

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE:) **PROMULGATION No. 2018-008**
ADOPTION OF THE RULE ON)
UNIFORM REPORTING AND)
CITATION OF OPINIONS.)
_____)

ORDER OF THE COURT

Pursuant to its inherent authority and the authority granted to it by section 21(c) of the Revised Organic Act of 1954, and title 4, sections 24, 32(f), and 74a of the Virgin Islands Code, the Supreme Court of the Virgin Islands hereby states:

WHEREAS, during the period ranging from the acquisition of the Virgin Islands by the United States in 1917 through 1957, no system for recording legal decisions existed in the Virgin Islands; and

WHEREAS, in 1957, the Second Legislature of the Virgin Islands provided for the preparation of a publication of legal decisions affecting the Virgin Islands, designated as the Virgin Islands Reports; and

WHEREAS, the first volume of the Virgin Islands Reports was published in April 1959, and contained opinions of the United States District Court of the Virgin Islands, as well as opinions of the United States Court of Appeals for the Third Circuit, the Supreme Court of the United States, and the United States Tax Court in cases that originated in the Virgin Islands; and

WHEREAS, as the jurisdiction of the courts of the Virgin Islands expanded, the Virgin Islands Reports published a larger number of opinions from the Municipal Court of the Virgin Islands, the Territorial Court of the Virgin Islands, the Superior Court of the Virgin Islands, and the Supreme Court of the Virgin Islands. Nevertheless, a substantial portion of the Virgin Islands Reports represents opinions issued by the federal courts; and

WHEREAS, upon the establishment of the Supreme Court of the Virgin Islands, this Court continued the prior practice of mandating citation to the Virgin Islands Reports if a decision is reported therein; and

WHEREAS, since the advent of the Internet, virtually all federal, state, territorial, and local courts issue their opinions electronically, and publish them on their websites free of charge; and

WHEREAS, in addition to court websites, court opinions are now published in electronic legal research database providers such as WestLaw, LexisNexis, and FastCase, with such opinions being electronically published well before publication of the opinion in a print reporter; and

WHEREAS, in order to facilitate citation of electronic opinions prior to their publication in print reporters, electronic legal research database providers have adopted citation systems that are proprietary to the vendor; and

WHEREAS, recognizing the need to cite to opinions before their publication in a print reporter, but acknowledging the disadvantages inherent in the proliferation of multiple proprietary citation formats, the American Bar Association has urged all United States jurisdictions to adopt a uniform method of citing to case law in a vendor- and media-neutral way within their jurisdiction; and

WHEREAS, to ensure that such citations are equally effective for both printed opinions and electronically-published, the American Bar Association has urged that all jurisdictions adopt uniform citation rules that include a distinctive sequential decision number within the citation immediately upon release of the opinion to the public, and that each paragraph in the opinion numbered; and

WHEREAS, although opinions of the Supreme Court of the Virgin Islands and the

Superior Court of the Virgin Islands are published electronically on each court's respective website, there is no uniform system for citation to those opinions; and

WHEREAS, the Virgin Islands Bar Association has urged this Court to develop a method to allow for citation of opinions of the courts of the Virgin Islands without the need for attorneys to purchase the Virgin Islands Reports or subscribe to an electronic legal research database service;

NOW, THEREFORE, IT IS ORDERED that Supreme Court Rule 106, attached hereto as Exhibit 1, **IS HEREBY ADOPTED and WILL TAKE EFFECT on January 1, 2019**, and **SHALL REMAIN IN EFFECT** unless modified as a result of comments from the public and the local Bench and Bar. It is further

ORDERED that the Virgin Islands Rules of Appellate Procedure are amended in the following instances:

1. In Rule 15(b), to insert the phrase "and Supreme Court Rule 106" after the phrase "Uniform System of Citation";
2. In Rule 22(i), to delete the first sentence in its entirety and replace it with the following new language:

"In the argument section of the brief, citations should be made to the Supreme Court of the United States, the Supreme Court of the Virgin Islands, the Superior Court of the Virgin Islands, and any other courts, in that order of precedence. Citations to decisions of Virgin Islands courts shall be in accordance with Supreme Court Rule 106."
3. In Rule 22(i), to delete the phrase "shall make parallel citations" and replace it with the phrase "may make parallel citations".

It is further

ORDERED that the Reporter of Decisions **SHALL MODIFY** the "Style Guide for the

Supreme Court of the Virgin Islands,” included as the Appendix to the Supreme Court’s Internal Operating Procedures to ensure consistency with these amendments. It is further

ORDERED that, pursuant Rule 37(a) of the Virgin Islands Rules of Appellate Procedure, the Bench, Bar, and the public **MAY FILE** comments with the Clerk of this Court no later than thirty (30) days from the date of entry of this Order. It is further

ORDERED that copies of this order be directed to the appropriate parties.

SO ORDERED this 15th day of November, 2018.

/s/ Ive Arlington Swan
IVE ARLINGTON SWAN
Associate Justice

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

/s/ Rhys S. Hodge
RHYS S. HODGE
Chief Justice

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court

SUPREME COURT RULE 106

Public Domain Citation System

(a) **Purpose.** Given the increasing amount of legal research being conducted via the internet and other electronic resources and the desire to promote equal access to the Virgin Islands' system of justice, the Virgin Islands Judiciary has adopted this universal public domain citation format that will support the use of Virgin Islands case law in both book and electronic formats.

(b) **Scope.** Attorneys and self-represented parties will be permitted—but not required—to use the public domain citation format instead of or in addition to citing to the *Virgin Islands Reporter* when citing to a decision of the Supreme Court of the Virgin Islands or the Superior Court of the Virgin Islands. Irrespective of which citation format is used, a parallel citation to the other format is not required to be included as part of the citation.

