INTERNAL OPERATING PROCEDURES

OF THE

SUPREME COURT OF THE VIRGIN ISLANDS

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as amended April 1, 2014

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INTRODUCTION

A. Objectives.

These "Internal Operating Procedures" ["IOPs"] cover the essential processes of the Supreme Court, from the distribution of the briefs to the final termination of the appeal and court administration and are designed:

(1) To insure that appeals are processed as expeditiously as possible consistent with the careful discharge of appellate responsibilities;

(2) To insure decisional stability and avoid intra-court conflict of decisions by providing a means for the panel system to operate efficiently and at the same time avoid advertently overruling a holding of a published opinion of the Court;

(3) To insure the opportunity for contributions by each justice appointed to a particular panel to all decisions of the panel; and

(4) To maintain the highest degree of collegiality among the justices of the Supreme Court, judges of the Superior Court and Designated Justices appointed to sit on the Supreme Court.

B. Implementation.

These IOPs implement:

(1) Statutory mandates, including the Revised Organic Act of 1954, as amended, and the Virgin Islands Code;

(2) The Virgin Islands Rules of Appellate Procedure; and

(3) The customs and traditions of this Court and its predecessor.

Although these IOPs have been publicly released in order to educate members of the Virgin Islands Bar and the general public as to how the Supreme Court carries out its operations, these IOPs do not have the force of law and do not govern practice before the Supreme Court. In other words, these IOPs are not intended to—and do not—create any substantive or procedural rights or other obligations on the part of the Supreme Court that are enforceable by litigants, members of the Bar, or the public. Because these IOPs are derived from other authorities and do not have the force of law, the IOPs will be modified from time to time, without prior notice, to accommodate changes in the Rules of Appellate Procedures and the Supreme Court's evolving internal practices.

C. Definitions.

(1) **Chief Justice**. The Chief Justice of the Supreme Court is the Chief Justice selected pursuant to Section 3 of Act 6687 and 4 V.I.C. § 21(a). In the absence of the Chief Justice, the Associate Justice next in seniority based on commission shall serve as Chief Justice, followed by Designated Justices selected pursuant to 4 V.I.C. § 24(a), based on the seniority of their judicial commissions. Where several Justices are sworn on the same date the order of their swearing will determine the order of precedence.

(2) **Designated Justices**. Retired or Senior Justices and Active, Senior or Retired Judges of the Superior Court or other court of record in the Virgin Islands, as appointed by the Chief

Justice of the Supreme Court pursuant to 4 V.I.C. § 24(a), may serve on the Supreme Court as Designated Justices for specific cases and sittings. When serving with a Designated Justice, the Chief Justice and any Associate Justices shall have greater seniority. When two or more Designated Justices serve on a panel, their seniority shall be determined in the following order:

(a) Senior Justices of the Supreme Court;
(b) Retired Justices of the Supreme Court;
(c) Active Judges of the Superior Court;
(d) Senior Judges of the Superior Court;
(e) Retired Judges of the Superior Court;
(f) Active Judges of the District Court;
(g) Senior Judges of the District Court;
(h) Retired Judges of the District Court.

Within each category, seniority shall be determined based on the date of original judicial commission, except that the Presiding Judge of the Superior Court shall be deemed more senior than all other active Superior Court judges and the Chief Judge of the District shall be deemed more senior than other active District Court judges. Where several Designated Justices of equal seniority serve on a panel, the order of their swearing in as Designated Justices will determine the order of precedence.

(3) **Presiding Justice**. The Chief Justice is the Presiding Justice of the three justice panel. In the absence of the Chief Justice on a panel, the Presiding Justice is the Associate Justice of this Court with the longest tenure, followed by Designated Justices based on the seniority as set forth above.

(4) **Clerk**. Unless otherwise specified, "Clerk" refers to the Clerk of the Supreme Court.

(5) **Judicial Division**. The Supreme Court is not divided into divisions. Any reference to Judicial Divisions refers to the Judicial Divisions of the Superior Court designated by their geographic locations: The Division of St. Thomas and St. John and the Division of St. Croix.

D. Panels and Sittings.

(1) **Panel**. Pursuant to section 4 V.I.C. § 31(a), appeals to the Supreme Court shall be heard by a panel of three justices. The concurrence of any two justices is required for a decision.

(2) **Sittings**. The Supreme Court shall convene in regular session in a three-justice panel as needed (usually monthly), in St. Croix and in special or regular sessions at such other location within the Virgin Islands, at such date and time as may be determined by the Chief Justice. Sittings shall be held at the Supreme Court buildings or other court facilities. Not less than thirty days before Court is scheduled to sit, a calendar shall be distributed by the Clerk to all justices and the parties (through their counsel of record if appropriate).

CHAPTER 1. BRIEFS AND PREPARATION

1.1 Before a Court Sitting.

The Clerk will distribute briefs and appendices sufficiently in advance to afford at least two and preferably three full weeks' study in chambers before a Court sitting, except in special circumstances such as expedited cases. Two sets of briefs and one set of appendices are furnished to each chambers. As briefs, appendices and other pleadings are electronically filed

and readily viewable and available in the Virgin Islands Appellate Case Management System (VIACMS), the Clerk shall inquire of each chambers its preference for receiving such hard copies of the briefs and appendices and be guided accordingly. At the termination of the case, the briefs and appendices shall be returned to the Clerk. As cases become fully briefed, they are assigned to the justices and scheduled for disposition by the Chief Justice. Expedited matters are forwarded to the justices for immediate consideration.

1.2 Preparation of Case Calendar and Prehearing Assignment.

(a) **Prehearing Assignment**. At least thirty (30) days prior to any scheduled session of court, the Clerk shall prepare a proposed calendar of cases then at issue and ready for disposition before the Court. The Chief Justice shall assign each case on the approved calendar (usually by lot) to a justice who may prepare a prehearing memorandum for that case for circulation to the other justices on the panel at least five (5) days prior to the oral argument or submission date. The prehearing memorandum consists of a summary of facts, the procedures below, the issues before the Court for resolution, the arguments and legal position of the respective parties, and additional or other data (such as findings of fact, memorandum opinions, exhibits, etc.) as may be of assistance to the other members of the panel, and may include a recommended decision on any or all issues.

(b) **Public Notice**. At least two weeks prior to each session of Court, a copy of the calendar and public notice or press releases of the cases to be heard in the ensuing session will be prepared and disseminated by the Clerk of the Court and posted on the Court's website.

1.3 Responsibility of Panel Before Scheduled Sitting.

The justices of the Supreme Court have adopted and will maintain the practice of carefully reading briefs and reviewing appendices before oral argument or conference.

CHAPTER 2. ORAL ARGUMENT

2.1 Determination by Chief Justice; Notice to Counsel.

There is oral argument on a case if it is requested by a justice. In the absence of such request, the Chief Justice determines whether there will be oral argument and the amount of time allocated to each case, taking into consideration any requests of a justice or a party. The usual allocation of time is fifteen minutes per side. A request for oral argument time beyond fifteen minutes a side is determined by the Chief Justice. If not specified in the calendar released by the Clerk, no later than ten days before the sitting, the Chief Justice enters an order designating the cases to be argued and the Clerk distributes to the parties (through their counsel of record if appropriate) a copy of the order, which shall include the names of the members of the panel and the cases on which oral argument will be heard.

2.2 Failure to Notify Chief Justice.

Should a justice fail to notify the other justices of his or her views on oral argument

before noon of the eleventh day before the sitting, the Chief Justice shall assume that the non-notifying justice agrees to be bound by the determinations of the Chief Justice.

2.3 Suggested Criteria for Oral Argument.

2.3.1 Oral argument is usually unnecessary when:

(a) The issue is narrow, not novel, and the briefs adequately cover the arguments;

(b) The outcome of the appeal is clearly controlled by precedent;

(c) The state of the record will determine the outcome and the sole issue is either sufficiency of the evidence, the adequacy of jury instructions, or rulings on admissibility of evidence, and the briefs adequately refer to the record; or

(d) Only one party is represented by counsel or has appeared in the appellate proceedings.

2.3.2 Oral argument is often helpful when:

(a) The appeal presents a substantial and novel legal issue;

(b) The resolution of an issue presented by the appeal will be of institutional or precedential value;

(c) A justice has questions to ask counsel to clarify an important legal, factual, or procedural point;

(d) A decision, legislation, or an event subsequent to the filing of the last brief may significantly bear on the case; or

(e) An important public interest may be affected.

2.4 Recording of Oral Argument

The Court may, in its discretion, record the oral arguments in any case. If recorded, audio and video broadcasts of oral arguments will be made available online at the Court's website, except for sealed cases.

CHAPTER 3. COMPOSITION OF COURT PANELS AND ORDER OF PRECEDENCE

3.1 Composition of Court Panel.

Each panel includes the three justices of the Court. If one or more justices are recused from a case, the panel shall be filled by Designated Justices appointed by the Chief Justice pursuant to 4 V.I.C. § 24(a) from senior or retired justices of this court, or senior, retired or active judges of the Superior Court or other Virgin Islands court of record. A remand from the Supreme Court of the United States is referred to the panel which decided the matter, unless two of the original panel members have left the bench or are otherwise unavailable.

3.2 Entering Court.

The justices enter the courtroom in the reverse order of precedence. Facing the courtroom from the bench, the Chief Justice (or Presiding Justice) is in the middle, with the most senior

Associate or Designated Justice stationed to the right and the junior Associate Justice or Designated Justice to the left of the Chief Justice. All remain standing until the Chief Justice sits.

CHAPTER 4. PANEL CONFERENCE PROCEDURE

4.1 Conference.

Following oral argument, the Court will convene in a conference. By unanimous agreement of the panel, conferences in cases submitted on the record may be held by telephone or videoconference or views may be exchanged by facsimile or electronic mail before the day of argument. After cases have been argued, the panel re-assembles in conference to confer and exchange tentative views on the merits of each case argued and submitted. Any case not completely conferenced immediately following oral argument may be conferenced later in person or by the means allowed for submitted cases.

4.2 Tentative Views and Opinion Assignment.

Discussion of the case will be opened by the prehearing assigned justice, these remarks being presented without interruption. Thereafter, each justice in inverse order of seniority may discuss the case without interruption. Following the initial discussion by each justice, if necessary, the discussion will go around the table a second time in the same order, at which time each justice may comment on the remarks and issues raised by the preceding justices, and, if not already expressed, each justice at their second turn will conclude with an indication of the proposed disposition of the case. At the conclusion of the conference, if it appears that the prehearing assigned justice is in the majority, the Chief Justice will normally assign the case to that justice for the preparation of the opinion of the court.

4.3 Memorandum of Decision.

As soon as practicable after the conclusion of the conference, but generally within two days, the justice assigned to prepare the opinion shall circulate to the panel a memorandum that briefly summarizes the agreed disposition of the case. If another justice of the panel believes that the circulated memorandum of decision does not accurately reflect the proposed disposition, he or she shall notify the assigned justice, who may take any appropriate action necessary to respond to the comments, such as circulating an amended memorandum or requesting that the matter be set for a new conference.

4.4 Reassignment. When it appears that the views of the justice to whom a case has been assigned are not concurred in by the majority of the panel, the Chief Justice may reassign the case to another justice of the panel who shares the majority view. If the panel is divided in its views and the Chief Justice does not concur in the decision of the majority, the assignment is made by that member of the majority who is the ranking Associate Justice or Designated Justice.

All communications regarding the proposed decision of the panel shall be treated as confidential and each chambers shall make necessary arrangements, with the assistance of the appellate law clerks and staff, to assure confidentiality is maintained.

4.5 Assignment on Justice's Unavailability.

4.5.1 Recusals and Unavailability. When a justice decides for any reason to recuse in a particular case to which that justice is assigned, the Clerk shall select, and the Chief Justice will designate a replacement for that justice where required.

Whenever a justice is recused after a case is submitted or argued, or for any other reason is unable to participate in the disposition of a case, the remaining members of the panel will consider whether the issues are of sufficient difficulty (including but not limited to whether they are unable to agree) to make it advisable or necessary to designate a third justice. If a third justice is designated after argument, the panel will decide whether the case will be reargued or whether the newly designated justice will hear or view the argument from the recording of the courtroom proceedings.

4.5.2 Absence From Argument. When a justice determines for any reason that the justice is unable to be physically or remotely present on the day argument is scheduled, the justice may participate in the decision of a case after listening to or viewing, if necessary, recordings of the oral argument. Otherwise, the Clerk shall select, and the Chief Justice will designate a replacement for that justice from available justices or designated justices.

CHAPTER 5. OPINIONS FORMAT

5.1 Forms of Opinions.

There are two forms of opinions: "for publication" and "not for publication". Unless a majority of the panel decides otherwise, an opinion shall be for publication.

5.2 For Publication Opinions.

An opinion, whether signed or per curiam, is published when it has precedential or institutional value. A per curiam opinion may be used for affirming, reversing, vacating, modifying, setting aside, or remanding the judgment, decree, or order appealed from, or for dismissing an appeal.

5.3 Not for Publication Opinions; Memorandum Opinions.

An opinion which the majority of the panel decides has value only to the trial court or the parties is not published. When the panel unanimously determines to affirm the judgment, order, or decision of the court under review, or to dismiss an appeal, and determines that a written opinion will have little or no precedential or institutional value, the author may choose to write a memorandum opinion briefly setting forth the reasons supporting the Court's decision as an alternative to preparation of a judgment order. Unless an opinion states that it is not for publication on its face, it shall be for publication.

5.4 Listing of Counsel and Judge.

The names of counsel and the Superior Court judge or magistrate who presided at the trial or entered the decision or order being reviewed are listed on all opinions, orders, and judgment orders.

