

Revised: February 25, 2021

## **Document Formatting in Cases Assigned to Judge Baker**

The [Rules of the U.S. Court of International Trade](#) and the Court's [Standard Chambers Procedures](#) govern all cases assigned to Judge Baker unless otherwise ordered. In addition, effective January 1, 2021, the following requirements and recommendations apply to all documents filed after a case is assigned to Judge Baker:<sup>1</sup>

1. **Typeface and type size:** Documents created by counsel after a case is assigned to Judge Baker must comply with the typeface and type size requirements of Federal Rule of Appellate Procedure 32(a)(5)(A), except that counsel may use 13-point or 12-point type for footnotes. This requirement does not apply to materials found in the USCIT Rules' Appendix of Forms or the forms included in the Standard Chambers Procedures, all of which may be used without modification.

2. **Glossary:** Judge Baker discourages the use of acronyms and abbreviations where possible but recognizes that sometimes they are a necessary evil when terminology is long or unwieldy. Briefs must therefore include a glossary of case-specific acronyms and abbreviations. *Cf.* D.C. Cir. R. 28(a)(3). The

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<sup>1</sup> Unless otherwise ordered, compliance with these instructions is not required in cases assigned to Judge Baker prior to January 1, 2021, or in cases assigned to three-judge panels that include Judge Baker.

glossary need not include acronyms and abbreviations of terms commonly understood by the Court's bar, e.g., APA, AD. Nor should the glossary include case names. Counsel should use common sense—does anyone outside of the litigants to the case know what the abbreviation or acronym means? If not, counsel should include that term in the glossary.

The glossary must appear after the table of authorities and immediately prior to the statement of facts, *see* USCIT R. 81(j)(6), and it does not count toward the applicable word limit.

**3. Non-Binding Formatting Recommendations:** Counsel's choices regarding formatting affect a document's legibility and hence persuasiveness. Judge Baker recommends (but does not require) that counsel follow the Seventh Circuit's document formatting suggestions excerpted from that court's *Practitioner's Handbook for Appeals* ("*CA7 Handbook*") and appended hereto.

Judge Baker encourages counsel to use either a Century-family typeface, such as Century Expanded, Century Schoolbook, or New Century Schoolbook (as required by U.S. Supreme Court rules for filing in that court, *see* S. Ct. R. 33.1(b)), or another serif typeface designed for books. The Seventh Circuit's appended discussion recommends several such serif typefaces in addition to Century. *See CA7 Handbook* at 174. Judge Baker discourages the use of Times New Roman for reasons explained by the Seventh Circuit. *See id.* at 173, 175.

**Addendum: Excerpt from *Practitioner’s Handbook for Appeals to the United States Court of Appeals for the Seventh Circuit* (2020 edition)**

Text excerpted from Part XXIII, “Requirements and Suggestions for  
Typography in Briefs and Other Papers”

The full handbook is available at  
<http://ca7.uscourts.gov/rules-procedures//Handbook.pdf>

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5. What has gone before has been a description of requirements in Fed. R. App. P. 32 and Circuit Rule 32. Now we turn to advice, offered for mutual benefit of counsel seeking to make persuasive presentations and judges who want the most legible briefs so that they can absorb what counsel has to offer. Nothing in what follows is mandatory.

Typographic decisions should be made for a purpose. *The Times of London* uses Times New Roman to serve an audience looking for a quick read. Lawyers don't want their audience to read fast and throw the document away; they want to maximize retention. Achieving that goal requires a different approach — different typefaces, different column widths, different writing conventions. Briefs are like books rather than newspapers. The most important piece of advice we can offer is this: read some good books and try to make your briefs more like them.

This requires planning and care. Any business consultant seeking to persuade a client prepares a detailed, full-color presentation using the best available tools. Any architect presenting a design idea to a client comes with physical models, presentations in software, and other tools of persuasion. Law is no different. Choosing the best type won't guarantee success, but it is worthwhile to invest some time in improving the quality of the brief's appearance and legibility.

Judges of this court hear six cases on most argument days and nine cases on others. The briefs, opinions of the district courts, essential parts of the appendices, and other required reading add up to about 1,000 pages per argument session. Reading that much is a chore; remembering it is even harder. You can improve your chances by making your briefs typographically superior. It won't make your arguments better, but it will ensure that judges grasp and retain your points with less struggle. That's a valuable advantage, which you should seize.

Two short books by Robin Williams can help lawyers and their staffs produce more attractive briefs. *The PC is not a Typewriter* (1990), and *Beyond the PC is not a Typewriter* (1996), contain almost all any law firm needs to know about type. These books have counterparts for the Mac OS: *The Mac is not a Typewriter* and *Beyond the Mac is not a Typewriter*. Larger law firms may want to designate someone to learn even more about type. For this purpose, curling up with Robert Bringhurst, *The Elements of Typographic Style*, has much the same value for a brief's layout and type as Strunk & White's *The Elements of Style* and Bryan A. Garner's *The Elements of Legal Style* do for its content.

Another way to improve the attractiveness and readability of your brief or motion is to emulate high-quality legal typography. The opinions of the Supreme Court, and the briefs of the Solicitor General, are excellent models of type usage. The United States Reports are available online in Acrobat versions that retain all of their original typography. You can find them at <https://www.supremecourt.gov/opinions/boundvolumes.aspx>. Briefs of the Solicitor General also are available online in Acrobat versions. Go to <https://www.justice.gov/osg/search-osg-briefs-pdfs>. The Supreme Court's opinions and the SG's briefs follow all of the conventions mentioned below, as do the printed opinions of the Seventh Circuit.