(c) **Duties of Clerks.** The Clerk of the Supreme Court and the Clerk of the Superior Court shall jointly administer this rule. Effective January 1, 2019, all opinions of the Supreme Court of the Virgin Islands and the Superior Court of the Virgin Islands shall be promptly posted to the websites maintained by the Judicial Branch of the Virgin Islands by the clerk of each respective court after the opinion is assigned a citation format in accordance with sections (d) through (g) of this Rule. As used in this Rule, “opinion” shall not include orders or judgments, findings of fact and conclusions of law, or similar documents, whether or not they accompany an opinion, but shall include an “opinion” that is designated as not for publication or non-precedential.

(d) **Citation Format.** Beginning January 1, 2019, the Clerk of the Supreme Court and the Clerk of the Superior Court shall assign to all opinions a citation that shall include:

1. The calendar year in which the opinion is announced;
2. Followed by the court designator “VI” for opinions announced by the Virgin Islands Supreme Court, or followed by the court designator “VI Super” for opinions announced by the Virgin Islands Superior Court; and
3. Followed by a consecutive Arabic numeral, beginning in each new calendar year with the number “1”; for example: “2019 VI 1” for the first published opinion announced by the Virgin Islands Supreme Court in 2019, and “2019 VI Super 1” for the first published opinion announced by the Virgin Islands Superior Court in 2019. Unpublished opinions shall be separately numbered, with a “U” following the Arabic numeral; for example: “2019 VI 1U” for the first unpublished opinion announced by the Virgin Islands Supreme Court in 2019, and “2019 VI Super 1U” for the first unpublished opinion announced by the Virgin Islands Superior Court in 2019.

This public domain citation shall appear on the title page of each opinion announced by the Supreme Court and by the Superior Court. All publishers of Virgin Islands Supreme Court and Virgin Islands Superior Court materials are requested to include this public domain citation within the heading of each Virgin Islands opinion they publish on or after January 1, 2019.

(e) **Numbered paragraphs.** Beginning with the first paragraph of text, each paragraph in every published opinion shall be numbered consecutively beginning with a “¶” symbol followed by an Arabic numeral—beginning with the number “1”—flush with the left margin, opposite the first word of the paragraph. Paragraph numbers shall continue consecutively throughout the text of the majority opinion and on through any concurrence or dissent. Footnotes and paragraphs within footnotes shall not be numbered, nor shall markers, captions, headings, or numerated titles that merely divide sections of opinions. Block-indented, single-spaced portions of a paragraph shall not be numbered as a separate paragraph. All publishers of Virgin Islands Supreme Court and Virgin Islands Superior Court materials are requested to include these paragraph numbers in each opinion they publish.

(f) **Modification, revision, or other substantive amendment.** In the case of opinions that are modified, revised, or otherwise substantively amended by subsequent order of the Supreme Court or of the Superior Court, the public domain citation of the modified, revised, or amended opinion shall be the same as the original public domain citation but followed by the letter “M”; for example, “2019 VI 1M” in the case of a modified Virgin Islands Supreme Court opinion, “2019 VI Super 1M” in the case of a modified Virgin Islands Superior Court opinion, and “2019 VI 1UM” in the case of a modified Virgin Islands Supreme Court opinion that is unpublished. In the event an opinion is modified, revised, or otherwise substantively amended more than once, the public domain citation of any additional modified, revised, or amended opinion shall be the same as the original public domain citation but designated with the letter “M” followed by a hyphen and the appropriate Arabic numeral; for example: “2019 VI 1M-2” in the case of a Virgin Islands Supreme Court opinion modified a second time, and “2019 VI 1M-3” in the case of a Virgin Islands Supreme Court opinion modified a third time, and so on.

(g) **Withdrawn, vacated, and reissued opinions.** In the case of opinions that are withdrawn or vacated by a subsequent order of the Supreme Court or of the Superior Court, the public domain citation of the withdrawing or vacating order shall be the same as the original public domain citation but followed by the letter “W”; for example, “2019 VI 1W” in the case of a withdrawn or vacated Virgin Islands Supreme Court opinion, “2019 VI Super 1W” in the case of a withdrawn or vacated Virgin Islands Superior Court opinion, and “2019 VI 1UW” in the case of a withdrawn or vacated Virgin Islands Supreme Court opinion that is unpublished. In addition, the withdrawn or vacated opinion shall be removed from the electronic database of opinions maintained by the Supreme and Superior Courts, and all publishers of Virgin Islands Supreme Court and Virgin Islands Superior Court materials are requested to remove withdrawn or vacated opinions from their electronic databases. An opinion that is reissued in place of a withdrawn or vacated opinion shall be assigned the next consecutive number appropriate to the date on which the reissued opinion is announced.

(h) **Examples of proper public domain citation format.** The public domain citation format applies to opinions announced by the Virgin Islands Supreme Court and the Virgin Islands Superior Court on or after January 1, 2019. The following examples are not real cases and are used for illustrative purposes only:

Virgin Islands Supreme Court:

Primary citation:

Smith v. Jones, 2019 VI 22.

Primary citation with pinpoint citation:

Smith v. Jones, 2019 VI 22, ¶¶ 13–14.

Subsequent citation with pinpoint citation:

Smith, ¶¶ 13–14.

***Id.* citation with pinpoint citation:**

Id. at ¶¶ 13–14.

Virgin Islands Superior Court:

Primary citation:

Jones v. Smith, 2019 VI Super 35.

Primary citation with pinpoint citation:

Jones v. Smith, 2019 VI Super 35, ¶¶ 44–45.

Subsequent citation with pinpoint citation:

Jones, ¶¶ 44–45.

***Id.* citation with pinpoint citation:**

Id. at ¶¶ 44–45.