5.5 Preparation and Circulation of Opinions.

5.5.1 By Author. The authoring justice prepares a draft opinion in accordance with the decision of the panel at conference, but the author may express any different views she or he may reach after further study of the case. The draft opinion shall set forth the reasons supporting the Court's decision.

5.5.2 Circulation Within Panel. After the draft opinion has been prepared, the authoring justice circulates it to the other two members of the panel with a request for approval or suggestions they may desire to make with respect to the draft opinion. Answering this request is given the highest priority by the other two justices, who shall communicate in writing their approval or disapproval within time deadlines specified in IOP 5.5.3(c). Absent a request for additional time, failure to respond within that time period shall be deemed an approval of the opinion as drafted. Because it is the opinion of the court, other members of the panel are free to make any suggestions relating to the modification of, addition to, or subtraction from the proposed text. Where a textual revision or addition is suggested, the suggesting justice submits his or her modification as tracked edits directly to the draft opinion or in specific language capable of being inserted into the opinion. When one of the other two justices approves, it becomes the proposed opinion of the court. Should the other panel members disagree with the author's draft, the opinion is reassigned by either the Chief Justice or the ranking justice who is a member of the panel's majority.

5.5.3 Time Schedule for Panel Drafting and Circulating Opinions; Reassignments.

The following procedures and time schedules govern the drafting and circulation of opinions:

(a). The justice to whom drafting is assigned will circulate a proposed opinion to the panel within 90 days of the date of assignment. Draft opinions in expedited cases will be transmitted to the other members of the panel within 30 days after assignment or after close of any supplemental briefing. The presumption is that the 90-day and 30-day period, respectively, will allow ample time for the preparation of an opinion, and instances where it is exceeded should be rare, involving, for example, cases of unusual complexity. Nevertheless, if the assigned justice concludes that the 90-day or 30-day limit cannot be complied with in a particular case, the justice will indicate that fact in a memorandum to the other panel members proposing a revised date of circulation, not to exceed an additional 90 day or 30 day extension, respectively. A copy of the memorandum will also be provided to the Chief Justice, if not a member of the panel. This requirement of a memorandum for extension will apply only to cases submitted to the panel after adoption of these revised Internal Operating Procedures.

(b). If a proposed opinion is not circulated within the time set forth above and a single extension as provided, the Chief Justice may reassign drafting of the opinion to another panel member after consultation with the panel.

(c). When a draft opinion has been circulated, the other justices on the panel will approve, disapprove, or make suggestions as to modifications of the draft within 21 days from its circulation. The other two justices shall respond within 10 days if the matter is being considered on an expedited basis. Responding to a circulated opinion is to be given the highest priority by the other two justices. If one of the other two justices approves, it becomes the proposed opinion of the Court. If no response is received from a panel member within the 21-day or 10-day period, respectively, that member is deemed to have approved the draft as circulated and the member's name will appear on the opinion as a participant.

If, within the 21-day or 10-day period, or after a second panel member approves the draft opinion, the third panel member desires to separately concur or dissent, the justice not joining in the opinion notifies the author promptly and transmits his or her separate opinion to the panel within sixty (60) days (or 20 days in expedited cases) after the second justice's approval is received, although this time may be extended, by agreement of the panel members, for a period not to exceed an additional 30 days or 10 days respectively. Except for revisions not affecting substance, panel opinions are not considered to be completed until each member has an opportunity for 3 days to revise his or her position in response to those of the other two panel members. The time limitations in this paragraph do not apply while a justice is ill or on leave.

(d). Once all responses are received from the panel members or the times provided for response has expired, the author of the circulating draft opinion may change the draft to accord with the comments received. If the changes are substantive or significant, a revised draft opinion will be circulated to the panel within 21 days or 10 days respectively, to which new responses will be made as provided above in the case of initially circulated drafts. If the changes are insignificant or technical, reapproval by the panel is not required.

(e). Should the other panel members disagree with the circulated draft, the opinion writing will be reassigned by the Chief Justice or presiding justice unless that justice is the opinion writer, in which event it will be reassigned by the senior justice in the new majority.

5.5.3. Priority in Opinion Writing

Priority in opinion writing, as far as practicable, will be given to:

(a) Expedited appeals, including, but not limited to, pre-trial bail or detention appeals, *see* 4 V.I.C. § 33(d)(3) & (4), time sensitive election appeals, and juvenile interlocutory appeals, *see* 5 V.I.C. § 2508; government appeals from pre-trial orders in criminal cases and other interlocutory appeals; appeals from orders of the Superior Court terminating parental rights or denying adoption petitions; and appeals from orders in juvenile custody and transfer for trial as an adult; certified questions of law; and cases holding an individual in contempt and imposing the sanction of imprisonment.

(b) After expedited appeals, priority in opinion writing ordinarily will be given to criminal appeals, habeas corpus appeals, and appeals from decisions with respect to juveniles alleged to be neglected, delinquent, or in need of supervision.

(c) Subject to the foregoing order of precedence, priority in opinion writing will be given:

(1) as set forth in other provisions of these Internal Operating Procedures, to dissenting and concurring opinions;

(2) to appeals in the order in which they were submitted to the panel for disposition. Cases which have been pending before the panel for over one year will be given the utmost priority whenever possible.

5.5.4. Redactions. In all opinions, published or unpublished, in appeals from an adjudication of delinquency or neglect, termination of parental rights, or an unconsented adoption, initials instead of names will be used to refer to individual persons who are parties. Initials will also be used in place of names to identify the victim in any appeal from a conviction or delinquency adjudication arising from a sexual assault.

5.6 Filing of Opinions.

5.6.1 Once an opinion has been approved by all three panel members, or all members of the panel have had the time set forth in IOP 5.5.3 to write separate opinions, the authoring justice may transmit the original typescript to the Clerk, together with concurring or dissenting opinions for filing. Absent a request to the authoring justice for additional time as provided in IOP 5.5.3(c), the failure of a panel member timely to file a separate concurring or dissenting opinion does not delay the filing of the majority opinion or the entry of the judgment of the Supreme Court.

5.6.2 Upon unanimous approval of all members of the panel, the opinion (and order) may be entered as a per curiam opinion, signifying that is the opinion of the Court. In such instance, the entered and distributed opinion (and order) shall not include a signature of any panel member. A sealed file copy of the opinion (and order) signed by the authoring justice shall be retained by the Clerk solely for authenticity purposes.

5.6.3 Copies of all opinions, orders, and judgment orders shall be filed with the Clerk in electronic form in Microsoft Office Word 7 or higher format simultaneously with the original typescript so that they may be maintained in the electronic archives and website of the Supreme Court and for publishing where appropriate.

5.6.4 When an opinion is released the authoring justice or the Reporter of Decisions shall prepare a brief summary describing the type of case and its holding, for posting on the Court's website and circulation to subscribers. Such summary is not part of the official opinion of the Court, has no legal effect, and may not be cited as authority, and has merely been added to help the public understand the case and the decision.

5.7 Citation to Judicial Dispositions.

5.7.1 Citation of Unpublished Dispositions.

(a) Dispositions of this Court. An unpublished judicial opinion, order, judgment or other written disposition of this court may be cited regardless of the date of issuance. The court will consider such dispositions for their persuasive value but not as binding precedent. A party must indicate in its brief or other filing that the disposition cited is unpublished. The term "unpublished" as used in this subsection and IOP 5.3 refers to a disposition that has not been selected for publication in the Virgin Islands Reporter.

(b) Dispositions of Other Courts. The citation of dispositions of other courts is governed by the rules of the issuing court. Notwithstanding the above, unpublished or nonprecedential dispositions of other courts may always be cited to establish a fact about the case before the court (for example, its procedural history) or when the binding or preclusive effect of the opinion, rather than its quality as precedent, is relevant to support a claim of res judicata, collateral estoppel, law of the case, double jeopardy, abuse of the writ, or other similar doctrine.

(c) Copies Required. If a party cites a judicial opinion, order, judgment, or other written disposition that is not available in a publicly accessible electronic database, the party must file and serve a copy of that opinion, order, judgment or disposition with the brief or other paper in which it is cited.

5.7.2 The Clerk shall promptly mail, electronically mail, telefax, or provide an electronic notice of the location of a copy of the opinion or dispositional order to each party.

5.7.3 The form and style of citations shall be as set forth in THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION as modified by the current "Style Guide for the Supreme Court of the Virgin Islands" Appendix to these IOPs.

CHAPTER 6. JUDGMENT ORDERS

6.1 Panel Unanimity.

A case may be terminated in the Supreme Court by a judgment order upon the unanimous decision of the panel.

6.2 Criteria.

6.2.1 A judgment order is filed when the panel unanimously determines to affirm the judgment or order of the Superior Court or to dismiss the appeal for lack of jurisdiction or otherwise, and determines that a written opinion will have no precedential or institutional value.

6.2.2 A judgment order may be used when:

(a) The judgment of the Superior Court is based on findings of fact which are not clearly erroneous;

(b) Sufficient evidence supports a jury verdict;

(c) No error of law appears;

(d) The Superior Court did not abuse its discretion on matters addressed thereto; or

(e) The Supreme Court has no jurisdiction.

6.3 Form of Order.

6.3.1 A judgment order affirming the Superior Court in a direct criminal appeal includes a statement of those issues raised by appellant and considered by the panel.

6.3.2 A judgment order may state that the case is affirmed by reference to the opinion of the Superior Court and may contain one or more references to cases or other authorities.

6.4 Procedure.

6.4.1 At conference, the panel decides whether the case requires an opinion or a judgment order. If the latter, the justice assigned to prepare the order furnishes other members of the panel with copies of the proposed order. The panel members indicate their approval either on a copy which is provided by the order writer or by signifying approval in writing by facsimile, electronic mail, or otherwise.

6.4.2 Absent a request for additional time within fourteen days of distribution, the authoring justice may transmit the original typescript to the Clerk for filing.

CHAPTER 7. ORDERS REVERSING OR REMANDING

7.1 Retention of Jurisdiction.

When a panel deems it appropriate for this Court to retain jurisdiction without disposing of an appeal and to remand the case to the lower court, such as for correction or modification of the record or for consideration of a settlement reached on appeal, the panel may do so and hold the appeal in abeyance. In such an instance, a panel has discretion to retain assignment of the case or return it to the Clerk for reassignment to a subsequent panel upon the return of the appeal to this Court.

7.2 Assignment Following Remand.

When an appeal is filed in a case which has previously been remanded, the Clerk will assign the appeal to a panel in the regular course unless directed otherwise by the Chief Justice after consultation with the original panel.

When a remand retains jurisdiction in the court, the case will be resubmitted to the same panel upon return to the court after remand.

7.3 Reversal or Remand.

In some instances when a panel reverses or remands a case to the lower court and it is not feasible to write an opinion, usually because the matter requires immediate attention, the panel enters a dispositive order setting forth briefly the reasons for its action. A more formal opinion may be released at a later date.

CHAPTER 8. PANEL REHEARING

8.1 Petition.

A petition for panel rehearing is sent to the members of the panel, with the request that each member notify the presiding justice of the panel within eight days of the date of the Clerk's letter forwarding the petition whether they vote to grant the petition or desire that an answer be filed. Non-response will be considered a vote against rehearing.

8.2 Request for Answer.

If any member of the majority gives timely notice that an answer is desired, the presiding justice of the panel enters an order directing the nonmovant to file an answer within ten days. The Clerk forwards the answer to the panel members with the request that they notify the Chief Justice within fourteen days of receipt of the answer if they vote to grant the petition. A justice who does not desire rehearing is not expected to respond.

8.3 Disposition.

If two members of the panel vote therefor, the Chief Justice enters an order granting panel rehearing and vacating the panel's opinion and the judgment entered thereon. Otherwise, the Chief Justice enters the order denying panel rehearing. Any member of the panel may file an opinion sur denial of the petition for panel rehearing and direct its publication.

CHAPTER 9. MOTION PRACTICE

9.1 Assignment and Distribution.

9.1.1 Motions are decided by the Chief Justice, an Associate Justice, the panel, or the Clerk, as provided by Virgin Islands law, the Virgin Islands Supreme Court Rules, and as allocated in these IOPs. Each month a single justice shall be assigned, on a rotating basis, as the monthly “Motion Justice” with the responsibility to dispose of all appropriate motions filed during the assigned month.

9.1.2 When an emergency motion is filed, the movant may be directed by the Clerk to deliver by hand or by transmission via email or facsimile copies of the moving papers that day to the Chief Justice, the Motion Justice or each member of the panel, respectively, at the chambers where the respective justices or Designated Justices are stationed, or at such other place as the Clerk may designate.

9.1.3 Motions on non-emergency matters are distributed to the Chief Justice, the Associate Justices, the Motion Justice or each member of the panel as they are complete, i.e., when responses have been filed.

9.1.4 A motion for reconsideration or rehearing of decision on a motion is referred to the Chief Justice, the Motion Justice or panel which decided the motion.

9.1.5 Whether there shall be oral argument on a motion is determined in the same manner as for an appeal.

9.2 Motions Referred to Clerk.

The Clerk may dispose of any category of motion other than those, which by statute or rule, must be decided by justices.

9.3 Single-Justice Motions.

9.3.1 The Chief Justice may rule on motions as provided under 4 V.I.C. section 31(b), including motions to dismiss, unless the Chief Justice believes reference to a panel is appropriate. A single justice may not determine or dismiss an appeal on the merits. The actions of a single justice, other than those committed to the Chief Justice under 4 V.I.C. section 31(b), may be reviewed by the panel to which the matter is or would have been referred. Motions related to scheduling cases for briefing and argument are decided by the presiding justice of the panel per IOP 2.1.

9.3.2 Without limiting IOP 9.3.1, a motion is referred to the Chief Justice, who either refers it to the panel or rules on the motion if it is one of the following matters appropriate for decision by a single justice:

(a) Substitution or withdrawal of counsel; appointment of counsel;

(b) Dismissal for failure to prosecute or dismissal of an untimely appeal;

(c) Other issues ordinarily left to the discretion of a single justice; matter(s) that do not address the merits of the issue(s) on appeal.

