

Font Considerations To Give Your Legal Briefs An Edge

By **Jason Steed** (May 11, 2021)

On March 16, the U.S. Court of Appeals for the D.C. Circuit issued a notice on "Preferred Typefaces for Briefs," in which the court explicitly "discourage[d] the use of Garamond" because it "appears smaller" and is less "legible" than fonts like Century and Times New Roman.[1]

This sparked a flare of discussion on #AppellateTwitter, about preferred fonts and about brief writing in general. And now that the flare-up has died down, it seems like a good time to provide a quick overview of font requirements and recommendations across the country.



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Notably, the D.C. Circuit did not amend its local rules to require — or disallow — any particular font. Federal Rule of Appellate Procedure 32(a)(5) requires only a legible 14-point serif font, and the D.C. Circuit's local rules say nothing further.

The D.C. Circuit's discouragement of Garamond appears only in the court's recent notice, and in its updated Handbook of Practice. So this serves as a reminder to good practitioners everywhere: Don't rely only on the local rules. If there's a local handbook out there, find it and follow it.

In other words, you shouldn't use Garamond in the D.C. Circuit, even though the rules allow it. Good examples of legible serif fonts that come preinstalled in Microsoft Word — or that are otherwise generally available for free — include Century, Century Schoolbook, Bell, Book Antiqua, Bookman, Caslon, Georgia, Miller, Palatino and Sabon.

Equity is also a nice, newer font that has become somewhat popular here in Texas, but you'll have to pay a licensing fee if you want to use it. And yes, Times New Roman is also legible and works just fine, but it has been the default font in legal writing for a long time, so it carries the risk of appearing accidental, as though you didn't give any thought to the font you were using.

As for Garamond, it has its devotees, but it is definitely smaller than other fonts, and its italics are terrible, so now that at least one court has officially discouraged its use, you should probably consider choosing something else.

Like the D.C. Circuit, the U.S. Court of Appeals for the Seventh Circuit does not require any particular font in its local rules — but its handbook provides a discussion of fonts and typography.[2] And some have read it as implicitly recommending Century Schoolbook and maybe a handful of other fonts, like Bookman, Caslon and Georgia.

Notably, the U.S. Court of Appeals for the Eighth Circuit's website, under "Research Aids," links to the Seventh Circuit's discussion of typography — suggesting the Eighth Circuit might prefer these fonts, too.

The rest of the federal circuit courts do not require any particular font in their local rules, nor do they provide a specific recommendation in any readily available handbook.

But the U.S. Court of Appeals for the Second Circuit regularly uses Palatino in its opinions; the U.S. Court of Appeals for the Fifth Circuit has recently used Equity in some of its

opinions; Book Antiqua has been used in briefs in the U.S. Court of Appeals for the Third Circuit; and some of the other circuits specifically mention Century and Bookman among their examples of acceptable fonts.

So these five fonts — Century, Book Antiqua, Bookman, Equity and Palatino — are all safe bets in most of the federal appellate courts.

Note that the U.S. Court of Appeals for the First Circuit notoriously still uses Courier in its opinions — but do not take this as a model of good practice. Studies show that monospaced fonts like Courier are significantly harder to read. And you don't want to do anything that makes your brief harder to read.

So you shouldn't use Courier or any other monospaced font in your brief writing unless a local rule specifically requires it.

Last but not least among the federal appellate courts is the U.S. Supreme Court, which specifically requires petitions and briefs to be written in a Century family font. This includes Century and Century Schoolbook. And it's worth noting that a lot of law school casebooks are printed in Century Schoolbook, which lends the font an authoritative air.

So you really can't go wrong using Century Schoolbook in all your briefing — unless a local rule disallows it.

In Texas state courts, the rules do not require a particular font. But — as mentioned — Equity has become popular among Texas practitioners and is often used by the appellate courts themselves, in their opinions. So you might score a few extra brief-writing points, in Texas, by using Equity.

Most Texas appellate justices also seem to be thoroughly familiar with Matthew Butterick's "Typography for Lawyers," which guides one through everything from which font to use to the size of the margins.

Neither New York nor California appellate rules require a particular font. But at least one California state court — the Court of Appeal for Second Appellate District — specifically recommends Century Schoolbook.[3] So once again, if the rules don't tell you exactly which font to use, you can't go wrong with Century Schoolbook.

As for telling you exactly which font to use, in Florida, new appellate rules just went into effect in January requiring the use of either Arial or Bookman Old Style. Under this regime, you're better off using Bookman.

Arial is a sans-serif font, and studies show that serif fonts are easier to read than sans-serif fonts. Some practitioners and typographers like to use sans-serif fonts for titles and headings. And a few new studies have suggested that sans-serif fonts might be easier to read on computer screens.

So there are reasons why the Florida Supreme Court might have made allowance for the use of Arial. But until more studies say that sans-serif fonts are really better for screen reading, it's probably safer to stick with Bookman — and to reserve Arial and other sans-serif fonts for headings.

But of course, there are always exceptions. In Connecticut the rules require you to use

either Arial or Univers — both of which are sans-serif fonts. This is why you always have to know the local rules.

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[1] [https://www.cadc.uscourts.gov/internet/home.nsf/Content/Announcement%20-%20Notice%20-%20Preferred%20Typefaces%20for%20Briefs/\\$FILE/noticePreferredTypefacesForBriefs.pdf](https://www.cadc.uscourts.gov/internet/home.nsf/Content/Announcement%20-%20Notice%20-%20Preferred%20Typefaces%20for%20Briefs/$FILE/noticePreferredTypefacesForBriefs.pdf).

[2] <http://www.ca7.uscourts.gov/rules/type.pdf>.

[3] <https://www.courts.ca.gov/documents/2DCA-Electronic-Formatting-Req-Guide.pdf>.