(footnote omitted).”

- **Source text:** While ancient road litigation has also been sprinkled amongst other towns,<sup>1</sup> these three towns contain the bulk of the known conflicts.

When cited in the text of an article, this becomes: “While ancient road litigation has also been sprinkled amongst other towns, these three towns contain the bulk of the known conflicts.”<sup>1</sup>

- **Source text:** When a Vermont town discontinues a road, it may be “discontinued as a trail,”<sup>1</sup> which means the town retains a right-of-way of the same width as the previous highway<sup>2</sup> but is no longer responsible for any maintenance.<sup>3</sup> . . . The land then returns to the “lots to which it originally belonged” or to the owners on each side of the discontinued highway.<sup>4</sup>

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When a Vermont town discontinues a road, it may be “discontinued as a trail,” which means the town retains a right-of-way of the same width as the previous highway but is no longer responsible for any maintenance. . . . The land then returns to the “lots to which it originally belonged” or to the owners on each side of the discontinued highway.<sup>2</sup>

Note that “citations omitted” refers to in-text citations; “footnotes omitted” refers specifically to footnotes.

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<sup>1</sup> Eric Goldwarg, *Known Unknowns: Ancient Roads in Northern New England*, 33 Vt. L. Rev. 413 (2008) (footnote omitted) (citing Source 1).

<sup>2</sup> Eric Goldwarg, *Known Unknowns: Ancient Roads in Northern New England*, 33 Vt. L. Rev. 413 (2008) (footnotes omitted) (citing, *e.g.*, Source 1; Source 2; Source 3).