9.3.3 Without limiting IOP 9.3.1, routine motions for extensions of time for filing briefs and administrative matters may be decided by a single justice or, if authorized by appellate rule, the Clerk.

9.4 Summary Action.

Without limiting IOP 9.3.1, a panel, sua sponte or upon motion by a party, may take summary action affirming, reversing, vacating, modifying, setting aside, or remanding the judgment, decree, or order appealed from, or dismissing an appeal if it clearly appears that no substantial question is presented or that subsequent precedent or a change in circumstances warrants such action. Before taking summary action, the panel will afford the parties an opportunity to submit argument in support of or in opposition to such disposition if briefs on the

merits have not already been filed. Summary action may be taken only by unanimous vote of the panel. If the panel determines that summary action is not appropriate, it may, in lieu of denial, defer ruling until the merits of the appeal are considered on submission or upon oral argument.

9.5 Post-Decision Motions.

9.5.1 Unless the Clerk, the Motion Justice or Associate Justice has been designated to act thereon, a motion for extension of time for filing a petition for rehearing or for leave to file out of time is referred to the Chief Justice, who has authority to grant an extension of time.

9.5.2 A motion for stay of mandate or for recall of the mandate, for certified judgment in lieu thereof, or a motion to amend a judgment is referred to the Chief Justice who, in his or her discretion, may refer it to the entire panel that made the decision. Such a motion is not ordinarily granted unless the failure to grant the relief affects a substantive right of the movant.

9.5.3 A motion to extend time to file a bill of costs is determined by the Clerk. An appeal from the Clerk's ruling is referred to the Chief Justice.

CHAPTER 10. RECUSAL OR DISQUALIFICATION OF JUSTICES

10.1 Procedure.

10.1.1 Before or at the same time that cases are sent to a panel, the Clerk transmits copies of the docket sheets to each justice. Any justice who is recused from a case promptly so informs the Clerk.

10.1.2 Each justice who serves on the Supreme Court should submit to the Clerk in writing those circumstances which would generally require a recusal, including names of businesses in which the justice or family members have a financial interest, names of lawyer relatives whose names may appear as counsel in the appeals, and names of law firms on whose cases the justice does not sit.

10.1.3 A justice who finds it necessary to recuse herself or himself from a case after distribution of briefs or a motion immediately notifies the Chief Justice. The Chief Justice names a substitute and reconstitutes the panel for that case or reassigns the case to a subsequent panel by written order.

10.2 Circumstances.

10.2.1 A justice shall recuse himself or herself in the following circumstances and pursuant to 4 V.I.C. § 284:

(a) Where a justice has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) Where, in practice, the justice served as a lawyer on the matter in controversy, or a lawyer with whom he or she previously practiced law served during such association

as a lawyer concerning the matter, or the justice or such lawyer has been a material witness concerning it;

(c) Where the justice has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(d) The justice knows that he or she, individually or as a fiduciary, or spouse or minor child residing in the justice's household, has a financial interest in the subject matter in controversy or is a party to the proceeding, or any interest that could be substantially affected by the outcome of the proceeding;

(e) The justice, the justice's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the justice to have an interest that could be substantially affected by the outcome of the proceeding; or

(iv) Is to the justice's knowledge likely to be a material witness in the proceeding.

10.2.2 A justice should inform herself or himself about her or his personal and fiduciary financial interests, and make a reasonable effort to inform himself or herself about the personal financial interests of his or her spouse and minor children residing in the justice’s household.

10.2.3 For the purposes of this section, the following words or phrases shall have the meaning indicated:

(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(b) The degree of relationship is calculated according to the civil law system;

(c) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(d) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the justice participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civil organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

10.2.4 No justice shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection 10.2.1.

10.2.5 Previous Employment. During the justice's first two years after leaving a law firm, a justice is not assigned any case in which the former law firm has entered an appearance.

10.2.6 Relationships. According to the civil law system, the third degree of relationship's test would, for example, disqualify the justice if her or his or the justice's spouse's father, grandfather, uncle, brother, or niece's husband were a party or lawyer in the proceedings, but would not disqualify her or him if a cousin were a party or lawyer in the proceedings.

10.2.7 Disclosure. The reasons for disqualification are not disclosed to the parties.

10.2.8 Rule of Necessity. The rule of necessity is an exception to the principle that every litigant is entitled to be heard by a judge who is not subject to any disqualifications which might reasonably cause the judge's impartiality to be questioned. *See* Canon 3(C), Code of Judicial Conduct. The rule of necessity has been invoked where disqualifications exist as to all members of the state judiciary who would normally hear a matter. Rather than deny a party access to court, judicial disqualification yields to the demands of necessity.

10.3 Appointment of Designated Justices

10.3.1. Appointment Authority. Whenever a Justice is unable to hear a case due to recusal, illness, absence, or other reason, the Chief Justice may, consistent with title 4, section 24 of the Virgin Islands Code:

(1) appoint any active judge of the Superior Court to sit as a Designated Justice of the Supreme Court;
(2) appoint, with his or her consent, a senior or retired justice of the Supreme Court or a senior or retired judge of the Superior Court to sit as a Designated Justice; and
(3) appoint, with his or her consent, an active, senior, or retired judge of the District Court of the Virgin Islands to sit as a Designated Justice.

For purposes of the Chief Justice's appointment authority,

(1) an "active" judge is, as the case may be,
    (i) a judge of the Superior Court of the Virgin Islands presently holding office pursuant to section 73 of title 4; and
    (ii) a judge of the District Court of the Virgin Islands presently holding office pursuant to 48 U.S.C. § 1614.
(2) A "senior" judge or justice is, as the case may be,
    (i) a former justice of the Supreme Court who elected to retire and be designated as a senior justice in accordance with section 24(b)(2) of title 4;

(ii) a former judge of the Superior Court designated by the Presiding Judge of the Superior Court as a senior sitting judge pursuant to section 74a of title 4, or a retired judge of the Superior Court who has retired on a retirement allowance who has been recalled to service within the Superior Court by the Chief Justice pursuant to section 24(b)(3) of title 4; and

(iii) a former judge of the District Court recalled to service in the District Court by the Chief Judge of the United States Court of Appeals for the Third Circuit pursuant to 28 U.S.C. § 373(c).

(3) A "retired" judicial officer is any former justice of the Supreme Court, former judge of the Superior Court, or former judge of the District Court who is not serving as a senior judicial officer, regardless of whether the judicial officer is receiving a retirement allowance, and excluding those judicial officers who

(i) were involuntarily removed from office by the Commission on Judicial Conduct or otherwise;

(ii) returned to the private practice of law or otherwise hold a position or employment that is inconsistent with further judicial service; or

(iii) have been transferred to disability inactive status or who are presently suspended or disbarred from the Virgin Islands Bar Association.

(4) A judicial officer "who has retired on retirement allowance" is, as the case may be, a former justice of the Supreme Court or former judge of the Superior Court receiving a retirement annuity pursuant to sections 733 or 770(l) of title 3 of the Virgin Islands Code, or a former judge of the District Court receiving a retirement annuity pursuant to 28 U.S.C. § 373(a).

10.3.2. Procedure for Appointment. The Clerk of the Supreme Court shall maintain a list of all active, senior, and retired judicial officers eligible to serve as a Designated Justice, which shall be organized into eight enumerated groups:

(1) all senior justices of the Supreme Court;
(2) all retired justices of the Supreme Court;
(3) all active judges of the Superior Court;
(4) all senior judges of the Superior Court;
(5) all retired judges of the Superior Court;
(6) all active judges of the District Court;
(7) all senior judges of the District Court; and
(8) all retired judges of the District Court.

In the event recusal, illness, absence, or other reason requires appointment of a Designated Justice to hear a specific case in the Supreme Court, the Chief Justice, with the assistance of the Clerk, shall consider the appointment of an individual from the first group. In

the event no individual from that group is available to serve, the Chief Justice shall consider an appointment from the second group, and each successive group thereafter until a Designated Justice is selected. To the extent possible, appointments within each group shall be made on a rotating basis. Upon receiving notice from the Clerk that a potential Designated Justice has been identified and, in the case of senior and retired judicial officers, that the individual has consented to the designation, the Chief Justice shall enter an order appointing the Designated Justice, which shall be assigned a miscellaneous case number and shall specify the particular case the Designated Justice shall hear. In all cases, the appointment of an individual as a Designated Justice shall not become effective until they have executed the Oath of Office for the position.

10.3.3 Expenses; Per Diem; Office Supplies.

(1) While serving as a Designated Justice, all senior and retired justices and judges shall be reimbursed for their reasonable expenses actually incurred in conjunction with their service, and shall receive from the Supreme Court a per-diem allowance equivalent to 1/260 of the annual salary for an Associate Justice.
(2) No judicial officer may receive a per-diem allowance while serving as a Designated Justice unless he or she has devoted at least two hours to their duties for the day the per-diem is claimed, and no judicial officer shall receive a per-diem for working on a Saturday, Sunday, or government holiday.
(3) The Administrative Director of the Supreme Court shall insure that all senior or retired justices and judges, while performing the duties of a Designated Justice, be provided with office space, support staff, and appropriate supplies as needed, provided that the senior or retired judicial officer has not already received office space, support staff, and appropriate supplies in conjunction with another judicial appointment.

CHAPTER 11. APPELLATE LAW CLERKS

11.1 Supreme Court Appellate Law Clerks and Staff Attorneys.

There shall be law clerks assigned to each Justice who shall work under the supervision of the respective justices and staff attorneys who shall assist the Clerk in addressing motions and the panels and justices as they sit. An appellate law clerk is accountable directly to the Justice that hired him or her, while a staff attorney is accountable to the entire panel and the Clerk.

11.2 Duties of Law Clerks.

The duties of law clerks shall include the following:

11.2.1 Preparation of memoranda of law and fact on the merits, as well as a recommendation as to disposition upon request.

11.2.2 Screening all appeals and petitions for writs filed for jurisdictional defects, tracking and processing all appeals in, communicating with panel justices to facilitate the swift determination of appeals, assisting the Justices in disposing of motions if requested, and assisting in the drafting of opinions and orders.

11.2.3 Perform such other legal duties as assigned.

11.3 Duties of Staff Attorneys

The duties of staff attorneys shall include the following:

11.3.1 Preliminary review of the jurisdictional basis for all appeals.

11.3.2 Review of all filings for compliance with Court rules.

11.3.3 Coordinate requests for extensions of time by parties or court reporters.

11.3.4 Review of all petitions for writs and *pro se* filings.

11.3.5 Assisting the Clerk of the Court in the scheduling of cases and the securing of supplemental filings.

11.3.6 Undertake independent research and draft legal memorandums and orders as requested.

11.3.7 Assist the motion Justice as requested.

11.3.8 Perform such other legal duties as assigned.

11.4 Guidelines.

The following rules and guidelines apply to law clerks and, where applicable, to staff attorneys:

11.4.1 Discussion of pending cases. Unless the Justices specifically agree otherwise in a given case, it is the Court's general policy for the Justices not to discuss, debate or confer regarding the merits or substantive issues of pending cases until they are conferenced. The same policy applies to law clerks. Thus, law clerks are instructed that unless the Court specifically requests a law clerk to do so, any such communications or exchanges of memoranda or views between clerks assigned to different Justices are avoided until the Court has conferred and issued its memorandum of decision or has agreed upon a disposition. This does not preclude such common courtesies as providing photocopies of cases or portions of the record which one clerk has readily available and can easily provide to others. When assigned to assist the Clerk or a specific Justice, a staff attorney shall also be precluded from discussing a matter with another chambers unless specifically requested to do so.

11.4.2 Job offers. The law clerks are permitted to accept job offers during their clerkships, but will not be able to accept the payment of any bonuses or moving expenses until their clerkships end. However, during the tenure of their clerkship, they are permitted to have their expenses of traveling to and from an interview reimbursed by the prospective employer. They are also able to be reimbursed by the prospective employer for the expenses of taking the bar examination and the bar review course.

11.4.3 Disqualification. There is no disqualification *per se* for a law clerk to work on a case involving the firm from which the law clerk has accepted a job offer. Those assignments will be left to the discretion of the individual Justice. A law clerk is not permitted to work on a case on which the law clerk worked or of which the law clerk had knowledge prior to the clerkship.

11.4.4 Outside employment. No law clerk may take a job during the clerkship other than the clerkship without the prior authorization of the law clerk's primary Justice. No staff attorney may engage in outside employment with the prior authorization of the Chief Justice.

11.4.5 Political activity. No law clerk or staff attorney may be politically active during their employment with the Court.

11.4.6 Confidentiality. Each law clerk and staff attorney must maintain complete confidentiality about everything related to cases in this Court.

11.4.7 Internal discussions. There should be no discussion on anything relating to a case except among persons within the Supreme Court chambers who have a need to know and who are directly involved in preparing for any activity which may take place before the Court. There should **never, ever** be any discussion with anyone not in the need-to-know group within chambers.

11.4.8 Computers. Access to any computer must be secured and restricted at all times.

11.4.9 Written material.

(a) **Disposal**. Any paper with handwriting or any paper typed within chambers should be torn up or shredded when it is discarded.

(b) **Security in public**. Any paper taken into a public place such as a library, airplane, or motor vehicle, must be secured and cared for in a way which maintains confidentiality.

11.4.10 Public discussion. Conversations outside of chambers must maintain confidentiality. This includes even the most seemingly innocuous discussions about timing or preparations for hearings.

11.4.11 Trading in securities. There should be no trading in securities in any matter involving entities which are before this Court.

