



NEW YORK
CITY BAR

**COUNCIL ON JUDICIAL
ADMINISTRATION**

MICHAEL P. REGAN
CHAIR
1301 AVE OF THE AMERICAS
NEW YORK, NY 10019
PHONE: (212) 907-9700
FAX: (212) 907-9800
MREGAN@SGRLAW.COM

**STATE COURTS OF SUPERIOR
JURISDICTION COMMITTEE**

BART J. EAGLE
CHAIR
1700 BROADWAY, 41ST FLOOR
NEW YORK, NY 10019
PHONE: (212) 586-0052
FAX: (212) 586-5491
BJE@BARTEAGLELAW.COM

LITIGATION COMMITTEE

JOHN M. LUNDIN
CHAIR
26 BROADWAY
NEW YORK, NY 10004
PHONE: (212) 344-5400
FAX: (212) 344-7677
JLUNDIN@SCHLAMSTONE.COM

October 24, 2019

By Email

John W. McConnell, Esq.
Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, NY 10004
rulecomments@nycourts.gov

**Re: New York City Bar Association Comments on Proposed Amendment
to Commercial Division Rule 6 to Require Proportionally Spaced Typeface**

Dear Mr. McConnell:

Thank you for the opportunity to comment on the proposed amendment to Commercial Division Rule 6 which will require proportionally spaced 12-point serif type in text and footnotes in papers filed in the Commercial Division. The New York City Bar Association (the “City Bar”) commends the Commercial Division Advisory Council (the “Advisory Council”) for undertaking this analysis and for its thoughtful comments on its proposed amendment of the rule.

As a general matter, the City Bar favors the adoption of this rule because the City Bar agrees with the Advisory Council that proportionally spaced 12-point serif type in text and footnotes will enhance the readability and improve comprehension in long passages of text.

After careful consideration of the proposal, the City Bar suggests the following minor change to the language of the proposed amendment. The City Bar’s proposed addition to the amendment is in bold:

Form of Papers. All papers submitted to the Commercial Division shall ~~comply~~ not be inconsistent with CPLR 2101 and section 202.5(a). Papers shall be double-spaced and contain print no smaller than twelve-point, or 8½ x 11 inch paper, bearing margins no smaller than one inch. Unless otherwise directed by the Court or provided in the Court’s individual rules, all text in briefs and affidavits, including footnotes, shall use proportionally spaced 12-point serif typeface such as Times New Roman ~~The print size of footnotes shall be no smaller than ten point.~~ Papers also shall comply with Part 130 of the Rules of the Chief Administrator. Each electronically-submitted memorandum of law and, where appropriate, affidavit and affirmation shall include bookmarks providing a listing of the document’s contents and facilitating easy navigation by the reader within the document.

The City Bar is concerned that some Commercial Division practitioners may not be familiar with the rule’s typeface terminology which may lead to confusion as to which typefaces are permissible. By adding the phrase “such as Times New Roman,” the rule gives practitioners a clear example of a permissible and commonly used typeface. This proposed addition to the rule does not limit or prohibit the use of other proportionally spaced serif typefaces as contemplated by the Advisory Council in its recommendation.

The City Bar’s proposed additional language is also consistent with the rules of the New York Court of Appeals and appellate divisions. Under the Court of Appeals’ Rules of Practice, “[p]apers prepared by a word-processing system shall be printed in . . . a serified, proportionally spaced typeface, **such as Times New Roman . . .**” 22 NYCRR 500.1(j) (emphasis added). The Joint Order of the Departments of the New York State Supreme Court, Appellate Division includes nearly identical language. *See* 22 NYCRR 1250.8(f)(1).

The City Bar believes that this minor proposed addition will be clearer to all practitioners and ensure a higher rate of compliance with the rule without restricting practitioners from using other proportionally spaced serif typeface options as contemplated by the Advisory Council.