Here are some suggestions for making your briefs and other papers more readable.

- Use proportionally spaced type. Monospaced type was created for typewriters to cope with mechanical limitations that do not affect type set by computers. With electronic type it is no longer necessary to accept the reduction in comprehension that goes with monospaced letters. When every character is the same width, the eye loses valuable clues that help it distinguish one letter from another. For this reason, no book or magazine is set in monospaced type. If you admire the typewriter look nonetheless, choose a slab-serif face with proportional widths. Caecilia, Lucida, Officina, Serif, Rockwell, and Serifa are in this category.
- Use typefaces that are designed for books. Both the Supreme Court and the Solicitor General use Century. Professional typographers set books in New Baskerville, Book Antiqua, Calisto, Century, Century Schoolbook, Bookman Old Style and many other proportionally spaced serif faces. Any face with the word "book" in its name is likely to be good for legal work. Baskerville, Bembo, Caslon, Deepdene, Galliard, Jenson, Minion, Palatino, Pontifex, Stone Serif, Trump Mediäval, and Utopia are among other faces designed for use in books and thus suitable for brief-length presentations.
- Use the most legible face available to you. Experiment with several, then choose the one you find easiest to read. Type with a larger "x-height" (that is, in which the letter x is taller in relation to a capital letter) tends to be more legible. For this reason, faces in the Bookman and Century families are preferable to faces in the Garamond and Times families. You also should shun type designed for display. Bodoni and other faces with exaggerated stroke widths are effective in headlines but hard to read in long passages.

Professional typographers avoid using Times New Roman for book-length (or brief-length) documents. This face was designed for newspapers, which are printed in narrow columns, and has a small x-height in order to squeeze extra characters into the narrow space. Type with small x-height functions well in columns that contain just a few words, but not when columns are wide (as in briefs and other legal papers). In the days before Rule 32, when briefs had page limits rather than word limits, a typeface such as Times New Roman enabled lawyers to shoehorn more argument into a brief. Now that only words count, however, everyone gains from a more legible typeface, even if that means extra pages. Experiment with your own briefs to see the difference between Times and one of the other faces we have mentioned.

- Use italics, *not* underlining, for case names and emphasis. You don't see case names underlined in the United States Reports, the Solicitor General's briefs, or law reviews; for good reason. Underlining masks the descenders (the bottom strokes of characters such as g, j, p, q and y). This interferes with reading, because we recognize characters by shape. An underscore makes characters look more alike, which not only slows reading but also impairs comprehension.
- Use real typographic quotes (“and”) and real apostrophes (’), not foot and inch marks. Reserve straight ticks for feet and inches.
- Put only one space after punctuation. The typewriter convention of two spaces is for monospaced type only. When used with proportionally spaced type, the extra spaces lead to what typographers call “rivers” — wide, meandering areas of white space up and down a page. Rivers interfere with the eyes moving from one word to the next.
- Do not justify your text unless you hyphenate it too. If you fully justify unhyphenated text, rivers result as the word processing or page layout program adds white space between words so that the margins line up.
- Do not justify monospaced type. Justification is incompatible with equal character widths, the defining feature of a monospaced face. If you want variable spacing, choose proportionally spaced face to start with. Your computer *can* justify a monospaced face, but it does so by inserting spaces that make for big gaps between (and sometimes within) words. The effects of these spaces can be worse than rivers in proportionally spaced type.

- Indent the first line of each paragraph ¼ inch or less. Big indents disrupt the flow of text. The half-inch indent comes from the tab key on a typewriter and is never used in professionally set type.
- Cut down on long footnotes and long block quotes. Because block quotes and footnotes count toward the type volume limit, these devices do not affect the length of the allowable presentation. A brief with 10% text and 90% footnotes complies with Rule 32, but it will not be as persuasive as a brief with the opposite ratio.
- Avoid bold type. It is hard to read and almost never necessary. Use italics instead. Bold italic type looks like you are screaming at the reader.
- Avoid setting text in all caps. The convention in some state courts of setting the parties' names in capitals is counterproductive. All-caps text attracts the eye (so does boldface) and makes it harder to read what is in between — yet what lies between the parties' names is exactly what you want the judge to read. All-caps text in outlines and section captions also is hard to read, even worse than underlining. Capitals all have one same rectangular shape, so the reader cannot use shapes (including ascenders and descenders) as cues. Underlined, all-caps, boldface text is almost illegible.

One common use of all-caps text in briefs is argument headings. Please be judicious. Headings can span multiple lines, and when they are set in all-caps text are very hard to follow. It is possible to make heading attractive without using capitals. Try this form:

## **ARGUMENT**

### I. The Suit is Barred by the Statute of Limitations

A. Perkins had actual knowledge of the contamination more than six years before filing suit

This form is harder to read:

## **ARGUMENT**

### I. THE SUIT IS BARRED BY THE STATUTE OF LIMITATIONS

A. Perkins had actual knowledge of the contamination more than six years before filing suit

If you believe that italics and underscores are important to getting your idea across, try something like this (replacing underlining with a rule line beneath the text):

## **ARGUMENT**

### I. The Suit is Barred by the Statute of Limitations

A. *Perkins had actual knowledge of the contamination more than six years before filing suit*

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