CHAPTER 12. COURT ADMINISTRATION

12.1 Supervisory powers.

The Chief Justice has general oversight of all Courts of the Virgin Islands. Approval by a majority of the Justices of the Supreme Court is required for the adoption of rules for the administration of justice and the conduct of the business of all the Courts of the Virgin Islands.

12.2 Administrative Meetings.

(a) **Scheduling**. The Justices of the Supreme Court shall generally meet monthly, but not less than bi-monthly, to discuss administrative matters.

(b) **Agenda**. The Chief Justice is responsible for distributing an agenda. When an Associate Justice desires to have an item placed on the administrative agenda, the Associate Justice notifies the Chief Justice and sends a copy of the item to each Justice. When preparing the agenda, the Chief Justice (or the Chief Justice's Secretary or other designee) assigns a sequential number to each item. The number includes the year in which it is first placed on the agenda, and that number is retained until the matter is concluded.

(c) **Minutes**. In the absence of staff, the junior Associate Justice shall keep minutes of the administrative meetings.

12.3 Liaison Justices.

The Chief Justice appoints Justices to many administrative committees and designates Justices to act as liaisons between the Supreme Court and other courts and boards or committees established by the Supreme Court including:

(a) All trial courts.
(b) Committee of Bar Examiners.
(c) Ethics & Grievance Committee.
(d) Advisory Committee on Rules.
(e) Virgin Islands Courts' Planning Committee.
(f) Other Court Committees.

1**2.4 Clerk of the Supreme Court.**

The Chief Justice shall appoint the Clerk of the Supreme Court, who working under the direction of the Chief Justice, establishes a Clerk's Office to operate the day-to-day functions of the Court and perform such duties as required by statute and the direction of the Court.

12.5 Clerk's Office.

12.5.1 Attendance at Court Sessions. The clerk or a designee of the clerk shall attend all sessions of the Court and make arrangements for courtroom and other facilities in ample time prior to each sitting.

12.5.2 Routing of Documents. The Clerk's office circulates documents to the Justices with a color coded routing slip which indicates the action to be taken by the Justice.

12.5.3 Action Requiring Judicial Approval. External written communications by the Clerk's office generally require the prior approval of a Justice. Exceptions to that general rule are included in the Motion Practice section.

12.6 Administrative Office

12.6.1 Function. There shall be established an Office of the Administrative Director. This office will be concerned *inter alia* with appropriations, budgets, accounting, information systems, technical assistance, training, records management, facilities, statistics, reports and personnel of the Virgin Islands Supreme Court. The Administrative Office shall be headed and managed by the Administrative Director

12.6.2 Administrative Director. The Administrative Director is selected by and works under the direction of the Chief Justice.

12.7 Attire.

12.7.1 The Court shall select and purchase the official robe to be worn by each justice at official functions.

12.7.2 At all official functions of the Court, at which the Court is present in a body, the justices will ordinarily wear their official robes.

12.7.3 A justice, while in the performance of official functions, such as swearing-in of government officials or others, or performance of marriage ceremonies, shall normally wear the official robe.

12.8 Photographs of Justices.

12.8.1 Official photographs of the justices shall be taken annually. Sufficient copies

shall be obtained so that one copy may be presented to each justice and one copy shall be kept for a permanent record in the clerk's office, and requisite copies made available for use by the news media.

12.8.2 The costs of such photographs shall be paid out of the Court's appropriation. Photographs of newly appointed justices or a newly selected chief justice shall be taken, framed and paid out of the Court's appropriation. All photographs of the justices shall be, as nearly as possible, of standardized size and framing.

CHAPTER 13. COMMUNICATIONS WITH AND BY THE COURT

13.1 External. Contacts outside the courtroom between the Court and attorneys, or the public, involving matters pending before the Court, are conducted either through the Clerk's office or with the Chief Staff Attorney. The Clerk and the Chief Staff Attorney are in frequent communication with the Chief Justice, the motion Justice, and the other Justices. When the Clerk and the Chief Staff Attorney speak for the Court on procedural and scheduling matters, they are not authorized to waive the requirements of any statute or rule.

13.2 Internal. Since the Supreme Court is a collegial court, the Justices confer freely with each other, either in writing (often by fax or electronic mail), by telephone or video conference, or in person.

13.3 Absence from chambers. The Chief Justice maintains a master calendar. Each Justice advises the Chief Justice of any contemplated absence from the office in advance whenever possible. In addition, whenever a Justice contemplates being absent from chambers for more than 24 hours, a written memorandum is sent to all Justices at least seven days ahead of time with the name, address, telephone number, and fax number where the Justice can be reached. A copy of that memorandum should also be sent to the Administrative Director and the Clerk.

APPENDIX

Style Guide for the Supreme Court of the Virgin Islands

I. DRAFTING GUIDELINES

A. Introduction

This Style Guide provides a brief overview of the preferred citation forms and presentation style for statutory and case law authorities and materials commonly included in the Supreme Court of the Virgin Islands materials. Where no preferred form is set forth in this Guide, all citations should substantially comply with the formats suggested in the current edition (19th ed. 2010) of *The Bluebook: A Uniform System of Citation* [hereinafter, the "*Bluebook*"], as that manual is from time to time amended. Grammar, editorial, and punctuation issues should be resolved in a manner consistent with standard American usage, for which the *Chicago Manual of Style* (15th ed. 2003) is an excellent modern synthesis, and *The Redbook: A Manual on Legal Style* (3d ed. 2013) is also helpful as a grammar and style guide specifically for legal writing.

> *** The use of underscoring in this Guide is intended to highlight citation form issues and is not part of the citation form itself. Thus, in this Guide,
>
> > period is 10 days. *See* FED. R. CIV. P. 14
>
> is an example using underscoring to highlight a particular fonts, punctuation or standard forms of abbreviation. The underscoring will be omitted in the actual citations for the Court. ***

This Style Guide may be cited as follows:

> "This Style Guide provides a brief overview of the preferred citation forms and presentation style for statutory and case law authorities . . . ." V.I.S.CT. I.O.P. App'x I § B.

B. Primary Goals

1. 100% ***Accuracy***. Each item of cited material should be individually reviewed to make certain sure it states what other sources claim it says.
2. Specific Support for Each ***Quotation***– Include "**Spot Pages" "Pinpoint Citations**" or "pincites" **in all case citations** and cite to **subsections / subparagraphs** of rules and statutes for every quoted phrase.
3. Each ***Proposition*** or ***Characterization*** of the law stated should be supported with **pincite** references in case sources and **subsections / subparagraphs** of rule and statute sources.
4. ***Where a statute or rule directly controls an issue***, cite the codified material *prior* to citation of case authority applying the statute or rule.

> allowing only 10 days for the filing of a motion. V.I.S.CT.R. 5(a)(1); *Goose v. Duck*, 58 V.I. 345 (V.I. 2013).

5. ***Use of Available Virgin Islands Authority.***

-- where the Virgin Islands Supreme Court **has** addressed an issue, that decision should be cited as the principal authority. *See* Part I-G below.

-- where the Virgin Islands Supreme Court **has not** addressed an issue, decisions from other courts should be cited, as detailed in Part I-G below.

C. Factual Histories and Quotations

1. Limit factual histories to operative facts. For example, if the issue in the case is whether the time deadline for filing the notice of appeal was missed, details about the underlying events in the history of the parties, and testimony at a hearing, would not be relevant in explaining the outcome for the reader and giving the Court's holding and rationales.

2. Avoid brand names, specific business names, and addresses, unless those particulars play an operative role in the dispositive issues. To maximize the general effectiveness and elegance of the discussion, referring to a "liquor store" would be preferred to "Joe's Discount Spirits, LLC," unless the disposition of the case is affected by the more particular attribution (*e.g.*, where two such businesses are involved).

3. Refer to the parties by name whenever possible. The Court should use a party name, or in the case of a corporate party, adopt a convenient short-form reference. For individuals, it is not necessary to do a formal definition. For example, once "Wallace T. Stevens" has been mentioned, if there are no other parties in this case named Stevens, that last name can be used without any short-form definition being set out.

For entities, a short form is often defined, *e.g.*, Abracadabra Bottling Co. ("ABC"), or possibly ("Bottler") or even ("Abracadabra"). For other actors, once the important ones are introduced, referring to them in their relational capacity on the facts of the case is often the most helpful style: "the supplier" or "the distributor," or "the retailer" will be easier to follow, particularly where there are numerous entities or individuals whose actions are involved.

Peripheral actors who will not be referred to more than once, and whose testimony will not be later discussed, can be described generically without using personal names: The medical examiner located two .38 caliber bullets in the decedent's body.

4. For Quotations. In text, notes, and parentheticals, follow *Bluebook* Rule 5.1(b)(iv) by ***always placing commas and periods inside the closing quotation mark(s), whether double or single.*** Thus, there is "quoted material." Or there may be "'quoted material,'" followed by more text from the Court itself, or a paraphrase of other portions of cited material.

Colons and semicolons, by contrast, are ***always placed outside of the closing quotation mark(s)***. *See Chicago Manual of Style* § 6.9 (15th ed. 2003).

5. **Footnote call numbers**. Similarly, as stated in *Bluebook* Rule 1.1(a), footnote call numbers (the footnote number indicators appearing in main text sentences in superscript type, *e.g.*,[8]), always appear **before either a dash or a colon**, **but** always appear **after a semicolon, period, comma, or any other punctuation mark.**

6. Dashes. Where a dash is grammatically used or required, use either two hyphens or an

em dash (—). No space precedes or follows a dash, except when it represents the end of a word for which letters have been omitted in materials being quoted. Use a single hyphen, rather than em dash or two hyphens, when citing section or docket numbers.

D. Citation Placement

1. After the Period. Citations are normally placed after the end of the sentence being supported, and are placed *after* the period, *not* set off by a comma.[1] Thus the Court's standard form is:

period is 10 days**.** FED. R. CRIM. P. 13.

not:

period is 10 days**,** FED. R. CRIM. P. 13.

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was an abuse of discretion**.** *Maye v. Junne*, 57 V.I. 123, 131 (V.I. 2013).

not:

was an abuse of discretion**,** *Maye v. Junne*, 57 V.I. 123, 131 (V.I. 2013).

2. Mid-Sentence Citations. Cited materials (whether case law, statutes, or rules) that are used to support only part of a sentence are set off by commas:

After complying with the 10-day notice period**,** FED. R. CRIM. P. 27**,** the defendant then did the following . . .

3. Use of "*Id.*" as a short form. "*Id.*" can be used as a short form (always in italics) to refer to any source that has been previously cited, as long as the reference will be unambiguous to the reader.

The "*id.*" form should only be used when (1) there is no intervening cite to a different authority between the location where "*id.*" is to appear and the location of the cite to which the "*id.*" refers, and (2) the cite to which the "*id.*" refers is not part of a "string cite" or other type of multiple citation. Following these rules makes it clear to readers precisely which source the "*id.*" refers to.

In addition, "*id.*" can properly stand alone as a cite, without any pincite references being included, only when the "*id.*" refers back to (1) the exact same statute, rule, or component thereof that was cited in the immediately preceding cite, or (2) the exact same pincite(s) of the case, litigation document, article, treatise, or other similar source that were set out in the immediately preceding cite. Otherwise, either (1) a full form cite to the different statute, rule, or component thereof will need to be used instead of "*id.*", or (2) the "*id.*" cite for the case, litigation document, article, treatise, or other similar source will need to include a reference to the different pincites that are being cited, set off by "at":

Example where "id." is permissible for a statute and no pincites are required:

[1] *Bluepages* B2.

> Pursuant to statute, the Virgin Islands Supreme Court "shall have jurisdiction over all appeals arising from final judgments . . . of the Superior Court." 4 V.I.C. § 32(a). In addition, the Court also has jurisdiction over "final decrees or final orders of the Superior Court." *Id.*

Example where "id." cannot be used for statutes because different components are being referred to:

> Pursuant to statute, the Virgin Islands Supreme Court "shall have jurisdiction over all appeals arising from final judgments . . . of the Superior Court." 4 V.I.C. § 32(a). The Court also enjoys certain "inherent powers," among them, "the power to issue all writs necessary to the complete exercise of its duties and jurisdiction under the laws of the Virgin Islands." 4 V.I.C. § 32(b).

Example where "id." is permissible for litigation documents (<u>pincites are required</u> because different pages of the same source are being cited):

> Smith's trial began on June 15, 2010. The People called as its first witness John Jameson, who testified that he saw Smith shoot Richards with a firearm. (J.A. 314-18). Jameson also testified that he observed the incident while he was driving a car in which his son was riding as a passenger. (*Id.* at 314-15).

Example where "id." is permissible for litigation documents (<u>pincites are not required</u> because the same pages of the same source are being cited):

> Smith's trial began on June 15, 2010. The People called as its first witness John Jameson, who testified that he saw Smith shoot Richards with a firearm. (J.A. 314-18). Jameson also testified that the shooting occurred while Richards was running away from Smith. (*Id.*).

E. Ellipsis and Quoted material

Material Omitted Within Quoted Passages (in text or in footnotes, including in parentheticals for case citations):

1. if *words appearing within the same sentence* have been elided to make the form of quotation, use an embedded three-dot ellipsis to show the omission:

   > "the law requires two . . . distinct factors"

2. if material *spanning the end of one sentence and the beginning of another sentence within the same paragraph or the next paragraph* has been elided, use an embedded four dot ellipsis to show the omission:

   > "The first factor focuses on the intent of the defendant as measured from an objective standpoint . . . . [while the] second factor examines the defendant's subjective intent."

**Note that if the material elided includes language appearing prior to the ending of the sentence containing it in the source, a space precedes the first dot of the four dot ellipsis. On the other hand, if the elided material is located in the source after the end of a sentence, then there is no space preceding the first dot of the four dot ellipsis.

