

August 4, 2023

Chief Justice Matthew Fader
Supreme Court of Maryland
361 Rowe Blvd.
Annapolis, MD 21401

Chair Alan M. Wilner
Vice Chair Douglas R. M. Nazarian
Standing Committee on Rules of Practice and Procedure
Judiciary A-Pod
580 Taylor Avenue
Annapolis, Maryland 21401
rules@mdcourts.gov

Re: Rule 8-112 and Supreme Court-Approved Fonts

Dear Chief Justice Fader, Judge Wilner, and Judge Nazarian:

I write to request that you and the Supreme Court consider amending and modernizing the list of approved appellate fonts. As I understand it from Rule 8-112(c)(1), an amendment to the list does not require consideration by the Rules Committee; it is tasked to the Supreme Court's sole discretion. Exercising that discretion, the Court should remove ugly, outdated, or needless fonts from the list and add modern easy-reading fonts like Palatino Linotype, Equity, and Century Expanded. Alternatively, the Court could direct the Rules Committee to consider and propose a new list.¹

Rule 8-112(c)(1) directs that all "[p]roportionally spaced type" in appellate briefs "be in a font approved by the Supreme Court." The list of approved fonts is on the Supreme Court's website.² This list, ironically enough, is published in a font that attorneys may not use (Open Sans):

¹ In responding to this direction, the Rules Committee would "aid in the exercise of [the Supreme Court's] rulemaking powers." Md. Code Ann., Cts. & Jud. Proc. § 13-301.

² <https://mdcourts.gov/coappeals/filingbriefs>.

Antique Olive	CG Times
Arial	Courier
Arial Rounded	Courier New
Book Antiqua	Footlight MT Light
Bookman Old Style	Letter Gothic
Britannic	MS LineDraw
Century Gothic	Times New Roman
Century Schoolbook	Universal

It includes some ghosts of word-processing past:

This is Britannic Bold, the only version of “Britannic” that comes with modern copies of Microsoft Word. Imagine an entire brief composed of these pudgy characters.

Courier and Courier New need not appear on the list at all. They are not “[p]roportionally spaced type”; they are fixed-width fonts, where each character occupies the same width. They are permitted under Rule 8-112(b), even if they are ugly and hard to read.

Like Courier, Letter Gothic is a fixed-width font and thus a needless inclusion on the proportional font list. And few litigants are likely to benefit from the current inclusion of now-obscure fonts like Antique Olive, CG Times, or MS LineDraw.

The Court’s current list also omits some fine, upstanding fonts that would make for easily read briefs. This letter uses Palatino Linotype, a Microsoft system font. The federal appellate courts for the Second and Seventh Circuits publish in this font.³ The Supreme Court authorizes filing in any “Century family” type:⁴

This is Century Schoolbook, widely considered to be among the best entries in the current font list.

³ For a breakdown of the fonts used to publish opinions of the federal circuit courts of appeals, see Joe Fore (@Joe_Fore), X (July 27, 2023, 2:49 pm), https://twitter.com/Joe_Fore/status/1684637224120258561.

⁴ Sup. Ct. R. 33.1(b).

This is Century Expanded, a custom font in the family with careful spacing and *custom italics*.

One expert on lawyer typography offers an entire line of professional fonts for lawyers: Equity, Valkyrie, Century Supra, Concourse, and Triplicate.⁵ Equity is now the publication font for the Fifth Circuit:⁶

Before RICHMAN, *Chief Judge*, and HO and ENGELHARDT, *Circuit Judges*.

KURT D. ENGELHARDT, *Circuit Judge*:

Federal law is the “supreme Law of the Land.” U.S. CONST. art. VI. When a state law looks like it might conflict with a federal statute or regulation, courts consider preemption to see if the state law in question must yield. *Perry v. Mercedes Benz of N. Am., Inc.*, 957 F.2d 1257, 1261 (5th Cir. 1992). Here, Defendant-Appellee argues that Plaintiffs-Appellants’ state-law tort claims are preempted by the federal Longshore and Harbor Workers’

Any of these would be a welcome addition to the Bar’s appellate repertoire. As John R. Grimm wrote a month into the pandemic, “it’s both interesting and important to develop a coherent visual style for legal writing. ... A good font elevates your writing, inviting the reader in, without stealing the show.”⁷

In addition, updating fonts would be a boon to the appellate bench. As the Seventh Circuit notes in its public guidance, fonts like Palatino Linotype or Century “with a larger ‘x-height’ (that is, in which the letter x is taller in relation to a capital letter) tend[]

⁵ Matthew Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (2d ed. 2018), available at <https://typographyforlawyers.com/font-recommendations.html>.

⁶ *Barrosse v. Huntington Ingalls, Inc.*, no. 21-30761, slip op. at 1 (5th Cir. June 12, 2023).

⁷ John Grimm, *Facing Type: A Tour of the Court of Appeals’ List of Suggested Fonts for Briefs*, mdappblog.com (April 28, 2020), available at <https://mdappblog.com/2020/04/28/facing-type-a-tour-of-the-court-of-appeals-list-of-suggested-fonts-for-briefs/>

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to be more legible.”⁸ These modern fonts would empower attorneys and litigants to make their submissions as readable as possible—they would let thoughtful advocacy enable thoughtful judging.

I hope that you and the Court will consider updating the font list, either to include some new fonts or (like the Supreme Court of the United States) to include families of modern fonts.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dudek", written in black ink on a white background.

Joseph Dudek

CC: Hon. Shirley M. Watts
Hon. Michele D. Hotten
Hon. Brynja M. Booth
Hon. Jonathan Biran
Hon. Steven B. Gould
Hon. Angela M. Eaves

⁸ U.S. Court of Appeals for the Seventh Circuit, *Requirements and Suggestions for Typography in Briefs and Other Papers* (seen June 13, 2023), available at <https://www.ca7.uscourts.gov/forms/type.pdf>.