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By Email

John W. McConnell, Esq.
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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,

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