3. if the ellipsis covers *deletions that bridge to a paragraph beyond the next paragraph*, a four-dot ellipsis, centered on its own line,[2] is needed:

> In this example, only a portion of one paragraph is quoted, starting at the left margin unless the first line of the quoted material was indented in the source, and the passage used then ends, with four-spaced-dots to show the scope of the omitted material.
>
> . . . .
>
> The next portion quoted then begins, using indention for the first word if that was the style in the source being quoted.

F. Meaningful Signals

Standard American law signals are used to introduce cited authorities, and appear in *italics* (except, of course, for "no signal"):

1. *no signal* – the authority (1) directly states the proposition mentioned in the preceding text, or (2) is the source of language being quoted, or (3) is an authority referred to in the preceding text.
2. *See* -- the authority clearly supports, but does not directly state, the proposition.
3. *See generally* – the authority provides analogous or parallel support for the proposition.
4. *E.g.*, or *e.g.*, – the authority is one of multiple authorities (or multiple jurisdictions) directly stating the same proposition. Use *e.g.*, in combination with *See*, or *see*, to introduce an authority that is one of multiple authorities (or multiple jurisdictions) clearly supporting the same proposition.
5. *Accord* -- the cited authority makes the same point as the preceding citation(s). A comma is used to clearly separate the signal from the cited authority or authorities.
6. *Cf.* -- meaning "compare," a comparison of the cited authority and the proposition for which support is desired will clearly show such support to the reader (an explanatory parenthetical may be helpful for that purpose). A comma is used to clearly separate the signal from the cited authority or authorities.
7. *But see* – the authority is facially to the contrary, or represents and exception to the point being made.

Initial lowercase letters are used for these signals when they do not appear at the outset of a string citation. In those situations, the "*but see*" "*accord*" "*see*" "*cf.*" or "*see also*" forms would be used instead:

See Smith v. Jones, 57 V.I. 22, 27 (V.I. 2010); *accord*, *Wilson v. Penn*, 54 V.I. 100, 110 (V.I. 2009).

For other available, but less frequently used signals, consult *Bluebook* Rule 1.2.

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[2] This style varies slightly from that suggested in *Bluebook* R. 5.1(a)(iii), which does not propose centering this type of four-dot ellipsis.

G. Citing Virgin Islands Case Law

1. ***Use of Available Virgin Islands Authority is Strongly Preferred.***

Where the Virgin Islands Supreme Court has addressed an issue in an opinion, that opinion should be cited.

* where the issue is one of V.I. law, further citations are not required.

* if the issue is one of federal law, including federal constitutional law, that has been addressed in V.I. and federal decisions, citation to a V.I. Supreme Court case supplemented by a decision of the United States Supreme Court directly on point is preferred. (if no United States Supreme Court cases exist, the citation could be optionally supplemented by citation to available federal court of appeals decisions).

* if no published Virgin Islands Supreme Court cases address the issue, an unpublished Virgin Islands Supreme Court case addressing the issue may be cited. If a mix of published and unpublished Virgin Islands Supreme Court cases address an issue, the citation to the unpublished decision should be supplemented with a citation to a published decision.

2. ***Provide Good Depth of Support.*** One or two citations for each proposition will ordinarily provide good support for any given proposition. Additional citations can be used when appropriate under the circumstances.

CASE NAMES.

Font. The entire name of the case, including the "*v.*" in between the party names, should be in italics in both text and footnote text.

Abbreviations. (*Bluebook* Rules 10.2.1, 10.2.2). When a case appears in a cite (either in text or footnote) rather than as part of a textual sentence, always abbreviate any word listed in Table 6, Table 7, or Table 10 of the *Bluebook* that appears in the name of the case.

Handling References to the Virgin Islands and its Government.

Standard Criminal Case forms

Holmes v. People, 56 V.I. 456 (V.I. 2009)

People v. Holmes, 56 V.I. 456 (V.I. 2009)

Gov't of the V.I. v. Holmes, 56 V.I. 456 (V.I. 2009)

CASE CITATION FORMS.

The full case citation includes the name of the case; the source in which it may be found; a parenthetical that indicates the court and jurisdiction and the year or date of decision; and the subsequent history of the case, if any. ***If the official V.I. Reports reference is available, that is the only numerical citation needed.*** Only supply the Virgin Islands Supreme Court, Superior Court, or District Court docket number, and either Lexis or Westlaw cites (where available) for Virgin Islands cases that have been published, but do not yet appear in the V.I. Reports.

3. Citing V.I. cases that are already published

Virgin Islands Supreme Court decisions should be cited to the V.I. Reports, whenever

possible:

Mark v. Francis, 41 V.I. 278 (V.I. 2005).

The most recent bound volumes of the V.I. Reports should be checked for official print citations; the Lexis and Westlaw electronic services also provide official V.I. Reports citation numbers in the captions.[3]

Superior Court decisions should be cited:

Mark v. Francis, 23 V.I. 4558 (V.I. Super. Ct. 2005).

Territorial Court and Municipal Court decisions should be cited as if they were Superior Court cases:

Lowell v. Turnbull, 5 V.I. 323 (V.I. Super. Ct. 1977).

District Court cases, not appearing in F. Supp. or F. Supp. 2d but published in the V.I. Reporter, other than those decided by its Appellate Division, should be cited:

Acosta v. HOVENSA, LLC, 57 V.I. 792 (D.V.I. 2012).

Appellate Division should be cited:

Mendez v. Smith, 45 V.I. 323 (D.V.I. App. Div. 2004)

4. Citing very recent V.I. cases that *will* eventually be published

Cite forms for published cases appearing on Lexis or Westlaw, but not yet appearing in the V.I. Reports:

Chapman v. Cornwall, S. Ct. Civ. No. 2012-0032, ___ V.I. ___, 2013 V.I. Supreme LEXIS 20, at *1 (V.I. May 15, 2013).

Chapman v. Cornwall, S. Ct. Civ. No. 2012-0032, ___ V.I. ___, 2013 WL 2145092, at *1 (V.I. May 15, 2013).

People v. Lima, Super. Ct. Crim. No. 86/2012 (STT), ___ V.I. ___, 2012 V.I. LEXIS 53, at *1 (V.I. Super. Ct. Oct. 22, 2012).

People v. Lima, Super. Ct. Crim. No. 86/2012 (STT), ___ V.I. ___, 2012 WL 5288361, at *1 (V.I. Super. Ct. Oct. 22, 2012).

Clarke v. Ross, Civ. No. 2012-014, ___ V.I. ___, 2012 U.S. Dist. LEXIS 99004, at *1 (D.V.I. July 17, 2012).

Clarke v. Ross, Civ. No. 2012-014, ___ V.I. ___, 2012 WL 2913344, at *1 (D.V.I. July 17, 2012).

[3] Westlaw currently does not provide V.I. Reports page numbers.

** Please note that all of the above examples include an example pincite reference, set off by a comma. If no pincite reference is needed, then the ", at *1" portion of each cite would be omitted.

Cite forms for published cases not yet appearing on Lexis or Westlaw, and not yet appearing in the V.I. Reports: Cite to the slip opinion, as follows:

Chapman v. Cornwall, S. Ct. Civ. No. 2012-0032, ___ V.I. ___, slip op. at 1 (V.I. May 15, 2013).

People v. Lima, Super. Ct. Crim. No. 86/2012 (STT), ___ V.I. ___, slip op. at 1 (V.I. Super. Ct. Oct. 22, 2012).

Clarke v. Ross, Civ. No. 2012-014, ___ V.I. ___, slip op. at 1 (D.V.I. July 17, 2012).

** Please note that all of the above examples include an example pincite, set off by a comma. If no pincite is needed, then the ", at *1" portion of each cite would be omitted.

5. Citing V.I. decisions that will remain *"unpublished"* officially: Cite to either Lexis or Westlaw, or for very recent unpublished opinions not yet appearing on Lexis or Westlaw, cite to the slip opinion found on the Supreme Court, Superior Court, or District Court website, as follows:

If Lexis or Westlaw cite is available:

Henry v. Dennery, S. Ct. Civ. No. 2012-0130, 2013 V.I. Supreme LEXIS 4, at *1 (V.I. Jan. 11, 2013) (unpublished).

Henry v. Dennery, S. Ct. Civ. No. 2012-0130, 2013 WL 206128, at *1 (V.I. Jan. 11, 2013) (unpublished).

People v. Milligan, Super. Ct. Crim. No. SX-09-CR-480, 2013 V.I. LEXIS 31, at *1 (V.I. Super. Ct. May 21, 2013) (unpublished).

People v. Milligan, Super. Ct. Crim. No. SX-09-CR-480, 2013 WL 2458009, at *1 (V.I. Super. Ct. May 21, 2013) (unpublished).

Richardson v. V.I. Port Auth., Civ. No. 2009-136, 2013 U.S. Dist. LEXIS 56580, at *1 (D.V.I. Apr. 17, 2013) (unpublished).

Richardson v. V.I. Port Auth., Civ. No. 2009-136, 2013 WL 1686338, at *1 (D.V.I. Apr. 17, 2013) (unpublished).

** Please note that all of the above examples include an example pincite, set off by a comma. If no pincite is needed, then the ", at *1" portion of each cite would be omitted.

If Lexis or Westlaw cite is not yet available: Cite to the slip opinion, as follows:

Henry v. Dennery, S. Ct. Civ. No. 2012-0130, slip op. at 1 (V.I. Jan. 11, 2013) (unpublished).

People v. Milligan, Super. Ct. Crim. No. SX-09-CR-480, slip op. at 1 (V.I. Super. Ct. May 21, 2013) (unpublished).

Richardson v. V.I. Port Auth., Civ. No. 2009-136, slip op. at 1 (D.V.I. April 17, 2013) (unpublished).

** Please note that all of the above examples include an example pincite, set off by a comma. If no pincite is needed, then the ", at 1" portion of each cite would be omitted.

H. Citation to Other States' Case Decisions

1. All citations to decisions from the States are to the West "regional" reporters – *not the state official reporters* – and the cite includes the issuing state name and court level in the date parenthetical, based on the styles appearing for each State or Territory listed in *Bluebook* Table 1. Thus:

   Johnson v. Lutz, 355 N.E.2d 345, 355 (Mass. 2009)

   Wilson v. Fogg, 433 P.3d 678, 687 (Cal. Ct. App. 2010)

   For California this means citing to P.2d *or* P.3d *if available, or to* Cal. Rptr., *in preference to either* Cal. *or* Cal. App.

   Similarly, for New York, this means citing to N.E. *or* N.E.2d *if available, or to* N.Y.S. *or* N.Y.S.2d, *in preference to either* A.D., A.D.2d, *or* A.D.3d.

2. In citing criminal case decisions, **the name of the state is used only in United States Supreme Court decisions**. For all other decisions, use only the following, as appropriate: State, Territory, People or Commonwealth (determine the correct choice from the caption of the decision itself) and include the abbreviated state name in the date parenthetical:

   Thus, in citing U.S. Supreme Court decisions, the state is named:

   Miranda v. Arizona, 384 U.S. 436, 455 (1966)

But in citing decisions from state courts, the state party is either "State" or "Territory" or "People" or "Commonwealth":

State v. Miranda, 401 P.2d 721, 723 (Ariz. 1965)

Jones v. State, 444 So. 2d 876, 890 (Ga. Ct. App. 2013)

People v. Weeks, 591 P.2d 91, 100-01 (Colo. 1979)

Smith v. Commonwealth, 567 N.E.2d 987, 999 (Mass. 2012)

** Note that "Commonwealth" should be spelled out (not abbreviated) in these kinds of cases, since it is the only word used to describe the State party.

For other citation form issues in case references, it is strongly recommended that *Bluebook* Rules 10.2.1 and 10.2.2 be reviewed to assist in proper citation of case names.

I. Citation to Federal Cases

1. Published Opinions.

Published opinions of the **United States Supreme Court** appear in their final form

in the official United States Reports ("U.S."). Prior to being finalized, these opinions will appear in the Supreme Court Reports ("S. Ct.").

If an opinion appears in U.S., only the U.S. citation should be used; *no parallel cites to either S. Ct. or L. Ed. or L. Ed. 2d should appear.*

If an opinion does not appear fully in U.S., then it should be cited to S. Ct.; no parallel cite to L. Ed. or L. Ed. 2d should appear. Part of the U.S. cite may be provided, if it is available, prior to the S. Ct. cite; availability can be determined by examining the slip opinions appearing for the various Terms of Court as indicated on the United States Supreme Court's sliplists page, http://www.supremecourt.gov/opinions/sliplists.aspx.

Examples of such cites are as follows:

Schindler Elevator Corp. v. U.S. ex rel. Kirk, 563 U.S. ___, 131 S. Ct. 1885, 1891 (2011).

Blueford v. Arkansas, 566 U.S. ___, 132 S. Ct. 2044, 2052 (2012).

If published, an opinion of a **United States Court of Appeals or a federal District Court** will appear in an official West federal reporter such as the F., F.2d or F.3d series, Fed. Appx., the F. Supp., F. Supp. 2d, or the F.R.D. [Federal Rules Decisions].

2. For federal decisions from the Third Circuit or Virgin Islands federal district court, cite to F.2d, F.3d, or F. Supp. 2d when available.

3. Federal opinions should generally be ***cited only to the federal reporters.***

Murray v. Fairbanks Morse, 610 F.2d 149, 155 (3d Cir. 1979).

Holmes v. Brandeis, 555 F. Supp. 2d 677, 680 (M.D. Tenn. 2013)

** Note that "ordinals" (use of superscript th type references) are ***not*** used in case cites or any other citations for the Court (thus, use 4th ed., not 4th ed). To do this, turn "ordinals off" in the word processor being used.

