

- (c) *Right to reformulate.* The Supreme Court of the Virgin Islands may reformulate a question of law certified to it.
- (d) *Contents of certification order.* A certification order shall set forth:
- (1) The questions of law to be answered;
 - (2) A statement of all facts relevant to the questions certified;
 - (3) The nature of the controversy in which the questions arose; and
 - (4) A designation of the party or parties who will be the appellant(s), i.e. the party holding the affirmative, in the appellate court.
- (e) *Preparation of certification order.*
- (1) The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing and forwarded to the Supreme Court by the clerk of the certifying court under the official seal of the court. The Supreme Court may require the original or copies of all, or of any portion, of the record before the certifying court, to be filed under the certification order, if, in the opinion of the Supreme Court, the record or any portion may be necessary in answering the questions.
 - (2) The Supreme Court shall accept or rejected a certified question within 60 days of receiving the certification order. A request for certification is deemed denied if not granted within 60 days of filing in the Supreme Court.
- (f) *Costs.* Fees and costs shall be the same as in civil appeals docketed before the Supreme Court. Payment of the docketing fee shall be borne by the party seeking certification. If both parties seek certification, then the parties shall each pay one-half of the docketing fee. In any other circumstances, fees and costs shall be paid as directed by the certifying court in its order of certification.
- (g) *Briefs and argument.* Upon the agreement of the Supreme Court to answer the certified questions, notice shall be given to all parties. The appellant or plaintiff in the certifying court shall file a brief within 40 days from the receipt of the notice, and the opposing party within 30 days from service of copies of the appellant or plaintiff's brief. Briefs must be in the manner and form of briefs as provided in Rules 22 and 25, and oral arguments shall be as provided in Rule 26.
- (h) *Opinion.* The written opinion of the Supreme Court, stating the law governing each question certified, shall be sent by the clerk of the Supreme Court under the court's seal to the certifying court and to the parties. No mandate shall issue after publication of answers to certified questions.
- (i) *Effective Date.* This Rule shall take effect on January 1, 2010.

It is further

ORDERED that Supreme Court Rule 38 **WILL TAKE EFFECT** on January 1, 2010, 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, pursuant to V.I.S.CT.R. 37, the public as well as members of the local Bench and bar **MAY SUBMIT WRITTEN COMMENTS** on this proposed rule to the Clerk of the Court within thirty (30) days of entry of this order. It is further

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

SO ORDERED this 11th day of December, 2009.

_____/s/_____
IVE ARLINGTON SWAN
Associate Justice

_____/s/_____
MARIA M. CABRET
Associate Justice

_____/s/_____
RHYS S. HODGE
Chief Justice

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