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November 18, 2014

The Hon. Alan M. Wilner
Chairperson
Standing Committee on Rules of Practice and Procedure
2011-D Commerce Park Drive
Annapolis, MD 21401

Re: Opposition to Proposed Changes to Rule 8-112

Dear Judge Wilner:

I write in opposition to the Rules Committee's proposed changes to Rule 8-112 that would mandate use of Times New Roman font and double-spacing between lines in appellate briefs. Having worked as a newspaper editor prior to joining the Bar, I earned a strong appreciation for proper presentation of the written word; though there are admittedly fewer visual tools available in constructing an appellate brief than there are in assembling a newspaper page, I have in my early legal career remained dedicated to optimizing the reading experience in all my work. I urge you to reconsider the Committee's recommendations regarding font and spacing requirements, which I believe unnecessarily bind the Bar to inferior typographical practices that will be regarded as outdated in the years ahead.

Times New Roman was not designed for use in legal writing, or any other professional writing, for that matter - it was created for the *Times* newspaper of London as a legible yet compressed font that would effectively fit more words into the tight confines of newspaper columns and limited story sizes. Its widespread use in law and other professions is a mere byproduct of its being used as the default font in early word-processing computer programs. See generally M. Butterick, *Typography for Lawyers* 110-111 (2010). Fonts created for use in formal texts

and literature (such as Book Antiqua, the font used in this letter) are regarded as the more appropriate choice for legal writing by the U.S. Supreme Court (which mandates use of the Century typeface in briefs, *see* Sup. Ct. R. 33.1(b)) and the U.S. Court of Appeals for the Seventh Circuit, which provides this advice in its typography guidelines:

Typographic decisions should be made for a purpose. The *Times* of London chose the typeface 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. ... Briefs are like books rather than newspapers.

...

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.

Requirements and Suggestions for Typography in Briefs and Other Papers, U.S. Court of Appeals for the Seventh Circuit ("Seventh Circuit Typography Guidelines"), at pp. 3-5, available at <http://www.ca7.uscourts.gov/rules/type.pdf>.

Any concerns about the "extra pages" produced by more suitable fonts would be somewhat alleviated by the Court's continued allowance in Rule 8-112(c)(2) of 1.5 spacing between lines. The current convention of double-spacing in professional documents is not the outcome of a consensus among typographers or expert conclusions about readability. Rather, double-spacing is a stubborn habit that has persisted from the days of typewriter use: Because the carriage of a typewriter could only

progress in increments of one line, a writer who wished to relax his or her text and leave room for notations was forced to insert entire additional lines of space.

Double-spacing is therefore a result of bygone technological limitations that do not apply in today's world of computerized word-processing. In my opinion (and that of many professional typographers), double-spacing leaves the text excessively loose, whereas less spacing creates a more cohesive, consolidated appearance. *See Butterick, supra*, at 139 ("Double-spacing became the default because single-spaced typewritten text is dense and hard to read. But double-spacing is still looser than optimal.") The current minimum 1.5 spacing requirement of Rule 8-112 achieves a good balance of preventing text from being either too compact or slack, with sufficient space for a reader's notes. *See also Require 1.5 line spacing for all writing assignments!* The Writing Program, University of Massachusetts, available at <http://www.umass.edu/writingprogram/teaching/line%20spacing.html>. ("Many people find it easier to read 1.5 line spacing, and there's still plenty of room for line edits.").

If the Court is to modify Rule 8-503 to require word limits in briefings rather than page limits (a very sensible change), it is difficult to see the necessity of modifying font requirements as well – as noted by the Seventh Circuit in discussing Fed. R. App. P. 32, "Now that only words count, however, everyone gains from a more legible typeface, even if that means extra pages." Seventh Circuit Typography Guidelines at 5. Writers who elect to use 1.5 line spacing instead of double-spacing will greatly reduce or eliminate any additional physical length to their documents, without doing any harm to (and likely actually improving) readability. Simply, attorneys will be able to present better-looking briefings that more aptly reflect the formality and professionalism of practice before the Maryland appellate courts.

Of course, the reasoned preferences of the current appellate judges should receive weighty consideration in any change to rules of style and form, and I do not suggest otherwise. I respectfully submit, however, that court documents should be crafted to appeal to other individuals as well, including clerks and interns (who, as I experienced in my own time in chambers on the Court of Appeals, must also spend considerable time with briefs), and, importantly, future appellate judges. As typographical customs gradually evolve from the quirks associated with the typewriter era, younger generations of interns, clerks, and judges may not share the present stylistic inclinations of the bench.

One last category of readers should also not be forgotten in the Committee's deliberation of modifications to Rule 8-112: members of the Bar and the general public. Most practitioners endeavor to craft briefs addressing topics of sufficient import so as to attract the attention of other attorneys. Not infrequently, briefs argue matters of such significance as to be sought out by members of the media and even individual Maryland citizens. With this audience in mind, it is worthwhile to promote typography that best enhances the reading experience and properly conveys the dignity and respect our appellate courts deserve.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Mincher', with a large, stylized initial 'C' and a long, sweeping horizontal line extending to the right.

CHRISTOPHER J. MINCHER