Also, for district court cases, the *district* is shown, with abbreviation and space before the State name, but not the "division." Thus a case from the federal district court in Illinois, the caption for which shows that it came from the Northern District of Illinois, Western Division, is simply cited:

Abraham v. Lincoln, 678 F. Supp. 2d 987, 998 (N.D. Ill. 2014).

Subsequent short cites to cases previously cited in full should be in the form:

Murray, 610 F.2d at 151.

Abraham, 678 F. Supp. 2d at 999.

4. **Unpublished Opinions Reported in the Federal Appendix series.**

Federal appellate decisions that are not officially reported are usually reported in the

Federal Appendix series of volumes, abbreviated Fed. Appx.[4]

> Any unpublished decision which has been included in Fed. Appx. should be cited to that source, e.g., *Appellant v. Appellee*, 344 Fed. Appx. 345, 349 (5th Cir. 2011).
>
> -- Since ALL decisions reported in the Fed. Appx. series are considered to be unpublished, it is ***not*** necessary to accompany this citation with a parenthetical noting that it is (unpublished).

5. Unpublished federal opinions *not* in Fed. Appx.

> **"Too new."** If the federal decision is not earmarked "not for publication" (or the equivalent) on its face, it is assumed that the decision will ultimately be published. When the official citation is not available on Lexis or Westlaw, cites in those early weeks after issuance would be in the forms
>
> ___ F.3d ___
>
> ___ F. Supp. 2d ___

Decisions that are unpublished and not slated for being reprinted in a citable source such as Fed. Appx. – mainly federal district court opinions and orders – should be cited to either Westlaw or Lexis, if available. If the face of the opinion contains a statement (usually at the outset) that the opinion is unpublished, uncitable, or otherwise of limited or no precedential value, include a parenthetical (unpublished) at the end of the citation for all such citations ***other than*** those for which the decision will appear in Fed. Appx.

Typical citation forms for unpublished federal district court decisions where either Lexis or Westlaw citation is available:

> *United States v. Bruney*, Civ. No. 1993-035, 1994 WL 87888, at *5 (D.V.I. Oct. 12, 2006) (unpublished).
>
> *United States v. West Indian Ship*, Civ. No. 93-195, 1994 U.S. Dist. LEXIS 8607, at *2 (D.V.I. May 26, 2006) (unpublished).

6. Prior and Subsequent History. (*Bluebook* Rule 10.7) Cite *prior* history only if significant to the point for which the case is cited.

Always cite *subsequent* history, if available, *except* omit denials of certiorari unless the denial is less than two years old or the denial is particularly relevant. Also omit the history on remand or any denial of a rehearing, unless relevant to the point for which the case is cited. Use explanatory phrases as suggested by the *Bluebook* in Table 8.

[4] While *Bluebook* Table 1 suggests that "F. App'x" be used as the abbreviation for the *Federal Appendix* reporter, many jurisdictions, including the United States Supreme Court, use "Fed. Appx." instead. *See, e.g.*, *Horne v. Flores*, 557 U.S. 433, 444 (2009) (citing *Flores v. Rzeslawski*, 204 Fed. Appx. 580 (9th Cir. 2006)). The Virgin Islands Supreme Court has been very consistent in following that style by using "Fed. Appx."; accordingly, that practice will be continued to ensure a uniform citation style for the *Federal Appendix.*

J. Parentheticals after Case Citations

1. Brief quotations or statements of context often improve the impact of a citation, and make its relevance and degree of support clearer for readers.

   Example: *Exx v. Why*, 222 N.W.2d 567, 577 (Wis. 2012) (applying code section identical to 14 V.I.C. § 1234).

2. Phrases such as “holding that” or "explaining that" or "observing that" at the outset of a parenthetical are not required, but can be deployed when necessary to result in a smoother or more elegant expression.

   Examples:

   Hay v. Behe, 333 So. 2d 56, 67 (Ala. 2013) (~~holding that~~ “leave to amend should be freely given”).

   See Korematsu v. United States, 319 U.S. 432, 434-35 (1943) (observing that the “incidents of probation” compel a conclusion that it is a punishment like any other, though mild in degree, and “certainly when discipline has been imposed, the defendant is entitled to review”).

3. Standard form for parenthetical explanations of alterations of the quoted material

* (emphasis in original)

  This parenthetical is not required; however, if a Justice believes that the fact that emphasis appears in the original is significant enough to warrant bringing that fact to the attention of the reader, then it may be used.

* (emphasis added) and (Emphasis added).

  These parentheticals are used only where there is quoted material. If there is an unquoted paraphrase of the holding of the cited case, no such parenthetical is needed.

  Use “(emphasis added).” uncapitalized when the material immediately preceding it is a citation or part of a citation.

Example: where "(emphasis added)." is appropriate:

> Pursuant to the Virgin Islands Code, “[a]ll appeals from the Magistrate Division, *except as otherwise provided for in this chapter*, must be filed in the Superior Court or to the Supreme Court, if appealable to the Supreme Court as provided by law.” 4 V.I.C. § 125 (emphasis added).

  Use “(Emphasis added).” capitalized when the material preceding it is quoted language that is not followed by a citation.

Example: where "(Emphasis added)." is appropriate:

The Restatement (Third) of Property: Servitudes § 4.1 (2000), provides the following:

> (1) A servitude should be interpreted to give effect to the intention of the parties ascertained from the language used in the instrument, or the circumstances surrounding creation of the servitude, and *to carry out the purpose for which it was created*.

(Emphasis added). Therefore, even if the scope of the easement were ambiguous . . . .

* (citations omitted) or (citation omitted)

Use these where there were one or more citations in the middle of the quoted material that have been elided, or where the quoted material used was attributed to a source but the citation for that source is not being replicated in the current citation. For one citation, use the singular "(citation omitted)" form; for two or more citations, use the plural "(citations omitted)" form.

* (internal quotation marks omitted)[5]

Use this where either double or single quotation marks that appear as a part of language that is quoted from a source are not replicated in the quotation as it is set out in the current opinion. Note the usage is not "internal quotations omitted," but "internal quotation marks omitted."

K. Virgin Islands Statutes and Rules; Other States' Statutes

1. Virgin Islands Code

Citations. The long form is used the first time the Virgin Islands Code is cited in the main text or the footnotes of a document, *e.g.*, V.I. CODE ANN. tit. 4, § 244. Please note that "LARGE AND SMALL CAPITAL LETTERS" should be used for the "V.I. CODE ANN." portion of the citation. Subsequent citations to provisions of the Virgin Islands Code use the following short form: __ V.I.C. § __. Thus, a subsequent citation to title 4, § 244 of the Code would appear as: 4 V.I.C. § 244.

It is not necessary to include a date parenthetical for citations to the currently effective version of statutes appearing in the Virgin Islands Code. Such parentheticals need only be included in the following circumstances:

- *Where a superseded version of a statute is being cited.* -- In this case, the date parenthetical should include the date of the last bound volume of the Code in which the statute appears, along with the date of the last supplement in which it appeared, if any part of the statute or any annotations appear in a superseded supplement. The citation is introduced with "Former" or "former" as circumstances require. *Example:* Former 4 V.I.C. § 299 (1995 & Supp. 1997).
- *Where citations to both the superseded version and the current version of a statute are used.* – In this case, a date parenthetical should be supplied for both the superseded version of the statute, to clearly distinguish them. Citations to the superseded statute are introduced with "Former" or "former" as circumstances require.

The same rules apply to current and superseded versions of other States' statutes.

** Note, however, that for a federal statute appearing in the U.S. Code, a date parenthetical must be included for the first cite to that statute in the opinion. The date parenthetical should correspond to the current version of the federal statute being referenced, or to a prior

[5] This matches the standard *Bluebook* expression. *See Bluebook* R. 1.5(b) and R. 5.2(d)(i).

version, as the circumstances require. *See* Part I-L below.

Text sentence references.

(a) At the beginning of a sentence. If it is necessary to use a Virgin Islands Code reference at the outset of a sentence, the first word of that sentence must be spelled out, consistent with *Bluebook* R. 6.2(c). This includes the word "section." However, if "section" is not the first word of the sentence, a section symbol "§" may be used as the preferred form. Thus:

> Title 12, § 15 of the Virgin Islands Code provides that . . . .

BUT

> Section 15 also provides that . . .

If a section symbol is used, a space should always appear in between the section symbol and the section number.

A text sentence should never begin with a citation. Thus, "12 V.I.C. § 15 provides that . . ." or "V.I. CODE ANN. tit. 12, § 15 provides that . . . " would need to be rewritten to read as "Title 12, § 15 of the Virgin Islands Code provides that . . . "

(b) All other locations in a sentence. If a Virgin Islands Code reference appears elsewhere in a sentence, the words "title," "chapter," "article," "part," and the like must be spelled out, but a section symbol "§" should generally be used instead of spelling out the word "section." Alternatively, for references mentioning only the title and section, the "____ V.I.C. ___" citation form may be used. Thus:

> The defendant asserts that the language of § 2253(a) is ambiguous . . . .

OR

> The defendant asserts that the language of 14 V.I.C. § 2253(a) is ambiguous . . . .

OR

> The defendant asserts that the language of title 14, § 2253(a) is ambiguous . . . .

BUT

> The defendant asserts that the language of § 2253(a), as it appears in chapter 113 of title 14, is ambiguous . . . .

A space should always appear in between the section symbol and the section number.

2. Organic Act Provisions

Citations. The standard form for citing to the Revised Organic Act is as follows:

> The complete Revised Organic Act of 1954 is found at 48 U.S.C. §§ 1541-1645 (2012), *reprinted in* V.I. CODE ANN., Historical Documents, Organic Acts, and U.S. Constitution at 73-177 (1995 & Supp. 2013) (preceding V.I. CODE ANN. tit. 1).

A citation to a specific section of the Revised Organic Act should be as follows:

> Revised Organic Act of 1954, § 23A, 48 U.S.C. § 1614, *reprinted in* V.I. CODE

ANN., Historical Documents, Organic Acts, and U.S. Constitution at 159-60 (1995 & Supp. 2013) (preceding V.I. CODE ANN. tit. 1).

**Note that *reprinted in* appears in italics and that V.I. CODE ANN. appears in LARGE AND SMALL CAPITAL LETTERS in both of these examples.

Text sentence references. Text sentence references to the Revised Organic Act follow the same styles described above for text sentence references to the Virgin Islands Code. Examples are as follows:

(a) At the beginning of a sentence. Use the word "Section" spelled out only if that is the first word of the sentence: Section 23 of the Revised Organic Act of 1954 provides that . . . .

(b) All other locations in a sentence. A section symbol should be used as the preferred form where it is not the first word in the sentence: In § 23 of the Revised Organic Act of 1954, Congress expressed an intention to . . . .

3. Virgin Islands Session Laws and Other Legislative Materials.

Session Laws

Virgin Islands session laws (Acts of the Legislature) should be cited when the fact of enactment, amendment, or repeal of a statute, rule, or other similar provision is being discussed or noted, consistent with *Bluebook* Rule 12.2.2(b). For example:

> Importantly, Rule 134(b) has its origins in the Rules of the Municipal Court, initially adopted by the District Court of the Virgin Islands on December 18, 1956, and therefore was in existence at the time the Legislature enacted both § 378 of title 20 and § 607 of title 19. *See Homer v. Lorillard*, 6 V.I. 558, 568 (V.I. Super. Ct. 1967) (explaining that "the Municipal Court rules were adopted by . . . Order of Adoption dated December 18, 1956, and by Amendatory Order dated May 28, 1957"); Act No. 2961, § 1 (V.I. Reg. Sess. 1971) (enacting 19 V.I.C. § 607); Act No. 5649, § 7 (V.I. Reg. Sess. 1990) (enacting 20 V.I.C. § 378).
>
> In 1990, the Legislature passed Act No. 5666, which established the Elected Governors Retirement Fund. *See* 33 V.I.C. § 3080. Section 3080 was amended by the Legislature in 1994 to also provide pension benefits for Elected Lieutenant Governors. *See* Act No. 5979, § 5 (V.I. Reg. Sess. 1994).

The principal form of citation to a Virgin Islands session law is:

> Act No. 7161, § 15 (V.I. Reg. Sess. 2010)

"Reg. Sess." is used to indicate that the Act was passed during a Regular Session of the Legislature; if an Act is passed during a Special Session of the Legislature, then "Spec. Sess." should be used instead.

The principal form of citation is used, particularly for modern legislation, because exact PDF copies of each Act can be downloaded directly from the website of the Virgin Islands Legislature, http://www.legvi.org/vilegsearch/, using only the Act number. Note that the

Bill Number is not included for these cites, only the Act Number.

Alternatively, for older legislation that cannot readily be obtained electronically, it may be desirable to cite to the Virgin Islands Session Laws volumes; however, doing so is entirely optional. The form for such a cite is:

1965 V.I. Sess. Laws 182 (Act. No. 1435)

In this alternative style, "1965" is the year of the Session Laws volume, and page 182 is the page on which Act No. 1435 begins. If a specific section of the Act is needed, then both page on which the Act begins, and the specific page on which the relevant section of the Act appears, are included as a part of the cite.

Bills and Resolutions

Bills and resolutions need only be cited when legislative proposals are being discussed. The form of citation parallels that for Session Laws, and includes the date of proposal:

Bill No. 23-0306 (V.I. Reg. Sess. 2001) (proposed Dec. 11, 2000).

If the bill or resolution being discussed was subsequently enacted into law, that fact can be noted parenthetically at the end of the cite by referencing the Act Number:

Bill No. 23-0306 (V.I. Reg. Sess. 2001) (enacted as Act No. 6391).

4. Rules of the Virgin Islands Courts

Text sentences. When referring ***for the first time*** to any rule of procedure or evidence in text sentences or in the text of a footnote, use the full name of the rule, *e.g.*, "Virgin Islands Supreme Court Rule 5(a) delineates how to file an appeal in a civil matter." and not "V.I.S.CT.R. 5(a) delineates . . . . ***Subsequent references*** to the same rule can use a short form if doing so creates no ambiguity, *e.g.*, Rule 5(a) further provides that . . . .

