

## Your Brief is Headed to Court. Dress It Up.

As Matthew Butterick points out, none of us would appear in court in jeans and sneakers, and none of us would argue in a droning monotone.<sup>1</sup> The judges are there to hear arguments, not rate our fashion sense or stage presence, but even so, we know to avoid a style or demeanor that hinders the message.

Yet many lawyers fail to spot the same danger when they ignore typography and, in particular, font choice. In most appeals, the judges never see you. They see your brief. And they are making decisions, consciously or not, from the moment they lay eyes on your document. A brief's typeface merits attention because it's pivotal to each page's overall appearance and attractiveness and therefore to the impression it makes. Good fonts lead the eye smoothly through your arguments; poor font choices, like a faded suit from forty years ago, could distract from what you have to say.

Typeface affects every character of every word, which means it impacts line length, letterspacing, document length, and readability. Don't spend thousands of your client's dollars writing a concise and powerful brief only to swaddle it in yesteryear's fonts, like Arial or Georgia or (Heaven forbid) Courier New, when you can do much better even with the built-in fonts most programs have already. And of course, avoid like the plague the more adventurous choices that could annoy your black-robed reader. Fonts matter, and in federal court it's usually up to you within certain limits.

No need to take my word for it. The Seventh Circuit Court of Appeals recently issued an opinion castigating a lawyer by name for poor typeface. After citing the court's guidelines for practitioners and recommending fonts "designed for use in books," the court criticized the lawyer for using Bernhard Modern, "a display face suited to movie posters and used in the title sequence of the *Twilight Zone* TV show." *AsymaDesign, LLC v. CBL & Assocs. Mgmt., Inc.*, No. 23-2495, \*4-6 (7th Cir. June 3, 2024) (slip op.). And the court specifically praised Matthew Butterick's advice on font choice. *Id.* at \*6. Judges, the court explained, are "long-term consumers of lengthy texts," so to present an argument well to "such people, counsel must make the words easy to read and remember." *Id.*

Very well, you say, I'm convinced—but which fonts are best? I wouldn't presume to dictate, but starting with the options included in PC or Mac systems, take a look at the Century family (which the Supreme Court uses), such as the Century Schoolbook font that I use to share drafts with others who have only system fonts, or perhaps consider Calisto MT, or Palatino. And if you're willing to buy a proprietary font, an excellent option is one the Fifth Circuit itself began using a few

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<sup>1</sup> Matthew Butterick, *Typography for Lawyers* 24 (2d ed. 2010).

years ago: Butterick's Equity (available on his website). In choosing a quality font that eases the reader's passage across the text, you do yourself and your client a favor. And you'll have a leg up on your typographically illiterate opponent.

So no more ramshackle briefs with outdated fonts like Times New Roman (which is the absence of font choice, like white is the absence of color). Dress your prose in the sharpest attire you can. Good typography won't win a case, but it'll keep the judges' attention where you want it.