Very truly yours,

Michael P. Regan
Chair
Council on Judicial
Administration

Bart J. Eagle
Chair
State Courts of Superior
Jurisdiction Committee

John M. Lundin
Chair
Litigation Committee

To: John W. McConnell
Counsel, Office of Court Administration

From: Commercial and Federal Litigation Section of the New York State Bar Association

Date: October 23, 2019

Re: Proposal to Amend Commercial Division Rule 6 Relating to Font Usage in Papers
Filed with the Court

The Commercial and Federal Litigation Section of the New York State Bar Association (“Section”) is pleased to submit these comments in response to the Memorandum of John W. McConnell, counsel to the Chief Administrative Judge Lawrence K. Marks, dated August 22, 2019 (“Memorandum”), proposing to amend Rule 6 (“Rule 6”) of the Rules of the Commercial Division (the “Rules”) to require proportionally spaced 12-point serif type in text and footnotes in papers filed with the Court.

The proposal of the Commercial Division Advisory Council (“Advisory Committee”) seeks to amend Rule 6 to require the use of proportionally spaced serif typeface as it enhances readability, improves comprehension and retention in long passages of text, and improves the appearance and legibility of motion papers. The formal proposal by the Advisory Committee (“CDAC Memorandum”) is attached as Exhibit A.

I. EXECUTIVE SUMMARY

The Advisory Committee’s proposal seeks to amend Commercial Division Rule 6, which states as follows

[a]ll papers submitted to the Commercial Division shall comply with CPLR 2101 and section 202.5(a) ... and contain print no smaller than twelve-point ... [and] print size of footnotes ... no smaller than ten-point.

As noted in the CDAC Memorandum, “Rule 6 is silent as to a particular style of typeface.”

The CDAC Memorandum further states that “CPLR 2102 and Section 202.5(a) of the Uniform

Rules for the New York State Trial Courts are likewise silent about typeface” and that “CPLR 2101 simply provides that typeface size shall be ‘no less than ten-point in size.’” *Memorandum* at 1.

The Advisory Committee believes that “larger point type in footnotes and proportionally spaced serif typeface would assist the Commercial Division Justices and their staff in dealing with the arduous task of reading and retaining the content of tens of thousands of pages each year, which presumably would lead to greater efficiency.” *Id.* at 2-3. The Advisory Committee goes on to state that “enlarging the typeface of footnotes can enhance the quality and readability of briefs and affidavits filed in the Commercial Division and may result in enhanced efficiency for practitioners and the Court.” *Id.* at 3. However, the Advisory Committee notes that the proposed amendment of Rule 6 will not “mandate [] a particular type of serif typeface.” *Id.*

Therefore, with the changes noted below, the proposed amendment to Rule 6 would read as follows:

Form of Papers. All papers submitted to the Commercial Division shall ~~comply not be inconsistent~~ with CPLR 2101 and section 202.5(a). Papers shall be double-spaced and contain print no smaller than twelve-point, or 8½ x 11 inch paper, bearing margins no smaller than one inch. Unless otherwise directed by the Court or provided in the Court’s individual rules, all text in briefs and affidavits, including footnotes, shall use proportionally spaced 12-point serif typeface ~~The print size of footnotes shall be no smaller than ten-point.~~ Papers also shall comply with Part 130 of the Rules of the Chief Administrator. Each electronically-submitted memorandum of law and, where appropriate, affidavit and affirmation shall include bookmarks providing a listing of the document’s contents and facilitating easy navigation by the reader within the document.

II. COMMENTS

The Section views favorably the position taken by the Advisory Committee and endorses the proposed amendment to Rule 6 except it would suggest that, after the proposed new language, the following language be added “, which includes times roman, courier, new century schoolbook, and palatino fonts.”

From: [Sanderson, Joseph](#)
Sent: Friday, August 23, 2019 8:02 PM
To: [rulecomments](#)
Subject: Proposal to Require Proportionally Spaced 12-Point Serif Type

Categories: Yellow category

Dear Mr. McConnell,

I write in support of the proposed change to the Commercial Division rules, which will significantly improve readability of papers. Similar rules should be adopted outside the Commercial Division.

I also encourage the Administrative Board to consider suggesting that practitioners include hyperlinks to authorities and filings on NYSCEF, as some federal courts have started to do. See <http://federalcourthyperlinking.org/>. This will significantly expedite finding relevant authorities and reduce the amount of court staff time wasted finding authorities, at least for Justices who review papers electronically.

Sincerely,

Joseph Myer Sanderson

KIRKLAND & ELLIS LLP
601 Lexington Avenue, New York, NY 10022
T +1 212 446 4759
F +1 212 446 4900

joseph.sanderson@kirkland.com

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