Citations. Citations to Virgin Islands court rules follow the styles indicated below, all of which use LARGE AND SMALL CAPITAL LETTERS, consistent with *Bluebook* Rule 12.9.3:

Supreme Court Rules. The Virgin Islands Supreme Court Rules should be cited as: V.I. S. CT. R. ___

Superior Court Rules. The Virgin Islands Superior Court Rules should be cited as: SUPER. CT. R. ___

Local Rules of procedure for the District Court. The Local Rules of Civil Procedure for the District Court should be cited as: LRCI ___.___, *e.g.*, LRCI 2.1.

The Local Rules of Criminal Procedure should be cited as: LRCR ___.___, *e.g.*, LRCR 44.1.

5. Other States' Statutes and Rules

Text sentence references to the statutes and rules of other states should be consistent with the rules described above for text sentence references to the Virgin Islands Code.

Citations to other states' statutes and rules should follow the styles set out in *Bluebook* Table 1 and in Rule 12.

L. Federal Statutes & Rules (*Bluebook* Rule 12)

1. Federal Statutes

The United States Code should be cited – in mid-sentence or as authority following a sentence – as [title number] U.S.C. § [section number], *e.g.*, 48 U.S.C. § 1611. *See Bluebook* Rule 12.1. In repeated text references to the same federal statute, the § form should be used. "While § 1983 actions apply federal law, state and territorial courts regularly hear § 1983 claims.

If a sentence must start with the U.S. Code reference itself, the first word of the reference must be spelled out, consistent with *Bluebook* R. 6.2(c). This includes the word "section." However, if "section" is not the first word of the sentence, a section symbol "§" may be used instead. Thus:

> Title 42, § 1983 of the United States Code provides that . . . .

BUT

> Section 1983 also provides that . . .

If a section symbol is used, a space should always appear in between the section symbol and the section number.

Cascade of Preferred Citation Forms. If a statute is currently in force, <u>*cite only*</u> to the current official code with the most recent U.S. Code bound volume date containing that section, e.g.: 42 U.S.C. § 4332 (2012). If the *current version* of a federal statute is not located in the most current bound volume of the U.S. Code (*i.e.*, this section has been amended since the date of the most recent bound volume of the U.S. Code), include a reference to the year and Roman edition number of the most recent official supplement that contains the current language, using an ampersand (&), e.g., 42 U.S.C. § 4332 (2012 & Supp. IV 2013).

If the **common-name** of the statute will be cited, in most cases follow that name with only the standard numerical cite for the current codification of that law, *e.g.*, National Environmental Policy Act of 1969, 42 U.S.C. § 4332 (2012 & Supp. IV 2013). In rare circumstances, encountered in some tax, antitrust, patent and environmental cases, specialized or important literature may refer to a "section" of the ***bill*** that became the law, which often has a ***different*** section number in the official U.S. Code codification. If so, if clear writing requires citation to the enactment section number, also include the official codified section number. For example, if section 132 of the bill became section 4332 as codified, the cite would be:

> National Environmental Policy Act of 1969, § 132, 42 U.S.C. § 4332 (2012 & Supp. IV 2013).

No reference to the Public Law Number or Statutes at Large is necessary in any of the normal instances noted above.

2. Federal Session Laws, Public Law Numbers or Statutes at Large Citations.

Citation to Public Law Numbers, *United States Code Congressional and Administrative News* (U.S.C.C.A.N.) or *Statutes at Large* (Stat.) is required only when it is necessary to document the implementation date of provisions, or to refer to enacted material not specifically or separately codified in the U.S. Code.

When citing to a session law, the cite must include the name of the session law (either the official/popular name such as "National Environmental Policy Act of 1969" or the full date of the act, "Act of July 1, 1998"); the number of the session law (or chapter if referring to an old session law); and a parallel citation to either the Statutes at Large or U.S.C.C.A.N. with the parenthetical reference to the Statutes at Large, in that order of preference.

Example:

National Environmental Policy Act of 1969, § 2, Pub. L. No. 91-190, 83 Stat. 852, 853 (1970).

Explanation: This refers to section 2 of the 190th law enacted by the 91st Congress. The law can be found in volume 83 of the Statutes at Large, published in 1970. The Act begins on page 852 of the Statutes at Large; section 2 of the Act can be found at page 853 of the Statutes at Large.

Example:

Act of July 19, 1985, Pub. L. No. 99-68, 1985 U.S.C.C.A.N. (99 Stat. 102) 166.

Explanation: This refers to the 68th act passed by the 99th Congress. The law can be found in the 1985 volume of U.S.C.C.A.N, beginning on page 166. The law does not yet appear in the Statutes at Large although it eventually will be published in volume 99, beginning on page 102 of the Statutes at Large. If it is not apparent where the law will appear in Statutes at Large, then the parenthetical cite above may be omitted. Note that when this Act is published in the Statutes at Large, the cite will need to be changed to: Act of July 19, 1985, Pub. L. No. 99- 68, 99 Stat. 102.

Also note that, if a statute is currently in force, cite only to the *United States Code*. A citation should be made to the Public Law Number only if the act does not yet appear in the official code or reference is made for a specific reason, *e.g.*, the Act is subsequently amended after passing and you wish to cite to the act as originally adopted.

3. Citing Other Federal Legislative Materials (*Bluebook* Rule 13)

When citing to any United States legislative material, the citation must tell the reader the house which produced the legislation (Senate or House of Representatives); which Congress, by number (*e.g.*, the 106th Congress, which commenced in January 1999); the number given to the material by Congress (documents are usually given numbers in sequential order of publication); and the year of publication. As legislative materials are difficult to find in their original form, the citation should also include, if possible, a parallel cite to another source (such as Lexis or Westlaw) that is more readily available.

Enacted federal bills and resolutions, and federal reports, committee hearings, and legislative histories also can be found in *United States Code Congressional and Administrative News* (U.S.C.C.A.N.), *Statutes at Large* (Stat.), the *Congressional Record*

(CONG. REC.), and through electronic materials, although not every bill/resolution will appear in all of these locations. Citations to these materials should include parallel cites to the Statutes at Large, U.S.C.C.A.N., the Congressional Record, or electronic materials, in that order of preference.

Unenacted federal bills and resolutions probably will not appear in any of the bound sources. Parallel citations to these documents should be made to electronic sources such as Westlaw, Lexis, or the Internet. Suggested Internet sites include: www.house.gov; www.senate.gov; and thomas.loc.gov. For proper citation of electronic materials, see section I.M. below.

Examples:

Federal report: H.R. REP. NO. 92-98, at 4 (1971), *reprinted in* 1971 U.S.C.C.A.N. 1017, 1020.

> *Explanation*: This is a House Report, produced by the 92d Congress, and was numbered 98. It was published in 1971 and can also be found in U.S.C.C.A.N. The report begins in U.S.C.C.A.N. at page 1017, but the specific material can be found at page 1020. **The styles indicated in *Bluebook* Rule 13.4 should be followed for federal reports**, such as House Documents, Senate Documents, House Miscellaneous Documents, Senate Executive Documents, and Senate Treaty Documents. Note that LARGE AND SMALL CAPITAL LETTERS are used for these citations.

Unenacted federal bills and resolutions: S. 1422, 101st Cong. § 5 (1988), [may add electronic cite if available].

> *Explanation*: The bill is number 1422 in the Senate of the 101st Congress and was published by Congress in 1988. The cite is to section 5 of the bill. **The styles indicated in *Bluebook* Rule 13.2 should be followed for federal bills and resolutions**. Note that, unlike House and Senate documents, regular initial capital and lowercase letters are used when citing to federal bills and resolutions.

4. Citing Federal Rules

General. When referring for the first time to any rule of procedure or evidence in text sentences or in the text of a footnote, use the full name of the rule, *e.g.*, Federal Rule of Civil Procedure 4. Subsequent cites to any rule from the same set of rules (e.g., Civil, Criminal, Bankruptcy, etc.) should be in short form using these abbreviations.

FED. R. CIV. P.

FED. R. CRIM. P.

FED. R. EVID.

Local Rules of Procedure for the Federal District Court. *See* Part I-K above.

M. Treatises, Restatements, Model Codes, Encyclopedias, and Dictionaries.

The format for references to treatises, Restatements, Model Codes, encyclopedias, and dictionaries is different, depending on whether the reference is a citation or it is a text

sentence reference.

1. **Citations** to these sources should be in LARGE AND SMALL CAPITAL LETTERS, *e.g.*, RESTATEMENT (SECOND) OF TORTS (1977). Conform to *Bluebook* styles set out in Rule 15 for these and other references unless indicated otherwise herein.

   Some of the more frequently cited treatises and legal encyclopedias, and the styles that are used for citations to each of these sources, are as follows:

   9C CHARLES ALAN WRIGHT & ARTHUR MILLER, FEDERAL PRACTICE AND PROCEDURE--CIVIL § 2576 (3d ed. 2008)

   1A NORMAN J. SINGER & J.D. SHAMBIE SINGER, SUTHERLAND STATUTES AND STATUTORY CONSTRUCTION § 23:11 (7th ed. 2007)

   6 AM. JUR. 2D *Assault and Battery* § 38

   23A C.J.S. *Criminal Law* § 1568

   WILLIAM L. PROSSER, HANDBOOK OF THE LAW OF TORTS 39 n.12 (4th ed. 1971)

   BLACK'S LAW DICTIONARY 639 (9th ed. 2009)

2. **Text sentence references** to these sources, on the other hand, should be set out in regular typeface, with initial capital and lowercase letters. LARGE AND SMALL CAPITAL LETTERS are not used for these types of references.

   Examples of style for text sentence references to treatises, Restatements, Model Codes, encyclopedias, etc.:

   Relying on the Restatement (Second) of Contracts and cases from other jurisdictions, Smith asserts that . . .

   The Model Rules of Professional Conduct promulgated by the American Bar Association ("ABA") govern the conduct of members of the Virgin Islands Bar Association.

Often, the two types of references (citation and text sentence) will be used in conjunction with each other, but the separate styles will still be used:

Example where both citation and text sentence reference styles are used together:

Model Rule 1.7 states, in pertinent part, that

> a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if … there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

MODEL RULES OF PROF'L CONDUCT R. 1.7. An official comment to Rule 1.7 explains that "a conflict of interest exists if there is a significant risk that a lawyer's ability to consider, recommend or carry out an appropriate course of action for the client will be materially limited as a result of the lawyer's other responsibilities or interests." MODEL RULES OF PROF'L CONDUCT R. 1.7 cmt. 8.

N. Law Review and Similar Articles

For consecutively paginated journals, law reviews and similar publications, include the following components, in this order:

- the author's first name, middle initial (where provided), and last name (along with any suffix), *e.g.*, John M. Smith, followed by a comma
- the article title in italics, followed by a comma
- the volume number of the periodical, followed by the name of the periodical (in LARGE AND SMALL CAPITAL LETTERS, as set out in *Bluebook* Table 13)
- the page number in the periodical corresponding to the first page of the article
- if material from a specific page within the article is being quoted or paraphrased, the specific page number of the periodical on which that material appears, set off by a comma preceding it
- the year that the periodical was published:

Examples:

> Learned Hand, *Style and Content of Judicial Opinions*, 54 HARV. L. REV. 245, 266 (1926).
>
> Anthony Ciolli, *Chilling Effects: The Communications Decency Act and the Online Marketplace of Ideas*, 63 U. MIAMI L. REV. 137, 140 (2008).

For other types of periodicals, follow the styles described in *Bluebook* Rule 16.1, and specific aspects of style described in the other parts of Rule 16 pertaining to the type of periodical at issue (*e.g.*, nonconsecutively paginated journals, signed and unsigned law review articles, notes, comments, and book reviews, etc.).

O. Internet Citations. (*Bluebook* Rule 18)

As with all other citations, references to sources found on the Internet must provide enough information to allow the reader to locate the material. If there is a concern that the material on the website may change, the citation should refer to the archived version of the website created through the Supreme Court's Perma.cc account. The styles described in *Bluebook* Rule 18 and its various sub-components should be followed when citing to the several types of online sources (e.g., dynamic webpages/websites, blogs, etc.) described in *Bluebook* Rule 18.1.

Example:

> Dwyer Arce, *US House approves Puerto Rico status referendum bill*, JURIST (Apr. 30, 2010), http://perma.cc/L2RE-54AS.

P. Numerals

The use of arabic numerals is preferred. However, in referring to articles of Constitutions (Federal or State) and similar documents, roman numerals should be retained.

Spell out all numbers smaller than 20. Use a comma when expressing numbers of four or more digits (e.g., 1,000; 10,000).

Exceptions:

- Numbers that begin sentences are always spelled out.
- Substitute words for strings of zeroes (e.g. “$10 million” instead of “$10,000,000”) or units of measure.
- Use numerals where numbers occur throughout the text.

II. OPINION FORMAT

A. Generally

1. Capitalization. "Appellant" and "Appellee" are not capitalized within the body of a document unless used to begin a sentence, and the use of these terms in place of party names is discouraged. "Court" should only be capitalized when referring to the United States Supreme Court or the Supreme Court of the Virgin Islands. The names of all parties listed in the caption of all documents should be in all capital letters.

The names of pleadings (complaint, amended complaint, motions, the criminal information, etc.) and specific offenses involved in a case should consistently be rendered in lower case, unless a party has mis-named a filing and an initial capped and quoted reference is made to facilitate discussion of that error.

Thus, "Andrews was charged in an information with first degree murder and reckless endangerment."

Or, "Smalls filed a motion for judgment under Fed. R. Crim. P. 29. The motion for judgment will be denied because. . . "

But, "Khareem filed what he captioned a "Motion to Transfer," which the trial court correctly interpreted as an objection to venue."

2. Font. All documents should be in "Times New Roman" or "Courier New" font.

3. Citations to litigation documents (joint appendix, briefs, motions, etc.). In preparing draft opinions for circulation among members of the Court and staff, include pincite references to the joint appendix, briefs and motions where quoted or paraphrased material can be located for checking purposes. Delete all such references in the final draft of the opinion prior to release. Thus in opinions released – whether to be published or non-published, no appendix references should be used in stating the facts of the case initially, or in referring to facts later in the opinion.[6] References to briefs and motions where a party made a statement, argument, contention or claim should be omitted unless the Court is documenting a case-dispositive admission of some kind.

Thus:

Williams contacted Assiago about obtaining a weapon. Eventually a Glock model 19 was obtained from Smith. On this appeal Williams contends that "Smith was the primary actor in obtaining and using this gun." We disagree.

Not:

Williams contacted Assiago about obtaining a weapon. (J.A. 222). Eventually a Glock model 19 was obtained from Smith. (J.A. 233). On this appeal Williams contends that "Smith was the primary actor in obtaining and using this gun." (Brief of Appellant, 12). We disagree.

[6] Although briefs and the appendix of all non-confidential cases are publicly viewable via the internet in the Court's appellate case management system (VIACMS), the opinions of the V.I. Supreme Court will usually not contain citations to those sources.

All citations to litigation documents that need to be made in an unusual circumstance should follow the abbreviations listed in *Bluepages* Table 1 of the *Bluebook*. The appropriate abbreviation for the litigation document being cited should include a pincite reference corresponding to the particular page or range of pages supporting a quotation, paraphrase, or summary of information appearing in the preceding sentence. The entire cite should appear enclosed in parentheses, with an ending period appearing only after the ending parenthesis.

Examples: (J.A. 106).

(Appellee's Br. 12).

(Reh'g Pet. 10).

An example where citing a brief specifically would be needed to document a crucial admission:

Appellee, on the other hand, has conclusively admitted before this Court that it "has waived this argument, without reservation." (Appellee's Br. 12).

Multiple citations to litigation documents will be rare, but "*Id.*" can be used for subsequent references to the same litigation document. The regular rules that apply to use of "*Id.*" as a short form must also be followed. *See* Part I-D above.

4. Party names. In the body of any document, the parties should be referred to by name whenever possible. However, omit names of peripheral actors, names of stores, nightclubs, car makes and models, residential area names, and the like, unless that specific information plays a role in the decision. Use generic terms, such as "the medical examiner," a "nightclub."

5. Name of trial court judge. Except for the title page the name of the trial judge should not be used in a document unless necessary to avoid confusion. Reference instead should be made to the "Superior Court," "the court," "the trial judge," etc.

B. Title Page

As illustrated below, the title page of an Opinion or an Order issued by a Panel of the Supreme Court should include the following elements:

1. Publication status. Indicate whether the document is either "For Publication" or "Not for Publication" in bold with initial caps at the beginning of the document.

2. Identification of the Court. The name of the Court should appear at the top of every document in a textbox with the text centered in the textbox in 14- point font. The textbox shall be the same for every document.

3. Caption. The names of the parties should appear in bold and all capitals in the boxed off section on the left of the page.

4. Docket numbers. Supreme Court docket numbers should be typed in 12-point bold font as follows:

Criminal: **S. Ct. Crim. No. 2012-0074**

Civil: **S. Ct. Civ. No. 2010-0053**

The underlying Superior Court docket number should also be referenced as follows in 10-point font, followed by (STT) if the case originated in the St. Thomas – St. John Division, or (STX) if the case originated in the St. Croix Division:

Criminal: Super. Ct. Crim. No. 150/2010 (STT)

Civil: Super. Ct. Civ. No. 531/2004 (STX)

Family Div.: Super. Ct. DI. No. 201/1997 (STX)

Juvenile Div.: Super. Ct. JD. No. 77/2012 (STT)

5. Argued, Considered, Filed. Immediately below the caption, the document should state "On Appeal from the Superior Court of the Virgin Islands." The judicial division of the Superior Court shall be listed followed by the name of the Superior Court judge or magistrate whose decision or ruling is being reviewed. Two lines below this, the document should indicate when the Panel heard or considered the appeal and when the opinion/order was filed. An appeal is "Argued" if the Panel heard oral argument; an appeal is "Considered" if the Panel resolved the appeal based solely on the parties' filings, without oral argument. All of these lines should be centered.

6. Panel Listing. Next to the word "Before" in bold and LARGE AND SMALL CAPITAL LETTERS, the document should list the names of the justices sitting on the Panel. The name of each justice should be in bold and in all capital letters, followed by either "Chief Justice" or "Associate Justice" or "Designated Justice" in regular typeface (no bold) and in initial capital letters and lowercase letters:

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and **IVE ARLINGTON SWAN**, Associate Justice.

7. Attorneys of record and other appearances. All documents should include a listing of the attorneys of record for all parties. Under the heading of "**APPEARANCES:**", in bold and using LARGE AND SMALL CAPITAL LETTERS, the attorney's name in bold, the law firm name (if applicable and available), and office location (*e.g.*, St. Thomas, U.S.V.I., St. Croix, U.S.V.I., Washington, D.C., Miami, FL, etc.) should appear in 12-point font. The attorney or attorneys for each party should be identified as such with the phrase "*Attorney(s) for Appellant"* or "*Attorney(s) for Appellee*" after the listing(s) of the attorney(s). If more than one attorney represented a party in a case that has been argued, the attorney conducting the oral argument shall be indicated by "(Argued)" in bold following the attorney's name.

For cases where a party is represented by a government or public attorney, the name of the government or other agency that the attorney is employed by, or the government or public attorney's title (e.g., Assistant Attorney General, Solicitor General, Appellate Public Defender, etc.) can be supplied instead of the law firm name.

For cases where a party is proceeding *pro se*, then the litigant's name is used in place of the attorney listing, followed by "*Pro se*" in place of either "*Attorney(s) for Appellant"* or "*Attorney(s) for Appellee*".

8. Title of document. The title of the document shall appear in a textbox with the text centered and in 14- point font.

9. Name of authoring justice. Unless the opinion/order is issued per curiam, list the name of the authoring justice immediately after the title of the document. The Chief Justice can be identified as "**LAST NAME, Chief Justice.**" All other justices should be identified as "**LAST NAME, Associate Justice**" or "**LAST NAME, Designated Justice**" (note that the entire listing appears in **bold type**, but only the Justice's last name also appears in **ALL CAPITAL LETTERS**).

For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

JOHN DOE and JANE FRIENDLY, Appellants/Plaintiffs, v. **CARIBBEAN BANK VIRGIN ISLANDS, INC. and FIFTH BANK, INC.,** Appellees/Defendants.	)	**S. Ct. Civ. No. 2013-0111** Re: Super. Ct. Civ. No. 210/2011 (STT)

On Appeal from the Superior Court of the Virgin Islands
Division of St. Thomas & St. John
Superior Court Judge: [Hon. Brenda J. Hollar]

Argued: March 20, 2012
Filed: August 15, 2013

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and **IVE ARLINGTON SWAN**, Associate Justice.

APPEARANCES:

Jane A. Smith, Esq.
Smith Law Firm
St. Thomas, U.S.V.I.

Thomas R. Jefferson, Esq. (Argued)
James W. Madison, Esq.
Palms Law Offices, LLP
St. Thomas, U.S.V.I.
Attorneys for Appellants,

George B. Washington, Esq.
Sands & Cove, P.C.
St. Croix, U.S.V.I.
Attorney for Appellees.

OPINION OF THE COURT

CABRET, Associate Justice.

10. Orders of the Court. The title page of a Panel Order of the Court should appear exactly the same as the title page of an Opinion except that the following elements as listed above should be eliminated: II.B.5 (argued, considered, filed), II.B.6. (panel listing), II.B.9 (name of authoring justice).

11. Filings Submitted to the Court. The title page of all filings submitted to the Supreme Court should follow the Court's format for Orders of the Court except that filings do not need to utilize textboxes or include the listing of attorneys beneath the caption.

12. Header. All documents issued by the Supreme Court should have a header on all pages except the title page. The header should include the case name written according to the rules governing case names in a citation as outlined in section G, followed by the docket number, title of the document, and page number of the document. It should be in 10-point font, in the upper left corner of the page.

Example:

Doe v. Gov't of the V.I.
S. Ct. Civ. No. 2013-0001
Opinion of the Court
Page X of Y

13. Signing and Attestation of Opinions and Orders.

An opinion should be dated at the end of the text, as indicated below.

The authoring justice's physical or electronic signature (unless per curiam) should follow as indicated below.

All opinions and orders of the Supreme Court should also be attested by the Clerk of the Court or Deputy Clerk so designated. The attestation should immediately follow the authoring justice's signature as indicated below.

Example of signature and attestation on opinion or order of the Court:

Dated this 15th day of August, 2013.

BY THE COURT:

/s/ Maria M. Cabret
MARIA M. CABRET
Associate Justice

ATTEST:

DOLLY A. MADISON, ESQ.
Clerk of the Court

By: _____
Deputy Clerk

Dated: _____

14. Per Curiam Opinions. Per curiam opinions are not signed; the opinion is attested to by the Clerk. The opinion shall state that it is per curiam immediately underneath the textbox containing the document's title (where it would otherwise state the authoring justice's name).

15. Copies. "Copies to:" references should be made only on an order. If it is an Order accompanying an opinion, the copies reference shall state "Copies to: (with accompanying Opinion)."

For opinions and orders accompanying opinions, copies should be made to the Justices of the Supreme Court, any Designated Justices who sat on the panel, all Supreme Court law clerks and secretaries, the attorneys or pro se parties; the Judges and Magistrates of the Superior Court; the Clerk of the Supreme Court; the Clerk of the Superior Court; Order Book; and, if for publication, to Westlaw and Lexis/Michie. If the opinion or order is a final judgment in a bar admissions or discipline matter, copies should also be directed to the Judges and Magistrate Judges of the District Court, the Clerk of the District Court, the Director of Bar Admissions, the Administrative Director, and (if not already a party) the Office of Disciplinary Counsel.

For panel Orders of the Court not accompanying an opinion (e.g. an order denying rehearing), the order need not be served on all Superior Court judges and magistrates, but only the judicial officer who served as the trial judge or magistrate,

If one of the parties is *pro se*, the actual party should be listed

If the document is only a single Justice Order or an order signed by the Clerk (e.g. order granting an extension of time), copies usually need only be made to the Justices, any Designated Justices on the panel, the Clerk of the Supreme Court, the attorneys and pro se parties, and the Order Book. However, if a single Justice Order represents the final order in the case (e.g. an order granting a motion to voluntarily dismiss an appeal) a copy should also be sent to the trial judge or magistrate and the Clerk of the Superior Court.

16. Concurring and Dissenting Opinions. A concurring, dissenting, or other separate opinion shall accompany the majority opinion. The document shall not contain the case caption, panel listing, list of attorneys who have entered an appearance, or other, except for the last name and title of the authoring justice and the purpose of the separate opinion. E.g., "**LAST NAME, Chief Justice, concurring.**" "**LAST NAME, Associate Justice, dissenting.**" or "**LAST NAME, Designated Justice, concurring in part and dissenting in part.**" If the separate opinion exceeds one page, the header shall remain the same as in the majority opinion, but indicate that the document is a separate opinion:

Doe v. Gov't of the V.I.
S. Ct. Civ. No. 2013-0001
Concurring Opinion
Page X of Y

Doe v. Gov't of the V.I.
S. Ct. Civ. No. 2013-0001
Dissenting Opinion
Page X of Y

The separate opinion concludes with the authoring justice's physical or electronic signature and an attestation by the Clerk, but without the "BY THE COURT" designation:

/s/ Maria M. Cabret
MARIA M. CABRET
Associate Justice

ATTEST:

DOLLY A. MADISON, ESQ.
Clerk of the Court

By: _____
Deputy Clerk

Dated: _____

III. CHECKLISTS

The Checklist should advise the receiving Justice of what is to be considered, *e.g.*, Opinion or Order. Ask that the receiving Justice's Chambers confirm the appellate law clerk's receipt of any executed checklist. Instruct the recipient that any suggested revisions should be made in writing. If substantive changes are necessary, the recipient should confer directly with the other panel members to help alleviate any confusion.

Example:

SUPREME COURT APPROVAL CHECKLIST

Please submit response via facsimile to (340) XXX-XXXX, Attention: (Authoring) Justice; or via email to Firstname.Lastname@visupremecourt.org.

1. The draft Opinion and Order in *Doe v. Gov't of the V.I.*, S. Ct. Civ. No. 2007-0010:

_____ APPROVE

_____ DISAPPROVE

_____ WRITING SEPARATELY

_____ REQUESTING ADDITIONAL TIME TO RESPOND

Proposed Extension Date: _____

Pursuant to the Internal Operating Procedures of the Supreme Court, an Opinion should be published when it has precedential or institutional value. If you approve the Opinion, please indicate whether you believe it should be:

_____ For Publication

_____ Not for Publication

_____ _____

Date Alexander Hamilton

(Chief) Justice

Circulated on 6/1/07 by AH to MM and BB

Response due 6/22/07 pursuant to V.I.S.CT. I.O.P. 5.5.2

June 1, 2007

Attached is a draft Opinion and Order affirming the Superior Court's judgment. Please review it as soon as possible and return this checklist via fax or email no later than June 21, 2007. Please have your staff call me to let me know to anticipate its receipt.

Any suggested revisions should be made in writing separately or as tracked changes directly to the draft opinion. If you believe that substantive changes are necessary, you may wish to confer directly with [the justice author].

Regards,

_____
(Name), Justice